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Environmental Quality Board
Rachel Carson State Office Building 16th Floor
400 Market Street
Harrisburg, PA 17101-2301

INDEPENDENT REGULATORY
REVIEW COMMISSION

Re: Environmental Quality Board
Proposed Rulemaking, July 11, 2009
Chapter 302, Administration of the Water and Wastewater System
Operators
Certification Program
Regulation I.D. 7-433

Dear Commissioners and Board Members,

I am writing this letter to express my concern over the Proposed Rulemaking of July 11, 2009. I am a professional certified wastewater operator possessing a Class A, E, Subclass 1, 2, 3, 4 licenses. I have been employed as such for 19 plus years, and take great pride in being a steward of the receiving waters for the state of Pennsylvania. I am sure that you have read many boiler plate letters expressing concerns about this Proposed Rulemaking. My letter is not boiler plate, and hopefully you will be able to understand my concerns.

First, I always have problems with such short time frames given for public comment. All operators have full time jobs and families, not giving us much free time to comment. I realize that much time went into making these Proposed Regulations, however these regulation effect my profession and livelihood.

I am concerned about the following:

"Failure to comply with the duties assigned to a certified operator." What does this mean? Is there some magic document that exists explaining this? Where does the liability issue come into play? I do not want to lose my certification for a statement that is so vague and left open to many interpretations.

"Creating a potential threat to public health, safety, or the environment." How do you interpret this? The wastewater industry, on an almost daily basis, has the potential to affect public health. I interpret this to mean the Board can revoke my certification for anything that goes wrong at the treatment plant because it is a "potential threat." As operators, we experience many little glitches in operation throughout a given day. Do they cause public harm? No, but interpretation is 99% of the law.

I am having a hard time determining what actions of an operator fall into the category of liability. I read there is liability for process control decisions, liability for permit violations, and liability for improper SOPs. There are many circumstances an operator has absolutely no control of. One of which is Mother Nature. We cannot control what the weather gives us. We cannot control floods, extremely cold winters, tornados, tropical storms, hurricanes, ect. We cannot control our power suppliers that give us brown out, power surges, and power failures. Yes all treatment plants have generators to provide power during outages, however power surges, and brown outs are what cause equipment malfunction. Operators do not have a crystal ball to tell us when these events will affect our plant. We only have the ability to work within the situation that presents itself. Sometimes these events cause permit violations. Should an operator be held responsible for these acts? Should an operator in responsible charge have personal liability for these acts? I do not see how. It is almost better not to be certified than it is to be certified because the liability issues are not present. What young professional would want a career that puts these types of liability on ones self? I would tend to say none. There is also a good possibility of many good certified operators leaving the water/wastewater profession because of the liability issues. Is that the intent of these regulations?

Why do these regulations impose such stringent reporting requirements of operators to their owners? It seems like an operator's job has become report writing. When minor or major malfunctions occur at a treatment plant, time is of the essence. Most operators do not have the ability to contact the Chairman or a delegate of the governing body responsible for handling such instances. Instead we talk to the Superintendent or Chief Operator and take care of the problem right away. Writing reports is not productive, it is counter productive. A monthly report should be given to the governing bodies explaining what occurred during that month, and what needs to be done to prevent these issues from reoccurring. Handling these issues in this manner seems more productive than writing reports specified in this regulation. Operators need to operate their plants, not sit at a computer writing reports.

Why are excess CEU credits not permitted to be used for the next certification renewal? We as operators did earn these excess credits. I will be blunt. Most of the CEU classes that are out there for operators to take are not worth the time it takes to sit through them. I have already taken courses just to get credits. Most topics available have been discussed to death, and most new classes are too generic. Try to get a course approved, that did not have DEP's blessing. It is difficult. Since these regulations the cost of continuing education has become absurd. I would not want to be the operator that has to pay for continuing education out of his or her pocket.

Finally I have major concerns with the new fees being imposed. To get continuing education course approved is going to cost more money, and in turn will cause the cost of said courses to rise. I have heard DEP's concerns over the

amount of certified operators that will retire in the next five years. I have heard concerns over the failure rate of the "Activated Sludge" portion of the certification exam. Now you want to charge an individual \$150 for the right to take the test, and another \$35 for a four hour block of test time. If anything, this is going to drive away individuals that might be considering a career in water or wastewater field not entice them. All POTW's will be given an annual fee depending on the plant's size. What are the POTW's receiving in return for this fee? This appears to be a method of making money without providing a service.

As you can see there are many gray areas in these proposed regulations. Gray areas have plenty of room for many interpretations. Please take the time to reconsider and rewrite these proposed regulations with the goal of removing the gray areas. These regulations will affect not only my career, but also all other certified operators in the state. Do not be in a hurry to pass legislation that could have more negative ramifications than positive.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dean C. Minnich". The signature is written in black ink and is positioned below the word "Sincerely,".

Dean C. Minnich

