



January 23, 2017

Ms. Lisa Daniels, Director  
Bureau of Safe Drinking Water  
P.O. Box 8467  
Harrisburg, PA 17105-8467

Re: Comments on the proposed General Update and Fees revisions to Chapter 109

Dear Ms. Daniels:

The Small Systems Technical Assistance Center (TAC) Advisory Board met on January 5, 2017 to review and discuss the Department's draft proposed revisions to the safe drinking water regulations, specific to the General Update and Fees. The following comments were approved by the TAC Board:

1. TAC recommends that, in general, DEP should be no more stringent than the federal drinking water regulations. However, where DEP proposes to be more stringent, TAC offers the specific comments noted. The motion passed by a vote of 7 to 6.
2. Section 109.1 – Definition of Surface Water Intake Protection Area: PA DEP needs to be mindful of Act 156, 2006 and undertake measures to protect confidentiality of source water and intake locations. The motion passed by a majority vote by voice.
3. Section 109.202(c)(1)(i)(A)(V): The federal turbidity requirement is 0.3 NTU, not 0.30; adding a zero to the MCL is not based on science (see Standard Methods methodology regarding significant figures). The same issue applies to establishing the turbidity limit of 1.0 NTU; it should be 1 NTU per the EPA limit. Reference the formal public comment regarding significant figures by Jeanne VanBriesen, Professor, Carnegie Mellon University provided to PA DEP on the proposed Disinfection Requirements Rule. The motion passed by a majority vote by voice.
4. Section 109.204: Subsection (d) should be revised to reflect the federal regulations related to disinfection benchmarking and profiling. Subsection (e) should be revised to require the submittal with the permit application. The motion passed by a majority vote by voice.
5. Section 109.301(1)(i)(C): Many filter plants do not have the capability to sample combined filter effluent; therefore, an alternative methodology and locations should be available to meet the regulation. PA DEP should allow averaging of the individual filter effluent or, in some instances, allow the plant effluent to be utilized. The motion passed by a majority vote by voice.

6. Section 109.301(1)(iv): In the event that equipment cannot be repaired or replaced within the 5 working days, upon notification to the PA DEP, it should result in no monitoring or reporting violation. The motion passed by a majority vote by voice.
7. Section 109.301(11)(ii): The implementation and details for how this provision is going to be applied by PA DEP is needed to go beyond the above one sentence provision. For instance, how is this provision going to be applied to interconnections? There are instances when water suppliers have regulatory agreements with Basin Commissions or other entities that preclude use of a source except under emergency conditions. How will the water supplier be able to comply with these competing regulations? There needs to be more thought and discussions to address a variety of situations that water suppliers face. This provision should also have an effective date of one year after the effective date of this proposed rulemaking. The motion passed by a majority vote by voice.
8. Section 109.303(a)(4): This provision requires additional discussion and examples from the PA DEP as the conditions described are confusing. There may too many real world scenarios to be covered by a blanket requirement. This provision should be addressed in the facility permit. The motion passed by a majority vote by voice.
9. Section 109.304(e): The calibration schedule should remain at the current quarterly frequency for consistency and ease of enforcement [see 109.301(1)(B)]. Every 90 days is more difficult to track and is not the same as quarterly. The motion passed by a majority vote by voice.
10. Section 109.416(4)(ii): PA DEP should incorporate the EPA allowance for electronic submission of CCRs to PA DEP as an option. This is environmentally prudent and resource conservative. The motion passed by a majority vote by voice.
11. Section 109.503(a)(1)(iii)(A): PA DEP needs to provide confidentiality of the source and intake identification and location per Act 156, 2006 and PA Right-to-Know Law requirements. The motion passed by a majority vote by voice.
12. Section 109.511: The entity who submits the initial General Permit Application should not incur all of the cost for submitting the General Permit Application since the General Permit benefits all future users and PA DEP. The motion passed by a majority vote by voice.
13. Section 109.602(i): PA DEP should provide accurate cost estimates for compliance with these provisions and an evaluation of whether the 12 months is adequate time for systems to comply given the costs associated overall with the regulatory package and the addition of fees. We have concerns with the provision in 109.602(i)(2)(iv) that it may be too far reaching and cost prohibitive. The motion passed by a majority vote by voice.

14. Section 109.606(e)(2)(ii): Water suppliers have encountered product suppliers that have certified product either Standard 60 or 61 or PDWEP that do not mark individual product containers. For example, bulk deliveries typically are provided with certification document not product markings. The motion passed by a majority vote by voice.
15. Section 109.612(b): The phrase “or components” should be added to this language so that it states “POE devices **or components** used by a public water supplier shall be tested and certified by the NSF or other certification organization acceptable to the Department...”. The motion passed by a majority vote by voice.
16. Section 109.701(a)(2)(i)(A)(VIII): Combined filter effluent may not be available in certain filter plants; also concerned with the addition of a zero to the required MCLs. The “zero” is not a significant digit. What is the rationale, scientific methodology, peer review or public health benefit vs. cost and where is the data to support previous statement by PA DEP at the last TAC Board Meeting that public health may be improved by “ratcheting it down”? PA DEP proposes to change 0.3 NTU to 0.30 NTU for conventional water treatment plants. The motion passed by a majority vote by voice.
17. Section 109.701(a)(2)(ii)(A)(III): Significant figure issue. Same comments as prior comments. PA DEP proposes to change maximum CFE from 1 NTU to 1.0 NTU. This is more stringent than the Federal requirement. Concern for some public water suppliers possibly generating more Boil Water Advisories which are required when turbidity exceeds 1 NTU currently vs. the proposed 1.0 NTU. The motion passed by a majority vote by voice.
18. Section 109.701(e)(2)(v)-(vi): Significant figure issue. More stringent than Federal IFE turbidity standards; see prior comments regarding significant figures. Provision also reduces IFE turbidity standards significantly as well. The requirements of the IESWTR/LT1ESWTR per EPA Fact Sheets and EPA Compilation of Quick Reference Guides from 2011. PA DEP proposed turbidity standards are more stringent than Federal EPA turbidity standards. PA DEP is proposing to reduce the following:
  - IFE turbidity in 2 consecutive 15-minute readings at end of 4 hours of operation or after filter is off line from 0.5 NTU to 0.3 NTU
  - IFE turbidity maximum in 2 consecutive 15-minute readings from 1.0 NTU to 0.30 NTURamifications of these turbidity reductions include additional reporting, self-assessments and comprehensive performance evaluations, as well as possible Public Notifications. PA DEP should provide rationale, science and methodology, cost vs. benefits, public health benefit, etc. and data to support the proposed changes. The motion passed by a majority vote by voice.
19. 109.701(e)(2)(vii)-(viii): These provisions are more stringent than Federal IFE turbidity standards. Same as previous comments regarding significant figures and also reducing IFE

turbidity standards significantly as well. EPA documents referenced previously should be reviewed. PA DEP is proposing to reduce the following:

- IFE turbidity in 2 consecutive 15-minute readings for 3 consecutive months from 1.0 to 0.30 NTU
- IFE turbidity in 2 consecutive 15 minute readings for 2 consecutive months from 2.0 to 1.0 NTU

The motion passed by a majority vote by voice.

20. Section 109.703(b)(1): One full filter volume may be excessive and unnecessarily wasting water. Also, facilities may not be able to hold that volume of filter waste. Many facilities do not have the capability to do filter to waste which is prohibitively expensive to provide. Also 0.30 is more stringent than EPA regulation; and again a significant figure issue. PA DEP needs to allow new filter backwash technologies such as sub-fluidization; or resting a filter after backwash before putting filter back in service. Suggested language is filter to waste for one full filter volume or until the filter bed effluent turbidity is less than 0.3 NTU at the normal production flow rate or unless a filter plant can demonstrate that an alternate methodology provides turbidity compliance. The motion passed by a majority vote by voice.
21. Section 109.703(b)(5): PA DEP should not be requiring best management practices unless a facility is not meeting turbidity requirements or not meeting Filter Plant Performance objectives. The motion passed by a majority vote by voice.
22. Section 109.703(c)(1): PA DEP should allow for testing via simulation of shutdown. The motion passed by a majority vote by voice.
23. Section 109.706: Medium to large facilities will not be able to capture all of the minimum requirements on one system map. Systems should be able to develop maps and or schematics of their systems as appropriate for that system. Direction of flow is not predictable or known under all circumstances depending on system conditions. Flow may go in different directions dependent on system demands. PA DEP's request for one system map is overly simplified and not realistic for how systems operate; distribution systems are dynamic and not static; therefore, larger systems will not be able to meet this requirement. This information should be protected under Act 156, 2006 and PA Right-to-Know Law requirements. The motion passed by a majority vote by voice.
24. Section 109.708: PA DEP should not be prescribing the methods by which a public water supplier obtains auxiliary power; PA DEP has not sufficiently evaluated the cost of providing auxiliary power; secondary power feeds may not be attainable in rural areas or may be extremely cost prohibitive; PA DEP has not properly evaluated the **total cost** for implementing generator power. Also, systems may avail themselves of the resources from PA WARN in order to meet auxiliary power demands. This provision should be addressed in

the Emergency Response Plans and not in regulation. The motion passed by a majority vote by voice.

25. Section 109.713(b): This provision mandates that a public water supplier is responsible for ensuring protection of their sources, when the Source Water Protection Program does not provide legal access or the authority for the water supplier to inspect or enforce up-gradient facilities that pose a potential source water contamination. The motion passed by a majority vote by voice.
26. Section 109.1401: DEP should evaluate a surcharge rate factor based on gallons produced for each permitted facility to determine the annual fee for community, bottled, vended, retail and bulk hauling water systems. The motion passed by a majority vote by voice.
27. Section 109.1401: The public water supply community needs adequate time to review and evaluate the Fee Package as proposed. The Fee proposal was never discussed as part of the General Updates to Chapter 109 previously drafted and therefore, there needs to be adequate time to allow public input to the proposed fees. PA DEP prior to seeking fees from the regulated water suppliers should be requesting adequate funding from the Legislature to maintain the Safe Drinking Water Program and its core functions, including upgraded IT systems. Further, PA DEP should streamline their operating costs and improve their efficiencies before seeking fees. Improving IT systems would greatly improve the efficiency in the Department. The General Fund should subsidize the small systems not the rate payers of the medium and large systems. The bottled and vended water fees do not seem equitable in relationship to the cost of the product. Why isn't the fee based on the gallons produced? The motion passed by a majority vote by voice.
28. Section 109.1401: DEP needs to explain and document the basis for the \$49/hour used to calculate the fee and that fees be based only on the direct costs (salary and benefits) of a field inspector. The motion passed by a majority vote by voice.
29. Section 109.1404(a): Permit Fees should not be based on population but on type of project, scope of project, project size and complexity. Minor Permits should not require extensive PA DEP review so the minor permit fees should be substantially less based on the effort required by the PA DEP. The motion passed by a majority vote by voice.
30. Section 109.1407: Pilot Study/Feasibility Study should not be based on population but on the type of project, scope of the project and complexity of the project. The motion passed by a majority vote by voice.
31. Section 109.1413: A three-year review is acceptable provided that any changes to the fees or fee structure are approved through the regulatory review process. The motion passed by a majority vote by voice.

Ms. Lisa Daniels, Director

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January 23, 2017

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Serena DiMugno".

Serena DiMugno  
Chairperson