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From: Troutman, John [jtroutman@BH-BA.com]
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Subject: Comments for Proposed Rulemaking - 7-433

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Attached are my comments on the Chapter 302, Administration of the Water and Wastewater Systems Operator Certification Program.

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September 9, 2009

Independent Regulatory Review Commission
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Environmental Quality Board
Post Office Box 8477
Harrisburg, PA 17105-8477

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

Dear Commissioners and Board Members:

I have reviewed the above reference rulemaking and am concerned about some of the components. I have been a licensed wastewater operator for over twenty years and licensed water operator for approximately five years. I have been involved in day-to-day operations, management, and consulting in both water and wastewater operations. In my opinion, the rulemaking if not revised will impose unreasonable burdens on operators. Pennsylvania has invested billions of dollars into drinking water and wastewater treatment system infrastructure yet admits an insufficient number of certified operators to meet current needs much less future needs. This rulemaking may detract qualified persons from even attempting to become certified and lead to current certified operators leaving the profession.

My comments are as follows:

Section 302.308 – *Suspension, revocation or modification of an operator's certification.*

The Board may take action against an operator for reasons including:

1. Negligence in operating a system.
 - a. The owner of a system may deny proper funding for maintenance yet an operator is held liable.
 - b. Negligence can be interpreted differently – failure to mow a lawn or maintain a certain height of grass could be defined as negligent in grounds care.
2. Violation of State, or Federal laws and the rules and regulations promulgated there under associated with the operation of a water or wastewater treatment system.
 - a. Exceedence of an NPDES limit regardless of the impact (or no impact) on the environment could result in loss of certification.
3. Creating a clear or potential threat to public health, safety, or the environment.

- a. Some wastewater treatment processes (chlorination) have a potential threat to public health and even require a risk management plan. If the department decides they don't want a particular treatment process will they define it as a potential threat?
4. Failure to comply with the duties assigned to a certified operator
 - a. Is this based on a job description?
 - b. Who assigns duties? Employer or DEP?
 - c. Will a failure to comply with a function not involving wastewater or water operations warrant loss of certification?

Section 302.1006 – Laboratory supervisor certification

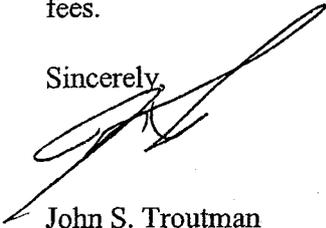
This requires laboratory supervisor sub-classification for all facilities. Some small systems chose to contract laboratory analysis rather than pursue laboratory accreditation, however this rulemaking requires the certified operator completing DMRs to obtain this sub-classification as they are responsible for the testing and reporting.

Section 302.1201(c) – Certified operators shall submit a written report to the system owner documenting any known violations or system conditions that may potentially cause or are causing violations of any Department regulation or permit conditions or requirements.

1. The communication between an owner and certified operator should include known violations but that communication should be developed and decided on by the respective parties. If the parties agree to an oral communication this would violate the rulemaking. DEP does require (or can waive) written documentation of a violation. This rulemaking should allow owners and certified operators their choice of communication.
2. System conditions that may potentially cause a violation is a vague statement. Many circumstances could potentially cause a violation yet a certified operator should utilize his/her energy on correcting the problem rather than satisfying a paperwork function.
3. The requirement to submit the written report by registered mail with a return receipt is absurd. In some small systems the borough manager is the certified operator. Does the certified operator need to send it to himself (herself) registered?

If these changes are adopted it will negatively impact the efficient operation of most facilities as more man-hours will be spent writing reports and actual operational duties will still continue to be performed. Overtime and consultant fees will be an added cost for this unnecessary paperwork burden. This added cost would then be passed on to ratepayers at a time when treatment upgrades and preventative maintenance costs already are challenging facilities in minimizing increased user fees.

Sincerely,



John S. Troutman
Certificate No. T-0183