

## **Executive Summary**

### **Title 25 Pa. Code Chapter 109 Safe Drinking Water General Update and Fees**

#### **Purpose of Rulemaking:**

The purpose of the final-form rulemaking package is to amend the Department of Environmental Protection's (Department) Safe Drinking Water regulations to: (1) incorporate the remaining general update provisions that were separated from the proposed Revised Total Coliform Rule (RTCR) as directed by the EQB on April 21, 2015, including revisions to treatment technique requirements for pathogens; clarifications to permitting requirements; and new requirements for alarms, shutdown capabilities, and auxiliary power; (2) amend permit fees and add new annual fees to supplement state costs and fill the funding gap (\$7.5M); and (3) add new amendments to establish the basis for issuing general permits and to address concerns related to gaps in the monitoring, reporting and tracking of back-up sources of supply.

Collectively, these amendments will provide for the increased protection of public health at public water systems (PWS), promote healthy and sustainable communities, and ensure state and federal minimum program elements are met and primacy is retained.

Safe drinking water is vital to maintaining healthy and sustainable communities. Proactively avoiding incidents such as waterborne disease outbreaks can prevent loss of life, reduce the incidence of illness, and reduce health care costs. Proper investment in public water system infrastructure and operations helps ensure a continuous supply of safe drinking water, enables communities to plan and build future capacity for economic growth, and ensures long-term sustainability of PWSs for years to come.

#### **Summary of Amendments:**

One purpose of this rulemaking is to incorporate the remaining general update provisions that were separated from the proposed RTCR as directed by the EQB on April 21, 2015. These general updates are intended to:

- Clarify the source water assessment, source water protection area, and source water protection program elements and requirements.
- Revise the treatment technique requirements for pathogenic bacteria, viruses and protozoan cysts by adding specific turbidity performance requirements for membrane filtration.
- Revise the disinfection profiling and benchmarking requirements to clarify that all PWSs using filtered surface water or groundwater under the direct influence of surface water (GUDI) sources must consult with the Department prior to making significant changes to disinfection practices to ensure adequate *Giardia* inactivation is maintained.

- Revise and clarify the monitoring, calibration, recording and reporting requirements for the measurement of turbidity.
- Revise the permit requirements to clarify the components that must be included in a permit application for a new source, including a source water assessment, pre-drilling plan, evaluation of water quantity and quality, and hydrogeologic report.
- Revise the design and construction standards to require PWSs using surface water or GUDI sources to be equipped with alarm and shutdown capabilities. These provisions would be required for plants that are not staffed continuously while the plant is in operation.
- Clarify that treatment technologies must be certified for efficacy through an approved third party.
- Update the system management requirements for community water systems (CWSs) to strengthen system service and resiliency by requiring auxiliary power or an alternate provision such as finished water storage or interconnections.
- Clarify system management responsibilities relating to source water assessments and sanitary surveys.
- Revise the corrective action timeframes in response to a significant deficiency for PWSs using groundwater and surface water sources to be consistent.
- Delete the provision that allows a PWS to avoid the requirement for a corrective action by collecting five additional source water samples after an *E. coli*-positive triggered source water sample.

The rulemaking also includes new annual fees and amended permit fees to supplement state costs and improve program performance. The proposed fees will total approximately \$7.5 million annually and will account for nearly 50% of the program's state funding. The fees will augment the program funding currently coming from the General Fund (\$7.7 million). Note: If General Funds do not keep pace with state costs, the funding gap will continue to grow.

The annual fees range from \$250 - \$40,000 for CWSs, \$50 - \$1,000 for noncommunity water systems (NCWSs), and \$1,000 - \$2,500 for bottled, vended, retail, and bulk water haulers (BVRB). The fees will most likely be passed on to the 11.3 million customers of these PWSs as a user fee. Per person costs are expected to range from \$0.35 to \$10 per year, depending on the water system size.

Finally, the rulemaking includes new amendments to establish the regulatory basis for issuing general permits, clarify that NCWS require a permit or approval from the Department prior to construction and operation, and address concerns related to gaps in the monitoring, reporting and tracking of back-up sources of supply.

The following revisions differ from federal regulations:

- **Amended turbidity and filtration requirements:** Several provisions strengthen turbidity requirements and filtration monitoring and reporting requirements. These

amendments are based on the Department's experiences with inspections and more than 1,250 filter evaluations. These evaluations have documented that existing requirements are not sufficient to prevent turbidity spikes or the shedding of particles and microbial pathogens into the finished water.

- **System resiliency requirements for back-up power or alternate provisions:** These requirements are necessary to ensure a continuous supply of safe and potable water is delivered to consumers. These amendments improve the reliability of service provided to all consumers by requiring the development of a feasible plan to consistently supply an adequate quantity of safe and potable water during emergency situations. These amendments allow several options (such as auxiliary power, interconnections with neighboring water systems, finished water storage) to ensure system service so that water systems will be able to implement a combination of options to improve their redundancy and resiliency.
- **Clarifications to monitoring requirements for back-up sources of supply and comprehensive monitoring plan requirements:** These requirements will ensure that all sources and entry points are included in routine compliance monitoring at the entry point and within the distribution system, or are properly monitored prior to use.
- **Requirements for responding to significant deficiencies:** These amendments simplify the requirements for responding to significant deficiencies by combining the notification and corrective action requirements for surface water and groundwater systems into one consistent protocol.

#### **Advisory Committee Review:**

The draft final-form amendments were submitted for review to the Small Water Systems Technical Assistance Center Advisory Board (TAC) for review and discussion on December 7, 2017. Written comments were received from the TAC Board on December 22, 2017.

#### **Public Comment Period and Public Meetings/Hearings:**

The proposed General Update and Fees Rule was published in the *Pennsylvania Bulletin* on August 26, 2017 with a 30-day public comment period. No public meetings or hearings were held. Thirty-nine public commentators and the Independent Regulatory Review Commission provided comments on the proposed rulemaking.