

Regulatory Analysis Form		This space for use by IRRC RECEIVED 2001 AUG 28 PM 3:18 DEPARTMENT OF ENVIRONMENTAL PROTECTION REGULATORY REVIEW COMMISSION IRRC amt : 2214
(1) Agency Department of Environmental Protection		
(2) I.D. Number (Governor's Office Use) 7-368		
(3) Short Title Chapter 109 – Safe Drinking Water Amendments		
(4) PA Code Cite 25 Pa. Code, Chapter 109	(5) Agency Contacts & Telephone Numbers Primary Contact: Sharon Trostle, 783-1303 Secondary Contact: Barbara Sexton, 783-1303	
(6) Type of Rulemaking (Check One) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. The United States Environmental Protection Agency (EPA) promulgated the National Primary Drinking Water Regulations: Consumer Confidence Reports (CCR); Final Rule as published in the August 19, 1998 Federal Register, the National Primary Drinking Water Regulations: Public Notification Rule (PN); Final Rule as published in the May 4, 2000 Federal Register, and the National Primary Drinking Water Regulations: Lead and Copper Rule (LCRMR); Final Rule as published in the January 12, 2000 Federal Register (40 CFR Parts 9, 141, and 142). The proposed amendments will address these new and revised provisions to satisfy primacy requirements. <i>New CCR requirements.</i> The amendments include new requirements for community water systems to prepare and provide to their customers an annual consumer confidence report on the quality of the water delivered by the public water system. These amendments will incorporate the provisions of the Federal CCR Rule that were mandated by the 1996 Amendments to the Federal Safe Drinking Water Act (SDWA). The CCR will provide valuable information to customers of community water systems and allow them to make personal, health-based decisions regarding their drinking water consumption. The information contained in a CCR can raise consumers' awareness of where their water comes from, help them understand the process by which safe drinking water is delivered to their homes and educate them about the importance of preventative measures, such as source water protection, that ensure a safe drinking water supply. <i>Major revisions to PN requirements.</i> The amendments include major revisions to the PN requirements and will incorporate the provisions of the Federal PN Rule. Public water suppliers use public notification to alert consumers to potential health risks from violations of drinking water standards and to tell them how to avoid or minimize such risks. The revisions to PN modify the minimum requirements public water suppliers must meet regarding the form, manner, frequency and content of public notices. The new requirements make it easier for water suppliers to provide consumers with more accurate and timely information on violations and the seriousness of any potential adverse health effects. The revisions require faster notice in emergencies and fewer notices overall. In addition, public notification of drinking water violations provides a means to protect public health, build trust with consumers through open and honest sharing of information and establishes an ongoing, positive relationship with the community.		

(8) Briefly explain the regulation in clear and nontechnical language (continued).

Minor revisions to the regulation of lead and copper (LCRMR).

The amendments include minor revisions to the regulation of lead and copper. The lead and copper regulations apply to community and nontransient noncommunity water systems. The EPA made several minor revisions to the National Primary Drinking Water Regulations for lead and copper. The proposed changes do not affect the lead or copper maximum contaminant level goals, the action levels or the basic regulatory requirements. The intended effect of this action is to streamline and reduce regulatory burden where such changes can be made without jeopardizing the level of public health protection or protection of the environment.

Amendments to correct minor deficiencies and clarify existing requirements.

The amendments will correct minor deficiencies in Chapter 109 to satisfy outstanding issues with EPA and obtain primacy approval for the Federal LCR and Phase II/V Rule. The amendments also include proposed changes to clarify existing requirements.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The Pennsylvania Safe Drinking Water Act, 35 P.S. § 721.4(a), and sections 1917-A and 1920-A of the Administrative Code of 1929, 71 P.S. §§ 510-7 and 510-20(b).

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes. Section 1413 of the Federal Safe Drinking Water Act, 42 U.S.C. § 300g-2a, requires that, in order for the state to retain primary enforcement authority (primacy), the state must adopt drinking water regulations that are "no less stringent than" the national primary drinking water regulations not later than 2 years after the date on which the regulations are promulgated by the United States Environmental Protection Agency (EPA), or must ask EPA for an extension of up to 2 years. The federal drinking water primacy regulations at 40 CFR § 142.12(a) also require the state to adopt all new and revised national primary drinking water regulations contained in 40 CFR Part 141 in order to retain primary enforcement responsibility. Furthermore, Section 4(a) of the Pennsylvania Safe Drinking Water Act, 35 P.S. § 721.4(a), requires the Environmental Quality Board to adopt maximum contaminant levels and treatment technique requirements no less stringent than those promulgated under the federal act for all contaminants regulated under the national primary and secondary drinking water regulations. Also Section 5(a) of the state act, 35 P.S. § 721.5(a), requires the Department to adopt and implement a public water supply program which includes those program elements necessary to assume state primary enforcement responsibility under the federal act.

These regulations must be adopted no later than two years after the date on which the regulations are promulgated by EPA (August 21, 2000) or, the state must request a two-year extension from EPA. The Department has been granted an extension. Our deadline for final adoption is prior to August 21, 2002.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The CCR and PN requirements are the cornerstone of the public right-to-know provisions in the Federal SDWA. The amendments will provide valuable information to consumers and allow them to make personal, health-based decisions regarding their drinking water consumption. Additionally, the information contained in a CCR can raise consumers' awareness of where their drinking water comes from, can help them understand the process by which safe drinking water is delivered to their homes, and educate them about the importance of preventative measures, such as source water protection, that ensure a safe drinking water supply.

The revisions to the regulation of lead and copper do not affect the basic regulatory requirements and are intended to streamline and reduce regulatory burden where such changes can be made without jeopardizing the level of public health protection or protection of the environment.

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(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

Consumers have a right to know the quality of their drinking water and can assist water suppliers in the protection of sources of supply. Failure to include consumers in this process may lead to consumers, especially those with special health needs, making uninformed choices about their drinking water.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The CCR amendments will affect 2,201 community water systems that serve a total population of over 10.5 million Pennsylvanians. The CCR amendments, in concert with the PN provisions, will help to ensure that consumers are provided with information they need to make informed, public health decisions concerning the water they are served.

The PN amendments will affect all 10,473 public water systems that serve a total population of over 12.9 million Pennsylvanians. The benefits resulting from the PN amendments are expected to improve the current level of public health protection as a result of the simplifications.

The minor revisions to the regulation of lead and copper will affect 3,468 community and nontransient noncommunity water systems that serve a total population of over 11 million Pennsylvanians. The benefits resulting from the revisions to the regulation of lead and copper are not expected to change and EPA indicated that public health protection should also remain unchanged.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effect as completely as possible and approximate the number of people who will be adversely affected.)

The proposed amendments are not expected to produce any adverse impacts.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The CCR amendments will affect 2,201 community water systems that serve a total population of over 10.5 million Pennsylvanians.

The PN amendments will affect all 10,473 public water systems that serve a total population of over 12.9 million Pennsylvanians.

The minor revisions to the regulation of lead and copper will affect 3,468 community and nontransient noncommunity water systems that serve a total population of over 11 million Pennsylvanians.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The draft proposed amendments were submitted for review to the Water Resources Advisory Committee (WRAC) on March 14, 2001. Comments were received from the WRAC on April 5, 2001. The WRAC encourages the Department to consider their comments, and otherwise supports the changes to Chapter 109 as proposed. The WRAC asked the Department to request additional comment during proposed rulemaking on the Tier 1 public notification requirements, in particular the new consultation process now proposed in lieu of more prescriptive State requirements and the revised requirements for the form and manner of the Tier 1 notice.

The draft proposed amendments were submitted to the Small Water Systems Technical Assistance Center Advisory Board (TAC) for review and discussion on March 21, 2001. Comments were received from the TAC on April 10, 2001. The TAC suggested the Department seek public comment on the multilingual requirements of the CCR and PN Rule.

A thirty-day public comment period also will be scheduled.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

EPA has estimated that, nationwide, a total annual cost of almost \$20.3 million will be borne by the regulated communities as a result of the **CCR Rule**. It is estimated that Pennsylvania water systems will bear over \$950,000 of the total annual cost. The \$950,000 estimate includes costs for preparing, printing and mailing the CCR.

The ratio of PA systems to nationwide systems = $2,201 / 46,655 = 0.047176$
Estimated annual cost to PA systems = $\$20.3 \text{ million} \times 0.047176 = \$950,000$

EPA has estimated that, nationwide, the total annual cost to the regulated and regulating communities for the **current PN Rule** is \$27 million. EPA has estimated that, nationwide, a total annual cost to the regulated and regulating communities for the **new PN Rule** is \$17.9 million. This results in a net annual cost reduction of over \$9 million (a 33.7% reduction) for both the regulated and regulating communities. The total annual costs for the **new PN Rule** are as follows:

- EPA has estimated that, nationwide, the total annual cost to the regulated community is almost \$16.4 million. It is estimated that Pennsylvania water systems will bear almost \$930,000 of the total annual cost. Assuming an annual cost reduction of 33.7% as referenced above, this equates to a total cost savings of over \$310,000.

The ratio of PA systems with at least one violation (1996) to nationwide systems with at least one violation (1996) = $2,639 / 46,572 = 0.0566649$
Estimated annual cost to PA systems = $\$16.4 \text{ million} \times 0.0566649 = \$930,000$
 $\$930,000 \times 0.337 = \$310,000 \text{ savings}$

For the **LCRMR Rule**, EPA estimated that, nationwide, public water systems will realize a total cost reduction of over \$2.8 million. It is estimated that Pennsylvania water systems will realize a total cost reduction of almost \$128,000 of the total annual cost.

The ratio of PA systems to nationwide systems = $3,468 / 75,945 = 0.0456646$
Estimated annual cost to PA systems = $\$2.8 \text{ million savings} \times 0.0456646 = \$128,000 \text{ savings}$

Estimated PA system's net annual cost of CCR, PN and LCRMR Rules = $\$950,000 - \$310,000 - \$128,000 = \$512,000$

Note: The costs listed above were derived from the nationwide costs compiled and published by the EPA in the Preamble of the Federal CCR, PN and LCRMR Rules (Federal Register, Vol. 63, No. 30; Vol. 64, No. 93 and Vol. 65, No. 8, respectively).

The Pennsylvania system costs are the national costs multiplied by the ratio of the number of Pennsylvania systems to the number of nationwide systems.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Of the public water systems affected by these amendments, 760 systems (or 30%) are owned by local governments in the form of water and municipal authorities. The local governments that own these systems will incur an estimated net annual cost (for CCR, PN and LCRMR) of \$154,000.

It should be noted that, for the purposes of the table in question (20) on the following page, the local government costs are for compliance with the amendments. That is, local government is considered in this analysis to be a part of the regulated community, not the regulating community. Therefore, the \$154,000 estimate provided above is a part of the \$512,000 estimate provided in the previous question (17).

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(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting or consulting procedures which may be required.

EPA has estimated that, nationwide, a total annual cost of almost \$2.8 million will be borne by the regulating communities as a result of the **CCR Rule**. It is estimated that DEP will bear over \$50,000 of the total annual cost.

$$\text{Estimated DEP annual cost} = \$2.8 \text{ million} / 56 = \$50,000$$

EPA has estimated that, nationwide, the total annual cost to the regulated and regulating communities for the **current PN Rule** is \$27 million. EPA has estimated that, nationwide, a total annual cost to the regulated and regulating communities for the **new PN Rule** is \$17.9 million. This results in a net annual cost reduction of over \$9 million (a 33.7% reduction) for both the regulated and regulating communities. The total annual costs for the new **PN Rule** are as follows:

- EPA has estimated that, nationwide, the total annual cost to the regulating communities is over \$1.5 million. It is estimated that DEP will bear almost \$27,000 of the total annual cost. Assuming an annual cost reduction of 33.7% as referenced above, this equates to a total cost savings of over \$9,000.

$$\begin{aligned} \text{Estimated DEP annual cost} &= \$1.5 \text{ million} / 56 = \$27,000 \\ \$27,000 \times 0.337 &= \$9,000 \text{ savings} \end{aligned}$$

For the **LCRMR Rule**, EPA estimated that, nationwide, the regulating communities will realize a total cost increase of almost \$2.2 million. It is estimated that DEP will bear over \$39,000 of the total annual cost.

$$\text{Estimated DEP annual cost} = \$2.2 \text{ million} / 56 = \$39,000$$

$$\text{Estimated DEP's net annual cost of CCR, PN and LCRMR Rules} = \$50,000 - \$9,000 + \$39,000 = \$80,000$$

Note: The costs listed above were derived from the nationwide costs compiled and published by the EPA in the Preamble of the Federal CCR, PN and LCRMR Rules (Federal Register, Vol. 63, No. 30; Vol. 64, No. 93 and Vol. 65, No. 8, respectively).

Note: The DEP costs are the nationwide agency costs divided by the number of agencies (56).

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(20) In the table below, provide an estimate of the fiscal savings and cost associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	310,000	310,000	310,000	310,000	310,000	310,000
Local Government	128,000	128,000	128,000	128,000	128,000	128,000
State Government	9,000	9,000	9,000	9,000	9,000	9,000
Total Savings	447,000	447,000	447,000	447,000	447,000	447,000
COSTS:						
Regulated Community	665,000	665,000	665,000	665,000	665,000	665,000
Local Government	285,000	285,000	285,000	285,000	285,000	285,000
State Government	89,000	89,000	89,000	89,000	89,000	89,000
Total Costs	1,039,000	1,039,000	1,039,000	1,039,000	1,039,000	1,039,000
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(20a) Explain how the cost estimates listed above were derived.

The costs listed above were derived from the nationwide costs compiled and published by the EPA in the Preamble of the Federal CCR, PN and LCRMR rules (Federal Register, Vol. 63, No. 30; Vol. 64, No. 93 and Vol. 65, No. 8, respectively).

The Pennsylvania system costs are the national costs multiplied by the ratio of the number of Pennsylvania systems to the number of nationwide systems (refer to questions 17-19 above).

The DEP costs are the nationwide agency costs divided by the number of agencies, which is 56 agencies (refer to questions 17-19 above).

Note: "Local Government" in this analysis is the regulated community, not regulating agencies.

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY-3	FY-2	FY-1	Current FY
Safe Drinking Water	7,558,411	8,648,320	8,306,684	8,855,911

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The proposed amendments are not expected to produce any adverse effects.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No nonregulatory alternatives were considered. These amendments reflect federal rules that must be complied with or adopted by the individual states.

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(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered. These amendments reflect federal rules that must be complied with or adopted by the individual states.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

Yes. Two PN provisions will be more stringent than the federal requirements.

- (a) First of all, the Department is proposing to retain an existing requirement for a public water supplier to report the circumstances to the Department within 1-hour of discovery for certain violations or situations as specified in § 109.701(a)(3). The Department is proposing to retain this requirement as it allows Department staff a critical opportunity to discuss the situation with the supplier and oversee the supplier's immediate and long-term actions to correct the condition, such as collecting check samples, repairing chemical feed equipment or flushing water lines. The Department feels this critical step may not otherwise be accomplished if we rely only on the consultation process (required for a Tier 1 public notice) due to the timing and purpose of the consultation. A supplier has up to 24 hours to consult with the Department and the main focus of the consultation is to provide guidance on the form, manner and timing for the initial and any repeat notices and not necessary to provide oversight for corrective actions.
- (b) Secondly, the Department is proposing to change the Tier assignment for violations of the treatment technique requirement for pathogenic bacteria, viruses and protozoan cysts as defined in § 109.202(c), resulting from a single exceedance of the maximum allowable turbidity limit. EPA designates these violations as requiring a Tier 2 public notice, but requires a consultation so the State can determine if the violation should be upgraded to a Tier 1. The Department is proposing to designate these violations as requiring a Tier 1 public notice. The Department believes that violations resulting from an exceedance of the maximum allowable turbidity limit may be an indication that there is significant potential of adverse health effects from short-term exposure. There is a strong possibility of serious consequences to public health if the public is not alerted quickly when pathogens have the potential to enter the finished drinking water.

(25) How does the regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The federal rules will need to be complied with or adopted by all of the other 49 states. Because of this, the proposed amendments will not put Pennsylvania at a competitive disadvantage with any other state.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The proposed amendments will be incorporated into the existing language of 25 Pa Code Chapter 109. Other than this incorporation, the proposed amendments should not affect any existing or proposed regulations of DEP or any other state agency.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings are scheduled for these proposed amendments.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The proposed revisions address monitoring and reporting requirements. As a result, some changes to forms, reports and other paperwork are expected.

The CCR provisions require community water systems to prepare and deliver a consumer confidence report. Several organizations have developed templates for systems to use when developing the CCRs (such as EPA, AWWA, PRWA). Community water suppliers also are required to submit a certification to the Department that all provisions have been met. EPA has provided a template for this certification form. Community water systems have prepared annual CCRs for two years (1998 & 1999) using these templates.

Revisions to the PN requirements should result in fewer notices overall. EPA has provided templates for systems to use when developing public notices.

The minor revisions to the regulation of lead and copper should result in a reduction in reporting requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The proposed amendments should have no effects on one particular group relative to another since it will apply to most of Pennsylvania's population. However, the Safe Drinking Water Program is prepared to develop special provisions or provide special services to accommodate any such group as the need arises.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The proposed amendments are targeted for promulgation before August 2002. Some components of the amendments must be complied with as early as May 2002. Various permits and approvals resulting from the amendments will be obtained in accordance with the procedures and schedules of both the amendments and currently existing regulations.

(31) Provide the schedule for continual review of the regulation.

The amendments will be reviewed in accordance with the Sunset Review Schedule published by the Department.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

2001 AUG 28 PM 3:18

REVIEW COMMISSION

#2214

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Copy below is hereby approved as to
form and legality. Attorney General

Cristina S. Cooper
(DEPUTY ATTORNEY GENERAL)

AUG 16 2001

DATE OF APPROVAL

Check if applicable
copy not approved. Objections
attached.

Copy below is hereby certified to be a true and correct copy
of a document issued, prescribed or promulgated by:

DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-368

DATE OF ADOPTION:

BY: *David E. Hess*

TITLE: DAVID E. HESS, CHAIRMAN
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to
form and legality. Executive or Independ-
ent Agency

BY: *R. North*

7/23/01

DATE OF APPROVAL

(Deputy General Counsel)
(~~Chief Counsel, Independent Agency~~)
(Strike inapplicable title)

Check if applicable. No Attorney Gen-
eral approval or objection within 30
days after submission.

NOTICE OF
PROPOSED RULEMAKING
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD

Safe Drinking Water Amendments

25 Pa. Code, Chapter 109

Notice of Proposed Rulemaking
Department of Environmental Protection
Environmental Quality Board
(25 Pa. Code, Chapter 109)
(Safe Drinking Water)
(Chapter 109 - Safe Drinking Water Amendments)

Preamble

The Environmental Quality Board (Board) proposes to amend 25 Pa. Code, Chapter 109 (relating to Safe Drinking Water). The amendments include new requirements for community water systems to prepare and provide to their customers an annual consumer confidence report (CCR), major revisions to the public notification (PN) requirements, minor revisions to the regulation of lead and copper (LCRMR) to improve implementation and minor revisions to Chapter 109 to retain primary enforcement authority (primacy) and to clarify existing requirements.

This proposal was adopted by the Board at its meeting of July 17, 2001.

A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. Contact Persons

For further information, contact Jeffrey A. Gordon, Chief, Division of Drinking Water Management, P.O. Box 8467, Rachel Carson State Office Building, Harrisburg, PA 17105-8467, (717) 772-4018 or Pamela Bishop, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section I of this preamble. Persons with a disability may use the AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users). This proposal is available electronically through the DEP Web site (<http://www.dep.state.pa.us>).

C. Statutory Authority

The proposed rulemaking is being made under the authority of Section 4 of the Pennsylvania Safe Drinking Water Act (35 P.S. § 721.4), which grants the Board the authority to adopt rules and regulations governing the provision of drinking water to the public, and Sections 1917-A and 1920-A of the Administrative Code of 1929 (71 P.S. §§ 510-7 and 510-20).

D. Background and Purpose

The purpose of the proposed rulemaking package is to amend the Department's Safe Drinking Water regulations to incorporate new primacy requirements contained in three recent federal rulemakings. The United States Environmental Protection Agency (EPA) promulgated the following National Primary Drinking Water Regulations: Consumer Confidence Reports (CCR) Final Rule as published in the August 19, 1998 Federal Register; Public Notification (PN) Final Rule as published in the May 4, 2000 Federal Register; and Lead and Copper Rule Minor Revisions (LCRMR) as published in the January 12, 2000 Federal Register (40 CFR Parts 9, 141, and 142). The proposed amendments will address these new and revised provisions to satisfy primacy requirements.

1. New CCR requirements.

The amendments include new requirements for community water systems to prepare and provide to their customers an annual consumer confidence report on the quality of the water delivered by the public water system. These amendments will incorporate the provisions of the Federal CCR Rule that were mandated by the 1996 Amendments to the Federal Safe Drinking Water Act (SDWA). The CCR is the cornerstone of the public right-to-know provisions in the Federal SDWA.

The CCR will provide valuable information to customers of community water systems and allow them to make personal, health-based decisions regarding their drinking water consumption. The information in the report is information that the community water system already collects. Reports shall contain information on the source(s) of water provided, levels of detected contaminants, violations of any state regulations and health information concerning drinking water and potential risks from detected contaminants. The information contained in a CCR can raise consumers' awareness of where their water comes from, help them understand the process by which safe drinking water is delivered to their homes and educate them about the importance of preventative measures, such as source water protection, that ensure a safe drinking water supply. Water suppliers can use the CCR to promote dialogue with their consumers and to encourage consumers to become more involved in decisions which may affect their health.

The Department is requesting comment on the basic elements of the consumer confidence report, in particular the requirement for a community water system with a large proportion of non-English speaking residents (as determined by the Department) to include information in its report in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language. This proposed CCR requirement is identical to the provision contained in the PN requirements.

- How should the Department define a large proportion of non-English speaking residents? In guidance, EPA suggests that a threshold of ten percent of the population or 1,000 people, whichever is less, be used when determining whether to provide multilingual information.
- What resources are available to community water systems that choose to provide a translated copy of the report or offer to assist in the appropriate language?
- What resources are available to residents who seek translation services for assistance in reading a CCR?

2. Major revisions to PN requirements.

The amendments include major revisions to the PN requirements and will incorporate the provisions of the Federal PN Rule. Public water suppliers use public notification to alert consumers to potential health risks from violations of drinking water standards and to tell them how to avoid or minimize such risks. EPA revised its PN requirements in April 2000 as required by the 1996 Amendments to the Federal SDWA because it was determined that the complexity of the rule hindered successful implementation. EPA was required to amend the existing PN provisions to better target notices for serious violations posing a short-term exposure risk to health and to make the existing notification process less burdensome and more effective.

The revisions to PN modify the minimum requirements public water suppliers must meet regarding the form, manner, frequency and content of public notices. The new requirements make it easier for water suppliers to provide consumers with more accurate and timely information on violations and the seriousness of any potential adverse health effects. The revisions require faster notice in emergencies and fewer notices overall. In addition, public notification of drinking water violations provides a means to protect public health, build trust with consumers through open and honest sharing of information and establishes an ongoing, positive relationship with the community.

The Department is requesting comment on the Tier 1 public notification requirements, in particular the list of violations requiring such a notice, the new consultation process now proposed in lieu of more prescriptive State requirements and the revised requirements for the form and manner of the Tier 1 notices.

The Department also is requesting comment on the standard elements of the public notice, in particular the requirement for a public water system serving a large proportion of non-English speaking consumers (as determined by the Department) to include in its public notice information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate language. This proposed PN requirement is identical to the provision contained in the CCR requirements.

- How should the Department define a large proportion of non-English speaking consumers? In guidance, EPA suggests that a threshold of ten percent of the population or 1,000 people, whichever is less, be used when determining whether to provide multilingual information.
- What resources are available to public water systems that choose to provide a translated copy of the notice or offer to assist in the appropriate language?
- What resources are available to residents who seek translation services for assistance in reading a public notice?

3. *Minor revisions to the regulation of lead and copper (LCRMR).*

The amendments reflect minor revisions to the regulation of lead and copper. The lead and copper regulations apply to community and nontransient noncommunity water systems. The EPA made several minor revisions to the National Primary Drinking Water Regulations for lead and copper. The proposed changes do not affect the lead or copper maximum contaminant level goals, the action levels or the basic regulatory requirements. The intended effect of this action is to streamline and reduce regulatory burden where such changes can be made without jeopardizing the level of public health protection or protection of the environment. Other minor changes are being proposed to clarify requirements and to improve the rule's implementation. Finally, the proposed changes address two issues that were the subject of an EPA judicial remand.

4. *Amendments to correct minor deficiencies and clarify existing requirements.*

The amendments will correct minor deficiencies in Chapter 109 to satisfy outstanding issues with EPA and obtain primacy approval for the LCR and the Phase II/V Rule. The amendments also include proposed changes to clarify existing requirements.

In summary, the Board proposes to incorporate the provisions of the Federal CCR, PN, and LCRMR and the Federal corrective amendments into the Pennsylvania Safe Drinking Water Regulations (25 Pa. Code Chapter 109) in order to obtain primary enforcement authority, pursuant to the Federal SDWA. These regulations must be adopted no later than two years after the date on which the regulations are promulgated by EPA (August 21, 2000) or the state must request a two-year extension from EPA, according to the Federal SDWA. The Department has been granted an extension. Our deadline for final adoption is prior to August 21, 2002.

The draft proposed amendments were submitted for review to the Water Resources Advisory Committee (WRAC) on March 14, 2001. Comments were received from the WRAC on April 5, 2001. The WRAC encourages the Department to consider their comments, and otherwise supports the changes to Chapter 109 as proposed. The WRAC asked the Department to request additional comment during proposed rulemaking on the Tier 1 public notification requirements, in particular the new consultation process now proposed in lieu of more prescriptive State requirements and the revised requirements for the form and manner of the Tier 1 notice.

The draft proposed amendments were submitted to the Small Water Systems Technical Assistance Center Advisory Board (TAC) for review and discussion on March 21, 2001. Comments were received from the TAC on April 10, 2001. The TAC suggested the Department seek public comment on the multilingual requirements of the CCR and PN Rules.

E. Summary of Regulatory Requirements

The proposed amendments reflect both the new Federal CCR, PN, and LCRMR requirements and the Federal corrective amendments. The amendments will correct minor deficiencies in Chapter 109 to satisfy outstanding issues with EPA and obtain primacy approval for the LCR and the Phase II/V Rule. The amendments also include proposed changes to clarify existing requirements.

§ 109.1 Definitions.

This section was amended to add a definition for Consumer Confidence Report (CCR).

§ 109.202(c)(1)(ii) Treatment technique requirements for pathogenic bacteria, viruses and protozoan cysts.

This subparagraph was amended to add EPA's new public notification requirements for an occurrence of a waterborne emergency. This amendment reflects the federal requirement found in 40 CFR § 141.202(a). In addition, this subparagraph was amended in order to clarify the Department's reporting requirements under § 109.701(a)(3).

§ 109.301(1)(i)(C) Performance monitoring for filtration and disinfection.

This clause was amended to clarify the Department's reporting requirements under § 109.701(a)(3).

§ 109.301(2)(i)(D) Performance monitoring for unfiltered surface water.

This clause was amended to clarify the Department's reporting requirements under § 109.701(a)(3).

§ 109.301(3) Monitoring requirements for coliforms.

This paragraph was amended to add EPA's new public notification requirements for a water supplier that fails to test for fecal coliforms or E. coli when any check sample tests positive for coliform. This amendment reflects the federal requirement found in 40 CFR § 141.21(e). In addition, this paragraph was amended in order to clarify the Department's reporting requirements under § 109.701(a)(3).

§ 109.301(7)(ii)(C)(V) and (VI) *Repeat monitoring for systems with nitrate or nitrite levels equal to or greater than 50% of the MCL.*

Subclause (V) was amended to add EPA's new public notification requirements for a water supplier that is unable to comply with the 24-hour sampling requirement. This amendment reflects the federal requirement found in 40 CFR § 141.23(f)(2). Subclause (VI) was added to relocate the Department's existing requirements for noncommunity water systems for which an alternate nitrate level has been approved by the Department. These requirements were originally located in § 109.301(7)(ii)(C)(V).

§ 109.302(f) *Special monitoring requirements.*

This subsection was deleted in order to be consistent with EPA. EPA reserved the special monitoring requirements as a result of the Federal Revisions to the Unregulated Contaminant Monitoring Regulation for Public Water Systems; Final Rule (September 17, 1999).

§ 109.302(g) and (h)

These subsections were renumbered as § 109.302(f) and (g), respectively.

§ 109.401 *General public notification requirements.*

This section was reserved because the requirements are not consistent with EPA's general public notification requirements found in 40 CFR § 141.201. General public notification requirements are now found in § 109.407.

§ 109.402 *Emergency public notification.*

This section was reserved because the requirements are not consistent with EPA's tier 1 public notification requirements found in 40 CFR § 141.202. Tier 1 public notice requirements are now found in § 109.408. In addition, the 1-hour reporting requirement was moved to the reporting and recordkeeping section in § 109.701.

§ 109.403 *Description and content of notice.*

This section was reserved because the requirements are not consistent with EPA's public notification content requirements found in 40 CFR § 141.205. Public notice content requirements are now found in § 109.411.

§ 109.404 *Notice by the department.*

This section was reserved. The requirements were moved to Section § 109.415 to be consistent with how EPA organizes the special public notification requirements.

§ 109.405 *Public notice requirements for lead.*

This section was reserved in order to be consistent with EPA. EPA reserved the public notice requirements in 40 CFR § 141.43(a)(2) as a result of the minor revisions to the Lead and Copper Rule (January 12, 2000).

§ 109.406 *Public notice requirements for unregulated contaminants.*

This section was reserved because the requirements are not consistent with EPA's public notice requirements for unregulated contaminants found in 40 CFR § 141.207. Public notice requirements for unregulated contaminants are now found in § 109.412.

§ 109.407 *General public notification.*

This section was added to incorporate EPA's new general public notification requirements. This amendment reflects the federal requirement found in 40 CFR § 141.201.

§ 109.407(c)(3), (4) and (5) *Public notice recipients.*

Paragraph (3) was added to relocate the Department's existing public notice requirements for point-of-entry devices. These requirements were originally located in § 109.401(4). Paragraph (4) was added to relocate the Department's existing public notice requirements for notification of key public officials. These requirements were originally located in § 109.402(2)(i). Paragraph (5) was added to relocate the Department's existing public notice requirements for notification of a parent or guardian. These requirements were originally located in § 109.402(2)(v).

§ 109.408 *Tier 1 public notice – form, manner and frequency of notice.*

This section was added to incorporate EPA's new tier 1 public notice requirements. This amendment reflects the federal requirement found in 40 CFR § 141.202(a).

§ 109.408(b)(2) *Timing for a tier 1 public notice.*

This paragraph was added to incorporate the Department's existing 1-hour notification requirement as specified in § 109.701(a)(3).

§ 109.409 *Tier 2 public notice – form, manner and frequency of notice.*

This section was added to incorporate EPA's new tier 2 public notice requirements. This amendment reflects the federal requirement found in 40 CFR § 141.203(a).

§ 109.409(b)(1) *Timing for a tier 2 public notice.*

This paragraph was added to incorporate the Department's existing 1-hour notification requirement as specified in § 109.701(a)(3).

§ 109.410 *Tier 3 public notice – form, manner and frequency of notice.*

This section was added to incorporate EPA's new tier 3 public notice requirements. This amendment reflects the federal requirement found in 40 CFR § 141.204(a).

§ 109.411 *Content of a public notice.*

This section was added to incorporate EPA's new content requirements. This amendment reflects the federal requirement found in 40 CFR § 141.205(a).

§ 109.412 *Special notice of the availability of unregulated contaminant monitoring results.*

The section was added to incorporate EPA's new requirements for providing unregulated contaminant monitoring results. This amendment reflects the federal requirement found in 40 CFR § 141.207(a).

§ 109.413 *Special notice for nitrate exceedances above MCL by noncommunity water systems, where granted permission by the Department.*

This section was added to incorporate EPA's new special notice requirements for nitrate MCL exceedances. This amendment reflects the federal requirement found in 40 CFR § 141.209.

§ 109.414 *Notice to new billing units or new customers.*

This section was added to incorporate EPA's new requirements for notice to new billing units or new customers. This amendment reflects the federal requirement found in 40 CFR § 141.206(a).

§ 109.415 *Notice by the Department on behalf of the public water system.*

This section was added to incorporate EPA's new requirements for notice given by the Department on behalf of the public water system. This amendment reflects the federal requirement found in 40 CFR § 141.210.

§ 109.416 *Consumer confidence report requirements.*

This section was added to incorporate EPA's new requirements that community water systems provide an annual consumer confidence report to its customers. This amendment reflects the federal requirements found in 40 CFR Part 141, Subpart O.

§ 109.503(c)(3) *Permit fees.*

This paragraph was deleted to provide consistency for fees required for permit applications submitted under § 109.503(c). Under this action, the permit fee submitted with an application for a permit or major permit amendment to satisfy the requirements for removal of volatile organic compounds (VOCs) and synthetic organic compounds (SOCs) (through the construction of treatment facilities designed to achieve greater removal of contaminants than would be achieved by conventional filtration) would be the same as the schedule specified for all other applications under § 109.503(c). The Department feels this decrease in fee is appropriate because the review time has decreased due to the availability of off-the-shelf, NSF-approved pieces of equipment for the removal of VOCs and SOCs.

§ 109.701(a)(3) *Compliance report.*

This paragraph was amended to relocate the Department's existing 1-hour reporting requirements. These requirements were originally located in § 109.402(1).

§ 109.701(a)(4) *Notice.*

This paragraph was amended in order to add EPA's new requirements for certification that a system has fully complied with the PN requirements. This amendment reflects the federal requirement found in 40 CFR § 141.31(d).

§ 109.701(d)(8) *Record maintenance.*

This paragraph was added to incorporate EPA's new record maintenance requirements. This amendment reflects the federal requirement found in 40 CFR § 141.33(e).

§ 109.702(a)(6) *Operation and maintenance plan.*

This paragraph was added to clarify the Department's intent to require a public notification component in a community water system's operation and maintenance plan. Paragraphs (6) – (11) were renumbered accordingly as paragraphs (7) – (12).

§ 109.707(a) and (b) *Emergency response plan.*

Subsection (a) was deleted because it duplicated information already contained in § 109.701(a)(3). Subsection (b) was renumbered as § 109.707(a). This subsection also was amended and renumbered to clarify the Department's requirements for an emergency response plan.

§ 109.805(e)(4) *Certification procedure.*

This paragraph was added to clarify that a laboratory certified by the Department shall comply with §109.810 (relating to reporting and notification requirements) to maintain certification. The Department requires that analytical data be submitted or reported in a timely manner to ensure that compliance determinations can be made and public health can be protected. A laboratory certified by the Department has an obligation to provide the data in a timely manner. The language was added to emphasize that a failure to comply with the reporting and notification requirements may jeopardize the laboratory's continued certification.

§ 109.806 *Standards for certification.*

This section was amended to clarify the Department's standards for certification.

§ 109.810(b) and (d) *Reporting and notification requirements.*

Subsection (b) was amended to clarify the Department's requirements with respect to how a certified laboratory shall contact the Department. Subsection (d) was amended to clarify the Department's requirements with respect to the circumstances under which a laboratory shall notify the public water supplier(s) it serves.

§ 109.1003(b) *Monitoring requirements.*

This subsection was deleted to be consistent with EPA. As a result, existing subsections (c) and (d) were renumbered as (b) and (c).

§ 109.1004(a) and (b) *Public notification.*

Subsection (a) was amended to clarify that bulk water and vended water suppliers shall give PN in accordance with Subchapter D. Subsection (b) was amended to revise the citation for EPA's mandatory health effects language.

§ 109.1102(b)(1) *Optimal corrosion control treatment.*

This paragraph was amended to clarify that water systems using optimized corrosion control treatment must operate in compliance with designated water quality parameters and continue to conduct lead and copper tap monitoring. Subparagraph (ii) was amended to provide a corrosion control compliance schedule for a new large water system. Subparagraph (iv) was added to allow a water system optimized for corrosion control treatment to go to reduced lead and copper tap monitoring under the criteria of § 109.1103(e). In addition, paragraph §109.1102(b)(2) was amended to reflect new compliance schedule requirements for systems under the proposed regulations.

§ 109.1103(d)(2)(iii) *Water quality parameter performance monitoring.*

This subparagraph was amended to change the water quality parameter compliance determinations from a single sample to no more than 9 days of sampling

during a six-month monitoring period that are below the minimum or outside the range of values designated by the Department.

§ 109.1103(e)(1)(ii)(D) *Triennial lead and copper tap monitoring.*

This clause was added to allow water systems that have low lead and copper levels to go directly from initial tap water monitoring to reduced three-year monitoring, thus bypassing annual tap water monitoring.

§ 109.1103(e)(1)(iv) *Sample sites and timing.*

This subparagraph was amended to allow systems on reduced lead and copper tap sampling to collect samples other than June 1 through September 30 of each monitoring period.

§ 109.1103(e)(2)(ii)(B) *Reduced annual water quality parameter monitoring.*

This clause was added to allow systems that maintain the range of values for water quality parameters and have tap water percentile values at low levels to reduce water quality parameter monitoring to every three years.

§109.1103(e)(2)(iii), (iv) and (v) *Reduced water quality parameter monitoring revocation.*

Subparagraph (iii) was amended to specify when reduced water quality parameter monitoring would be revoked. Subparagraph (iv) was added to specify when a system may resume annual water quality parameter monitoring after having reduced water quality parameter monitoring revoked. Subparagraph (v) was added to specify when a system may resume triennial water quality parameter monitoring after having reduced water quality parameter monitoring revoked.

§109.1103(g)(2)(i) *Site selection for community water systems.*

This subparagraph was amended to include the definition of representative sites for a system that has an insufficient number of tier 1, 2 and 3 sites available for sampling. Clause (D) was amended to include the definition for a single-family structure.

§109.1103(g)(2)(ii) *Site selection for nontransient noncommunity water systems.*

Subparagraph (ii) was amended to be consistent with the EPA requirements for alternate sampling sites if an insufficient number of tier 1 sites are available. Clause § 109.1103(g)(2)(ii)(B) was replaced by clause §109.1103 (g)(2)(ii)(C) since tier 2 sample sites are no longer required under § 109.1103 (g)(2)(ii). This clause was also amended to allow eligible water systems to substitute non-first draw samples if an insufficient number of sampling taps are available. In addition, subparagraph § 109.1103(g)(2)(v) was deleted.

§109.1103(h)(1)(v) *Lead and copper tap samples.*

This subparagraph was amended to clarify that first draw lead and copper samples are allowed to remain without acidification for up to 14 days after the sample is collected.

§ 109.1103(j) *Invalidation of lead or copper tap water samples.*

This subsection was added to specify that the Department, under certain criteria, may invalidate lead or copper tap samples.

§ 109.1103(k) *Monitoring waivers for small systems.*

This subsection was added to allow reduced lead and copper tap monitoring to every nine years for systems that have no lead or copper materials in their distribution system and have determined that their lead and copper action levels are extremely low.

§109.1104(a)(1) *Content.*

This paragraph was amended to allow water systems to delete information from their public education program pertaining to lead service line replacement if no lead service lines exist in their service area.

§ 109.1104(a)(1)(i) *Mandatory language for newspapers and water bill inserts.*

This subparagraph was amended to allow water suppliers to modify their public education language concerning availability and access to building permit records upon approval by the Department.

§ 109.1104(a)(1)(iv) *Mandatory language for nontransient noncommunity water systems.*

This subparagraph was amended to allow nontransient noncommunity water systems to use information contained in either 40 CFR 141.85(a)(1) or 40 CFR 141.85(a)(2) for public education materials.

§ 109.1104(a)(1)(v) *Mandatory language relating to the Pennsylvania Lead Ban.*

This subparagraph was deleted since the language in 40 CFR 141.85(a)(4)(D) requiring notification of the Pennsylvania Plumbing System Lead Ban and Notification Act in the public education materials has been removed from the federal language.

§ 109.1104(a)(2)(i) *Community water system requirements.*

This subparagraph was amended to clarify that community water systems are not required to repeat public education tasks within 60 days of exceeding an action level if

they are already conducting public education tasks due to previously exceeding an action level. Clause (E) was added to allow facilities, which serve populations that do not have control over system improvements and do not charge for water consumption, to use public education language in 40 CFR 185(a)(2) in lieu of the language in 40 CFR 185(a)(1). These systems may also perform the public education tasks under § 109.1104(a)(2)(ii)(A) in lieu of the tasks under § 109.1104(a)(2)(i)(A), (B), (C) and (D). Clause (F) was added to allow small community water systems the option of direct notice of public education materials to each customer in lieu of providing public service announcements.

§ 109.1104(a)(2)(ii) *Nontransient noncommunity water system requirements.*

This subparagraph was amended to clarify that nontransient noncommunity water systems are not required to repeat public education tasks within 60 days of exceeding an action level if they are already conducting public education tasks due to previously exceeding an action level. Clause (A) was amended to allow nontransient noncommunity water systems to electronically send public education materials to each person served in lieu of or combined with printed materials.

§ 109.1104(b) *Public notification requirements.*

This subsection was amended to be consistent with the public notification requirements under Subchapter D.

§ 109.1107(a)(2)(ii) *Water quality parameter monitoring results.*

This subparagraph was amended to require submittal of water quality parameter monitoring results to the Department as stipulated by the EPA.

§ 109.1107(a)(4) *Public education reporting requirements.*

This paragraph was amended to clarify when a water supplier must submit to the Department a letter demonstrating compliance with the public education requirements.

§ 109.1107(a)(5)(i) *Lead service line replacement reporting.*

Clause § 109.1107(a)(5)(i)(C) has been amended to remove the requirement that water systems provide a legal opinion when there is a rebuttal of the water system's control over lead service lines. Clause § 109.1107(a)(5)(i)(D) was amended to add the location of sample results as part of the reporting.

§ 109.1107(d)(4) *Conditions of replacement.*

This paragraph was amended to allow water systems to replace only that portion of the lead service line that the water system owns. The water system must make an offer to the owner of the privately owned line to replace the lead service line. In addition, the water supplier must inform consumers of any partial lead service line replacement and provide the results of sampling after replacement of the partial lead service line.

F. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of the proposed regulation.

Benefits

1. New CCR requirements.

The amendments will affect all 2,201 community water systems that serve a total population of over 10.5 million Pennsylvanians. The CCR Rule, in concert with the PN Rule, will help to ensure that consumers are provided with information they need to make informed public health decisions concerning the water they are served.

2. Major revisions to the PN requirements.

The amendments will affect all 10,473 public water systems that serve a total population of over 12.9 million Pennsylvanians. The benefits resulting from the PN Rule are expected to improve the current level of public health protection as a result of the simplifications.

3. Minor revisions to the regulation of lead and copper (LCRMR).

The amendments will affect all 3,468 community and nontransient noncommunity water systems that serve a total population of over 11 million Pennsylvanians. The benefits resulting from the LCRMR Rule are not expected to change, and EPA indicated that public health protection should also remain unchanged.

Compliance Costs

1. New CCR requirements.

EPA has estimated that, nationwide, a total annual cost of almost \$23 million will be borne by the regulated (\$20.3 million) and regulating communities (\$2.8 million) as a result of the CCR Rule. It is estimated that Pennsylvania water systems will bear over \$950,000 of the total annual cost. The \$950,000 estimate includes costs for preparing, printing and mailing the CCR. It is estimated that DEP will bear over \$50,000 of the total annual cost.

2. Major revisions to the PN requirements.

EPA has estimated that, nationwide, the total annual cost to the regulated and regulating communities for the **current** PN Rule is \$27 million. EPA has estimated that, nationwide, a total annual cost to the regulated and regulating communities for the **new** PN Rule is \$17.9 million. This results in a net annual cost reduction of over \$9 million (a

33.7% reduction) for both the regulated and regulating communities. The total annual costs for the new PN Rule are as follows:

- EPA has estimated that, nationwide, the total annual cost to the regulated community is almost \$16.4 million. It is estimated that Pennsylvania water systems will bear almost \$930,000 of the total annual cost. Assuming an annual cost reduction of 33.7% as referenced above, this equates to a total cost savings of over \$310,000.
- EPA has estimated that, nationwide, the total annual cost to the regulating communities is over \$1.5 million. It is estimated that DEP will bear almost \$27,000 of the total annual cost. Assuming an annual cost reduction of 33.7% as referenced above, this equates to a total cost savings of over \$9,000.

3. *Minor revisions to the regulation of lead and copper (LCRMR).*

For the LCRMR Rule, EPA estimated that, nationwide, public water systems will realize a total cost reduction of over \$2.8 million, while the regulating communities will realize a total cost increase of almost \$2.2 million. It is estimated that Pennsylvania water systems will realize a total cost reduction of almost \$128,000 while DEP will bear over \$39,000 of the total annual cost.

Estimated Net Annual Cost of CCR, PN and LCRMR Rules		
Rule	Cost to Pennsylvania Water Systems	Cost to DEP
CCR	950,000	50,000
PN	-310,000	-9,000
LCRMR	-128,000	39,000
Totals	512,000	80,000

Compliance Assistance Plan

The proposed revisions address monitoring and reporting requirements. As a result, financial assistance should not be necessary.

The Safe Drinking Water Program has established a network of regional and central office training staff that is responsive to identifiable training needs. The target audience in need of training may be program staff and/or the regulated community. In addition, information or links to EPA information on each of the regulations is available through the Department's Internet site at www.dep.state.pa.us.

Paperwork Requirements

The proposed revisions address monitoring and reporting requirements. As a result, some changes to forms, reports and other paperwork are expected.

The CCR Rule requires community water systems to prepare and deliver a consumer confidence report. Several organizations have developed templates for systems to use when developing their CCRs (such as EPA, AWWA, PRWA). The Rule also requires water suppliers to submit a certification that all provisions have been met. EPA has also provided a template for this certification form.

Revisions to the PN Rule should result in fewer notices overall. EPA has provided templates for systems to use when developing public notices.

The LCRM should result in a reduction in reporting requirements.

G. Sunset Review

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

H. Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 28, 2001, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation". A copy of this material is available to the public upon request.

Under Section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by that portion of the proposed amendments to which an objection is made. The Regulatory Review Act specifies detailed procedures for review by the Department, the Governor and the General Assembly before final publication of the amendments.

I. Public Comments

Written Comments – Interested persons are invited to submit comments, suggestions, or objections regarding the proposed regulation to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by November 7, 2001. Interested persons may also submit a summary of their comments to the Board. The summary may not

exceed one page in length and must also be received by November 7, 2001. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments – Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by November 7, 2001. A subject heading of the proposal and a return name and address must be included in each transmission.

J. Public Meeting/Hearing

The Board will hold a public meeting/hearing to explain and accept comments on this proposal. The meeting portion of the session will be one hour in length and will begin at 6:30 p.m., with Department of Environmental Protection staff providing a brief overview of the amendments and responding to questions. The hearing portion of the session will be held immediately following the meeting at approximately 7:30 p.m. The date and location of this event is as follows:

October 9, 2001	Sheraton Reading Hotel 1741 Papermill Road Wyomissing, PA
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Persons wishing to present testimony at the hearing are requested to contact Debra Failor at the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least one week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit 3 written copies of their oral testimony at the hearing. Each organization is limited to designating 1 witness to present testimony on its behalf the hearing.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Debra Failor at (717) 787-4526 or through the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate their needs.

BY:

David E. Hess
Chairman
Environmental Quality Board



Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 109. SAFE DRINKING WATER

Subchapter A. GENERAL PROVISIONS

§ 109.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Consumer Confidence Report (CCR) – An annual water quality report that community water systems shall deliver to their customers.

* * * * *

Subchapter B. MCLS, MRDLS OR TREATMENT TECHNIQUE

REQUIREMENTS

§ 109.202. State MCLs, MRDLs and treatment technique requirements.

* * * * *

(c) *Treatment technique requirements for pathogenic bacteria, viruses and protozoan cysts.* A public water system shall provide adequate treatment to reliably protect users from the adverse health effects of microbiological contaminants, including pathogenic bacteria, viruses and protozoan cysts. The number and type of treatment barriers and the efficacy of treatment provided shall be commensurate with the type, degree and likelihood of contamination in the source water.

(1) A public water supplier shall provide, as a minimum, continuous filtration and disinfection for surface water and GUDI sources. The treatment technique shall provide at least 99.9% removal and inactivation of *Giardia lamblia* cysts, and at least 99.99% removal and inactivation of enteric viruses. Beginning January 1, 2002, public water suppliers serving 10,000 or more people shall provide at least 99% removal of *Cryptosporidium oocysts*. The Department, depending on source water quality conditions, may require additional treatment as necessary to meet the requirements of this chapter and to protect the public health.

* * * * *

(ii) The combined total effect of disinfection processes utilized in a filtration plant shall achieve at least a 90% inactivation of *Giardia* cysts and a 99.9% inactivation of viruses, as determined by CTs and measurement methods established by the EPA. The residual

disinfectant concentration in the water delivered to the distribution system prior to the first customer may not be less than .2 mg/l for more than 4 hours, as demonstrated by measurement taken under § 109.301(1). Failure to maintain this level that extends beyond 4 hours constitutes a breakdown in treatment [**under § 109.402 (relating to emergency public notification)**]. **A system which experiences a breakdown in treatment shall, under § 109.701(a)(3) (relating to reporting and recordkeeping), notify the Department within 1 hour after the water system learns of the violation or the situation, and shall provide public notice in accordance with § 109.408 (relating to Tier 1 public notice – form, manner and frequency of notice).**

* * * * *

Subchapter C. MONITORING REQUIREMENTS

§ 109.301. General monitoring requirements.

* * * * *

(1) *Performance monitoring for filtration and disinfection.* A public water supplier providing filtration and disinfection of surface water or GUDI sources shall conduct the performance monitoring requirements established by the EPA under the National Primary Drinking Water Regulations, unless increased monitoring is required by the Department under § 109.302.

(i) Except as provided under subparagraphs (ii) and (iii), a public water supplier:

* * * * *

(C) Shall continuously monitor and record the residual disinfectant concentration of the water being supplied to the distribution system and record both the lowest value for each day and the number of periods each day when the value is less than .2 mg/l for more than 4 hours. If a public water system's continuous monitoring or recording equipment fails, the public water supplier may, upon notification of the Department under **[§109.402 (relating to emergency public notification)] § 109.701(a)(3) (relating to reporting and recordkeeping)**, substitute grab sampling or manual recording every 4 hours in lieu of continuous monitoring. Grab sampling or manual recording may not be substituted for continuous monitoring or recording for longer than 5 days after the equipment fails.

* * * * *

(2) *Performance monitoring for unfiltered surface water and GUDI.* A public water supplier using unfiltered surface water or GUDI sources shall conduct the following source water and performance monitoring requirements on an interim basis until filtration is provided, unless increased monitoring is required by the Department under § 109.302:

(i) Except as provided under subparagraphs (ii) and (iii), a public water supplier:

* * * * *

(D) Shall continuously monitor the residual disinfectant concentration required under §109.202(c)(1)(iii) (relating to State MCLs, MRDLs and treatment technique requirements) of the water being supplied to the distribution system and record the lowest value for each day. If a public water system's continuous monitoring equipment fails, the public water supplier may, upon notification of the Department under [§109.402] § 109.701(a)(3), substitute grab sampling every 4 hours in lieu of continuous monitoring. Grab sampling may not be substituted for continuous monitoring for longer than 5 days after the equipment fails.

* * * * *

(3) *Monitoring requirements for coliforms.* Public water systems shall determine the presence or absence of total coliforms for each routine or check sample; and, the presence or absence of fecal coliforms or E. coli for a total coliform positive sample in accordance with analytical techniques approved by the Department under § 109.304 (relating to analytical requirements). A system may forego fecal coliform or E. coli testing on a total coliform-positive sample if the system assumes that any total coliform-positive sample is also fecal coliform-positive. A system which chooses to forego fecal coliform or E. coli testing shall, under [§ 109.402(1)] § 109.701(a)(3), notify the Department within 1 hour [of when the system is first notified of the total coliform-positive sample result] after

the water system learns of the violation or the situation, and shall provide public notice in accordance with § 109.408 (relating to Tier 1 public notice – form, manner and frequency of notice).

* * * * *

(7) *Monitoring requirements for IOCs.* Community water systems and nontransient noncommunity water systems shall monitor for compliance with the MCLs for IOCs established by the EPA under 40 CFR 141.62 (relating to maximum contaminant levels (MCLs) for inorganic contaminants), and for arsenic established by the EPA under 40 CFR 141.11 (relating to maximum contaminant levels for inorganic contaminants). Transient noncommunity water suppliers shall monitor for compliance with the MCLs for nitrate and nitrite. The monitoring shall be conducted according to the requirements established by the EPA under 40 CFR 141.23 (relating to inorganic chemical sampling and analytical requirements). The requirements are incorporated by reference except as modified by this chapter.

* * * * *

(ii) *Monitoring requirements for nitrate and nitrite.* The following compliance monitoring for nitrite is not required at entry points receiving water which has been disinfected with free chlorine, chlorine dioxide or ozone:

* * * * *

(C) *Repeat monitoring for systems with nitrate or nitrite levels equal to or greater than 50% of the MCL.*

* * * * *

(V) For nitrate or nitrite sample results in excess of the MCLs, the water supplier shall take a confirmation sample within 24 hours of having received the original sample result.

A water supplier that is unable to comply with the 24-hour sampling requirement shall immediately notify persons served by the public water system in accordance with § 109.408 (relating to Tier 1 public notice – form , manner and frequency of notice), and meet other Tier 1 public notification requirements. Systems exercising this option shall take and analyze a confirmation sample within 2 weeks of notification of the analytical results of the first sample.

(VI) Noncommunity water systems for which an alternate nitrate level has been approved by the Department in accordance with 40 CFR 141.11(d) are not required to collect a confirmation sample if only the nitrate MCL is exceeded and nitrate is not in excess of the alternate nitrate level. If the alternate nitrate level is exceeded, the water supplier shall collect a confirmation sample within 24 hours after being advised by the certified laboratory performing the analysis that the compliance sample exceeded 20 mg/l for nitrate. Confirmation monitoring shall be completed by the deadline for compliance

monitoring. Quarterly performance monitoring is required for nitrate and nitrite at entry points where treatment has been installed to remove nitrate or nitrite.

* * * * *

§ 109.302. Special monitoring requirements.

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[(f) The special monitoring requirements for unregulated contaminants established by the EPA under 40 CFR 141.40 (relating to special monitoring for organic chemicals) are incorporated by reference. Community water systems and nontransient noncommunity water systems serving 150 or more service connections or 500 or more persons shall monitor for the unregulated contaminants listed by the EPA under 40 CFR 141.40(n)(11) in accordance with the initial monitoring schedule for SOCs in § 109.301(7), and for sulfate listed under 40 CFR 141.40(n)(12). For sulfate, one sample shall be taken at each entry point by December 31, 1995. The Department will grant a waiver from conducting monitoring for an unregulated contaminant under 40 CFR 141.40(n)(11) based on a determination that the contaminant was not previously used, transported, stored or disposed of in the watershed or wellhead protection area Zones I and II, or the source is not susceptible to contamination by the contaminant based on the factors listed under § 109.301(6)(v). Entry points obtaining finished water from another public water

system are exempt from monitoring that finished water for the unregulated contaminants listed by the EPA under 40 CFR 141.40(n)(11) and (12).]

[(g)] (f) * * *

* * * * *

[(h)] (g) The Department may reduce or eliminate the monitoring required by subsection [(g)] (f) if the public water supplier demonstrates and the Department determines that the source of supply is not directly influenced by surface water.

Subchapter D. PUBLIC NOTIFICATION

Sec.

- 109.401. [General public notification requirements.] (Reserved)
- 109.402. [Emergency public notification.] (Reserved)
- 109.403. [Description and content of notice.] (Reserved)
- 109.404. [Notice by the Department.] (Reserved)
- 109.405. [Public notice requirements for lead.] (Reserved)
- 109.406. [Public notice requirements for unregulated contaminants.] (Reserved)
- 109.407. General public notification requirements.
- 109.408. Tier 1 public notice – form, manner and frequency of notice.
- 109.409. Tier 2 public notice – form, manner and frequency of notice.
- 109.410. Tier 3 public notice – form, manner and frequency of notice.
- 109.411. Content of a public notice.
- 109.412. Special notice of the availability of unregulated contaminant monitoring results.

109.413. Special notice for nitrate exceedances above MCL by noncommunity water systems, where granted permission by the Department.

109.414. Notice to new billing units or new customers.

109.415. Notice by the Department on behalf of the public water system.

109.416. Consumer confidence report requirements.

(Editor's note: Sections 109.401 - .406 are being reserved. The deleted text is not printed here.)

§ 109.407. General public notification requirements.

(a) Violation categories and other situations requiring a public notice. A public water supplier shall give public notice for the following circumstances:

(1) Failure to comply with an applicable State primary maximum contaminant level (MCL) or maximum residual disinfectant level (MRDL) in Subchapter B (relating to MCLs, MRDLs or treatment technique requirements).

(2) Failure to comply with a prescribed treatment technique requirement in Subchapter B or K (relating to MCLs, MRDLs or treatment technique requirements or lead and copper).

(3) Failure to perform water quality monitoring, as required by Subchapter C or K (relating to monitoring requirements or lead and copper).

(4) Operation under a variance or an exemption under Subchapter I (relating to variances and exemptions issued by the Department).

(5) Failure to comply with the requirements of any schedule that has been set under a variance or exemption.

(6) Occurrence of a waterborne disease outbreak or other waterborne emergency.

(7) Availability of unregulated contaminant monitoring data.

(8) Exceedance of the nitrate MCL by noncommunity water systems, where permitted by the Department in writing to exceed the MCL in accordance with 40 CFR 141.11(d) (relating to MCLs for inorganic contaminants).

(9) Other violations and situations determined by the Department to require a public notice.

(b) Definition of public notice tiers. Public notice requirements are divided into three tiers, to take into account the seriousness of the violation or situation and any

potential adverse health effects that may be involved. The public notice requirements for each violation or situation identified in subsection (a) is determined by the tier to which it is assigned. This Subchapter incorporates by reference the tier assignment for each specific violation or situation in the National Primary Drinking Water Regulations, Appendix A to Subpart Q of 40 CFR Part 141 (relating to the tier assignment for each specific NPDWR violation and other situations requiring public notice), unless other tier assignments are established by regulations or order of the Department.

(1) Tier 1 public notice – Required for violations and situations specified in subsection (a) with significant potential to have serious adverse effects on human health as a result of short-term exposure. General violation categories and other situations requiring a Tier 1 public notice are specified in § 109.408(a) (relating to Tier 1 public notice – form, manner and frequency of notice).

(2) Tier 2 public notice – Required for all other violations and situations in subsection (a) with potential to have serious adverse effects on human health. General violation categories and other situations requiring a Tier 2 public notice are specified in § 109.409(a) (relating to Tier 2 public notice – form, manner and frequency of notice).

(3) Tier 3 public notice – Required for all other violations and situations in subsection (a) not included in Tier 1 and Tier 2. General violation categories and

other situations requiring a Tier 3 public notice are specified in § 109.410(a) (relating to Tier 3 public notice – form, manner and frequency of notice).

(c) Public notice recipients.

(1) A public water supplier shall provide public notice to persons served by the public water system, in accordance with this Subchapter. A public water system that sells or otherwise provides drinking water to another public water system, such as to a consecutive water, bulk water hauling or vended water system, shall give public notice to the owner or operator of the other water system. The other water system is responsible for ensuring that public notice is provided to the persons it serves.

(2) If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the Department may allow the water supplier to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance. Permission for limiting distribution of the notice shall be granted in writing by the Department.

(3) If a public water system has a violation involving a point-of-entry (POE) device, the Department may allow the water supplier to limit distribution of the

public notice to only persons served by that POE device. Permission for limiting distribution of the notice shall be granted in writing by the Department.

(4) If a community water system has a Tier 1 violation, the water supplier shall also notify key public officials as designated in the community water system's emergency response plan under § 109.707(a) (relating to emergency response plan).

(5) If a noncommunity water system in which persons 17 years of age or under are cared for or educated, such as a school or day care center, has a Tier 1 violation, the water supplier shall also provide public notice directly to the parent or guardian of those persons.

(6) A water supplier shall provide a copy of the notice to the Department in accordance with the requirements under 109.701(a)(4) (relating to reporting and recordkeeping).

§ 109.408. Tier 1 public notice – form, manner and frequency of notice.

(a) General violation categories and other situations requiring a Tier 1 public notice. A public water supplier shall provide Tier 1 public notice for the following circumstances:

(1) Violation of the MCL for total coliforms when fecal coliforms or E. coli are present in the water distribution system, as specified in § 109.202(a)(2) (relating to MCLs, MRDLs or treatment technique requirements), or when the water supplier fails to test for fecal coliforms or E. coli when any check sample tests positive for coliforms, as specified in § 109.301(3) (relating to general monitoring requirements).

(2) Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, as defined in § 109.202(a)(2), or when the water supplier fails to take a confirmation sample within 24 hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL, as specified in § 109.301(7)(ii)(C)(V).

(3) Exceedance of the nitrate MCL by noncommunity water systems, where permitted by the Department in writing to exceed the MCL in accordance with 40 CFR 141.11(d).

(4) Violation of the MRDL for chlorine dioxide, as defined in § 109.202(f)(2), when one or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system exceed the MRDL, or when the water supplier does not take the required samples in the distribution system, as specified in § 109.301.

(5) Violation of the turbidity MCL of 5 NTU based on an average for 2 consecutive days by a public water system using an unfiltered surface water source, as specified in § 109.202(a)(2).

(6) Violation of a treatment technique requirement for pathogenic bacteria, viruses and protozoan cysts as defined in § 109.202(c), resulting from a single exceedance of the maximum allowable turbidity limit.

(7) Occurrence of a waterborne disease outbreak, as defined in § 109.1 (relating to general provisions), or other waterborne emergency including, but not limited to, the following:

(i) Failure or significant interruption in key water treatment processes.

(ii) A natural disaster that disrupts the water supply or distribution system.

(iii) A chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination.

(8) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, as determined by the Department on a case-by-case basis.

(b) Timing for a Tier 1 public notice. A Public water supplier shall do the following:

(1) Provide a public notice as soon as possible, but no later than 24 hours after the water supplier learns of the violation or situation under subsection (a).

(2) Report the circumstances to the Department within 1 hour of discovery of the violation or situation in accordance with § 109.701(a)(3) (relating to reporting and recordkeeping).

(3) Initiate consultation with the Department as soon as possible, but no later than 24 hours after the water supplier learns of the violation or situation, to determine initial and any additional public notice requirements.

(4) Comply with initial and any additional public notification requirements that are established as a result of the consultation with the Department. Such requirements may include the timing, form, manner, duration, frequency, and content of the initial and any repeat notices, and other actions designed to reach all persons served. The repeat notice frequency (if applicable) for a Tier 1 public notice shall be established as a result of the consultation, but shall be no less stringent than the repeat notice frequency specified for a Tier 2 public notice under § 109.409(b)(3) (relating to Tier 2 public notice – form, manner and frequency of notice).

(c) Form and manner of a Tier 1 public notice. The form and manner used by a public water supplier shall fit the specific situation and shall be designed to reach residential, transient, and non-transient users of the water system. In order to reach all persons served, a water supplier shall use, at a minimum, one or more of the following forms of delivery:

(1) Appropriate broadcast media, such as radio or television.

(2) Posting of the notice in conspicuous locations throughout the area served by the water system.

(3) Hand delivery of the notice to persons served by the water system.

(4) Another delivery method approved in writing by the Department.

§ 109.409. Tier 2 public notice – form, manner and frequency of notice.

(a) General violation categories and other situations requiring a Tier 2 public notice.

A public water supplier shall provide Tier 2 public notice for the following circumstances:

(1) All violations of the primary MCL, MRDL and treatment technique requirements in Subchapter B or K (relating to MCLs, MRDLs or treatment technique requirements or lead and copper), except where a Tier 1 notice is required under § 109.408 (relating to Tier 1 public notice – form, manner and frequency of notice) or where the Department determines that a Tier 1 notice is required. The tier assignment for fluoride is not incorporated by reference. Under § 109.202(d) (relating to MCLs, MRDLs or treatment technique requirements), a public water system shall comply with the primary MCL for fluoride of 2 mg/L. As such, a public water supplier shall provide Tier 2 public notice for violation of the primary MCL for fluoride.

(2) Violations of the monitoring requirements in Subchapter C or K (relating to monitoring requirements or lead and copper), where the Department determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation.

(3) Failure to comply with the terms and conditions of any variance or exemption in place under Subchapter I (relating to variances and exemptions issued by the Department).

(b) Timing for a Tier 2 public notice. A public water supplier shall do the following:

(1) Report the circumstances to the Department within 1 hour of discovery of a violation under paragraph (a)(1), in accordance with § 109.701(a)(3) (relating to reporting and recordkeeping).

(2) Provide the public notice as soon as possible, but no later than 30 days after the system learns of the violation. If the public notice is posted, the notice shall remain in place for as long as the violation or situation persists, but in no case for less than 7 days, even if the violation or situation is resolved. The Department may, in appropriate circumstances, allow additional time for the initial notice of up to 3 months from the date the system learns of the violation. The Department will not grant an extension across the board or for an unresolved violation. Extensions granted by the Department shall be in writing.

(3) Repeat the notice every 3 months as long as the violation or situation persists, unless the Department determines that appropriate circumstances warrant a different repeat notice frequency. In no circumstances may the repeat notice be given less frequently than once per year. The Department will not allow less frequent repeat notices across the board; or for an MCL violation for total coliforms established under § 109.202 (a)(2); or for a violation of a treatment technique requirement for pathogenic bacteria, viruses and protozoan cysts as defined in § 109.202 (c); or for other ongoing violations. Determinations granted by the Department for less frequent repeat notices shall be in writing.

(c) Form and manner of a Tier 2 public notice. A public water supplier shall provide the initial public notice and any repeat notices in a form and manner that is designed to reach all persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but the public water supplier shall at a minimum meet the following requirements:

(1) Unless directed otherwise by the Department in writing, community water systems shall provide notice using the following forms of delivery:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system.

(ii) Any other method designed to reach other persons regularly served by the system, if they would not normally be reached by the notice required in subparagraph (i). Such persons may include those who do not pay water bills or do not have service connection addresses such as house renters, apartment dwellers, university students, nursing home patients or prison inmates. Other methods may include publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others (such as apartment building owners or large private employers), posting in public places served by the system or on the Internet or delivery to community organizations.

(2) Unless directed otherwise by the Department in writing, noncommunity water systems shall provide notice using the following forms of delivery:

(i) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known).

(ii) Any other method designed to reach other persons served by the system if they would not normally be reached by the notice required in subparagraph (i). Such persons may include those served who may not see a posted notice because the posted notice is not in a location they routinely pass by. Other methods may include publication in a local newspaper or newsletter distributed to customers, use of e-mail to notify employees or students or delivery of multiple copies in central locations such as community centers.

§ 109.410. Tier 3 public notice – form, manner and frequency of notice.

(a) General violation categories and other situations requiring a Tier 3 public notice. A public water supplier shall provide Tier 3 public notice for the following circumstances:

(1) Monitoring violations under Subchapter C or K (relating to monitoring requirements or lead and copper), except where a Tier 1 notice is required under §

109.408 (relating to Tier 1 public notice – form, manner and frequency of notice) or where the Department determines that a Tier 2 notice is required.

(2) Operation under a variance or an exemption granted under Subchapter I (relating to variances and exemptions issued by the Department).

(3) Availability of unregulated contaminant monitoring results, as required under 40 CFR 141.40 (relating to monitoring requirements for unregulated contaminants).

(b) Timing for a Tier 3 public notice.

(1) A public water supplier shall provide the public notice no later than 1 year after the public water system learns of the violation or situation or begins operating under a variance or exemption. Following the initial notice, the water supplier shall repeat the notice annually for as long as the violation, variance, exemption or other situation persists. If the public notice is posted, the notice shall remain in place for as long as the violation, variance, exemption or other situation persists, but in no case shall the initial and annual repeat notice be posted for less than 7 days (even if the violation or situation is resolved).

(2) Instead of individual Tier 3 public notices, a public water supplier may use an annual report detailing all violations and situations that occurred during the previous 12 months, as long as the timing requirements of paragraph (1) are met.

(c) Form and manner of a Tier 3 public notice. A public water supplier shall provide the initial notice and any repeat notices in a form and manner that is designed to reach all persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but the public water supplier shall, at a minimum, meet the following requirements:

(1) Unless directed otherwise by the Department in writing, community water systems shall provide notice using the following forms of delivery:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system.

(ii) Any other method designed to reach other persons regularly served by the system, if they would not normally be reached by the notice required in subparagraph (i). Such persons may include those who do not pay water bills or do not have service connection addresses such as house renters, apartment dwellers, university students, nursing home patients or prison inmates. Other methods may include publication in a local newspaper, delivery of multiple copies for distribution

by customers that provide their drinking water to others (such as apartment building owners or large private employers), posting in public places or on the Internet or delivery to community organizations.

(2) Unless directed otherwise by the Department in writing, noncommunity water systems shall provide notice using the following forms of delivery:

(i) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known).

(ii) Any other method designed to reach other persons served by the system, if they would not normally be reached by the notice required in subparagraph (i). Such persons may include those who may not see a posted notice because the notice is not in a location they routinely pass by. Other methods may include publication in a local newspaper or newsletter distributed to customers, use of e-mail to notify employees or students or delivery of multiple copies in central locations such as community centers.

(d) Use of a Consumer Confidence Report to meet the Tier 3 public notice requirements. For community water systems, the consumer confidence report (CCR) required under § 109.416 (relating to CCR requirements) may be used as a

vehicle for the initial Tier 3 public notice and all required repeat notices, as long as the following conditions are met:

(1) The CCR is provided to persons served no later than 12 months after the system learns of the violation or situation as required under subsection (b).

(2) The Tier 3 notice contained in the CCR follows the content requirements under § 109.411 (relating to content of a public notice).

(3) The CCR is distributed following the delivery requirements under § 109.410(c) (relating to Tier 3 public notice – form, manner and frequency of notice).

§ 109.411. Content of a public notice.

(a) *Elements of a public notice.* When a public water system is required to give public notice under this Subchapter, each public notice shall include the following elements:

(1) A description of the violation or situation, including the contaminant(s) of concern, and (as applicable) the contaminant level(s).

(2) When the violation or situation occurred.

(3) Any potential adverse health effects from the violation or situation, including the standard language under paragraph (d)(1) or (d)(2) of this section, whichever is applicable.

(4) The population at risk, including sub-populations particularly vulnerable if exposed to the contaminant in their drinking water.

(5) Whether alternative water supplies should be used.

(6) What actions consumers should take, including when they should seek medical help, if known.

(7) What the system is doing to correct the violation or situation.

(8) When the water system expects to return to compliance or resolve the situation.

(9) The name, business address, and telephone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice.

(10) A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under paragraph (d)(3), where applicable.

(b) Elements of a public notice for public water systems operating under a variance or exemption.

(1) If a public water system has been granted a variance or an exemption under Subchapter I (relating to variances and exemptions issued by the Department), the public notice shall contain the following elements:

(i) An explanation of the reason for the variance or exemption.

(ii) The date on which the variance or exemption was issued.

(iii) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption.

(iv) A notice of any opportunity for public input in the review of the variance or exemption.

(2) If a public water system violates the conditions of a variance or exemption, the public notice shall contain the ten elements listed in subsection (a).

(c) Presentation of a public notice.

(1) Each public notice required by this section shall:

(i) Be displayed in a conspicuous way when printed or posted.

(ii) Not contain overly technical language or very small print.

(iii) Not be formatted in a way that defeats the purpose of the notice.

(iv) Not contain language that nullifies the purpose of the notice.

(2) Each public notice required by this section shall comply with multilingual requirements, as follows:

(i) For public water systems serving a large proportion of non-English speaking consumers, as determined by the Department, the public notice shall contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the

water system to obtain a translated copy of the notice or to request assistance in the appropriate language.

(ii) Until the Department determines whether a system serves an area with a large proportion of non-English speaking consumers, the public water system shall include in the public notice the same information as in subparagraph (i), where appropriate, to reach a large proportion of non-English speaking persons served by the water system.

(d) *Standard language for a public notice.* Public water systems shall include the following standard language in their public notice:

(1) *Standard health effects language for primary MCL or MRDL violations, treatment technique violations, and violations of the condition of a variance or exemption.* Public water systems shall include in each public notice appropriate health effects language. This Subchapter incorporates by reference the health effects language specified in Appendix B to Subpart Q of 40 CFR Part 141 (relating to standard health effects language for public notification), corresponding to each primary MCL, MRDL, and treatment technique violation listed in Appendix A to Subpart Q of 40 CFR Part 141 (relating to NPDWR violations and other situations requiring public notice), and for each violation of a condition of a variance or exemption, unless other health effects language is established by regulations or order of the Department. The health effects language for fluoride is not

incorporated by reference. Public water systems shall include the following health effects language in each Tier 2 public notice for violation of the primary MCL of 2 mg/L for fluoride:

“Some people who drink water containing fluoride in excess of 4 mg/L over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water in excess of 2 mg/L may cause mottling of children’s teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.”

(2) Standard language for violations of monitoring requirements. Public water systems shall include the following language in their notice, including the language necessary to fill in the blanks, for all violations of monitoring requirements listed in Appendix A to Subpart Q of 40 CFR Part 141:

“We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During [insert compliance period], we “did not monitor or test” or “did not complete all monitoring or testing” for [insert contaminant(s)], and therefore cannot be sure of the quality of your drinking water during that time.”

(3) Standard language to encourage the distribution of the public notice to all persons served. Public water systems shall include in their notice the following language (where applicable):

“Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.”

§ 109.412. Special notice of the availability of unregulated contaminant monitoring results.

(a) Timing for a special notice. A community water system or nontransient, noncommunity water system required to monitor for an unregulated contaminant under 40 CFR 141.40 (relating to monitoring requirements for unregulated contaminants) shall notify persons served by the system of the availability of the results of such sampling no later than 12 months after the monitoring results are known.

(b) Form and manner of a special notice. The form and manner of the public notice shall follow the requirements for a Tier 3 public notice prescribed in § 109.410 (relating to Tier 3 public notice – form, manner and frequency of notice). A

public water system may use an annual report or CCR to notify persons served by the system of the availability of the results of such sampling as long as the requirements under § 109.410(d) are met. The notice shall also identify a person and provide the telephone number to contact for information on the monitoring results.

§ 109.413. Special notice for nitrate exceedances above MCL by noncommunity water systems, where granted permission by the Department.

(a) *Timing for a special notice.* A noncommunity water system granted permission by the Department in writing in accordance with 40 CFR 141.11(d) (relating to maximum contaminant levels for inorganic chemicals) to exceed the nitrate MCL shall provide notice to persons served according to the requirements for a Tier 1 notice under § 109.408(a) and (b) (relating to Tier 1 public notice – form, manner and frequency of notice).

(b) *Form and manner of a special notice.* Noncommunity water systems granted permission by the Department in writing to exceed the nitrate MCL in accordance with 40 CFR 141.11(d) shall provide continuous posting of the fact that nitrate levels exceed 10 mg/L and include the potential health effects of exposure, according to the requirements for a Tier 1 notice delivery under § 109.408(c) and the content requirements under § 109.411 (relating to content of a public notice).

§ 109.414 Notice to new billing units or new customers.

(a) Requirements for community water systems. Community water systems shall give a copy of the most recent public notice for any continuing violation, the existence of a variance or exemption, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins.

(b) Requirements for noncommunity water systems. Noncommunity water systems shall continuously post the public notice in conspicuous locations in order to inform new consumers of any continuing violation, variance or exemption, or other situation requiring a public notice for as long as the violation, variance, exemption, or other situation persists.

§ 109.415 Notice by the Department on behalf of the public water system.

If a public water supplier fails to give notice to the public as required by this Subchapter, the Department may perform this notification on behalf of the supplier of water and may assess costs of notification on the responsible water supplier.

(1) Public notice given by the Department on behalf of the public water system. If the Department gives the public notice required by this Subchapter on behalf of the public water supplier, the Department shall comply with the requirements of this Subchapter.

(2) Public water system responsibilities when public notice is given by the Department. If the Department gives public notice, the public water supplier remains responsible for ensuring that the requirements of this Subchapter are met.

§ 109.416 Consumer confidence report (CCR) requirements.

This section applies only to community water systems and establishes the minimum requirements for the content of the annual CCR that each such system must deliver to its customers. This report shall contain information on the quality of the water delivered by the system and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner.

(1) For the purposes of this section, the definitions of “customer” and “detected” established by the EPA under 40 CFR 141.151(c) and 40 CFR 141.151(d) (relating to definitions), respectively, are incorporated by reference.

(2) Each community water system shall deliver to its customers an annual CCR on the dates established by the EPA under 40 CFR 141.152 (relating to effective dates), which is incorporated by reference.

(3) Except as noted below, the annual report that a community water system provides to its customers shall contain all of the information, mandatory language

and optional text specified by the EPA under 40 CFR 141.153 and 40 CFR 141.154 (relating to content of the reports and required additional health information), which are incorporated by reference, and under Appendix A to Subpart O of 40 CFR 141 (relating to regulated contaminants), which is incorporated by reference.

(i) If a water system wants to use wording of its own choice in place of optional text, the water supplier shall submit the proposed wording to the Department for review and written approval prior to including it in their annual CCR. Once approved, the water supplier's wording may be used in future CCRs without further approval from the Department as long as it is not changed and is still applicable.

(ii) Until the Department determines whether a system serves an area with a large proportion of non-English speaking residents, the system shall include the same information as found in 40 CFR 141.153(h)(3) in the system's annual report in the appropriate language(s) to reach a large proportion of non-English speaking persons served by the system.

(iii) For the purpose of defining how certain portions of a CCR shall appear, the term "prominently display" as used in 40 CFR 141.154(a) shall mean that the information shall be printed either in a larger size typeface or bolded or enclosed within a border or all of the above so as to make the information conspicuous in comparison to the rest of the text appearing before and after the prominently

displayed text. Prominently displayed text placed away from other text (such as in a highlighted or boxed area) shall be printed no smaller than the text used elsewhere in the body of the report, excluding main or section titles.

(iv) Information contained in a CCR shall appear in an easy-to-read format. Small font sizes or color combinations, or both, that make it difficult for persons to read and understand the information contained in the CCR shall not be used.

(v) Any information in a CCR added in accordance with 40 CFR 141.153(h)(5) (relating to additional information that may be added to a CCR) will be considered as detracting from the purpose of the report if the additional information requires the text used in the CCR to be reduced to a size that is difficult to read.

(4) Report delivery and recordkeeping. Each community water system shall do the following:

(i) Mail or otherwise directly deliver to each customer and to the department one copy of the annual CCR no later than the date the water system is required to distribute the CCR to its customers.

(ii) Make a good faith effort to reach consumers who do not get water bills. The Department will determine "good faith" based on those methods identified in 40

CFR 141.155(b) (relating to delivery requirements), which are incorporated by reference.

(iii) Submit in writing to the Department no later than 3 months after the delivery of the annual CCR:

(A) A Certification that the annual CCR has been distributed to customers and that the information contained in the report is correct and consistent with the compliance monitoring data previously submitted to the Department.

(B) A description of what was done to meet the good faith effort requirement described in subparagraph (ii).

(iv) If another Pennsylvania agency or commission also regulates the community water system, submit a copy of the system's annual CCR to the other agency or commission upon the specific request of that agency or commission no later than the date the water system is required to distribute the CCR to its customers. Each State agency or commission shall determine the way it requests a copy of the system's CCR. Such agencies or commissions may include, but are not limited to, the following:

(A) The Pennsylvania Public Utility Commission and the Office of Consumer Advocate in the Office of the Attorney General, for water systems that are public utilities regulated under the Public Utility Code.

(B) The Pennsylvania Department of Public Welfare for self-contained community water systems serving personal care or other group housing facilities.

(C) The Pennsylvania Department of Health, for self-contained community water systems serving skilled healthcare facilities.

(v) Make copies of its annual CCR available to the public on request.

(vi) If a community water system serves 100,000 or more people, post its current year's report to a publicly accessible site on the Internet.

(vii) Retain copies of each annual CCR and the related information required in paragraph (3) on the premises of the system or at a convenient location near the premises for no less than 3 years after the date of its delivery to customers.

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Subchapter E. PERMIT REQUIREMENTS

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§ 109.503. Public water system construction permits.

* * * * *

(c) Permit fees.

* * * * *

[(3) Applications for permits or major permit amendments submitted to satisfy the requirements of Subchapter B (relating to MCLs, MRDLs or treatment technique requirements) for removal of VOCs and SOCs through the construction of treatment facilities designed to achieve greater removal of contaminants than would be achieved by conventional filtration shall be accompanied by a fee of \$2,500.]

* * * * *

Subchapter G. SYSTEM MANAGEMENT RESPONSIBILITIES

§ 109.701. Reporting and recordkeeping.

(a) *Reporting requirements for public water systems.* Public water systems shall comply with the following requirements:

* * * * *

(3) *Compliance report.* [The water supplier shall report to the Department within 48 hours failure to comply with Subchapter C (relating to monitoring requirements), except that emergency notification shall be made under §109.402 (relating to emergency public notification)]. **A public water supplier shall report the circumstances to the Department within 1 hour of discovery for the following violations or situations:**

(i) A primary MCL or an MRDL has been exceeded or a treatment technique requirement has been violated under Subchapter B or K (relating to MCLs, MRDLs or treatment technique requirements or lead and copper).

(ii) A sample result requires the collection of check samples under § 109.301 (relating to general monitoring requirements).

(iii) Circumstances exist which may adversely affect the quality or quantity of drinking water including, but not limited to, the occurrence of a waterborne disease outbreak, a failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical

spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination.

(4) *Notice.* The water supplier shall, within 10 days of completion of each public notification required under Subchapter D (relating to public notification) **with the exception of a CCR, submit to the Department a certification that it has fully complied with the public notification requirements. The water supplier shall include with this certification** a representative copy of each type of notice **distributed, published, posted and made available to persons served by the system and to the media** and a description of the [publication, distribution, posting or other] means undertaken to make the notice available.

* * * * *

(d) *Record maintenance.* The public water supplier shall retain on the premises of the public water system or at a convenient location near the premises the following:

* * * * *

(8) Copies of public notifications issued pursuant to Subchapter D and certifications made to the Department pursuant to paragraph (a)(4) shall be kept for 3 years after issuance.

§ 109.702. Operation and maintenance plan.

(a) A community water supplier shall develop an operation and maintenance plan for the community water system. The operation and maintenance plan shall conform to the guidelines contained in the Department's *Public Water Supply Manual* and shall contain at least the following information:

- (1) A description of the facilities.
- (2) An explanation of startup and normal operation procedures.
- (3) A routine maintenance program.
- (4) Records and reporting system.
- (5) Sampling and analyses program.
- (6) A public notification program including appropriate advance preparations, such as public notice templates, an explanation of appropriate method(s) of delivery and a designation of public notice recipients for each tier type.**
- [(6)] (7) Staffing and training.
- [(7)] **(8)** Sanitary survey program including the wellhead protection program for any water system that develops one under § 109.713 (relating to wellhead protection programs).
- [(8)] (9) Safety program.
- [(9)] (10) Emergency plan and operating procedures.
- [(10)] (11) Manufacturer's manuals.

[(11)] **(12)** An interconnect, valve and blowoff exercise and testing program.

* * * * *

§ 109.707. Emergency response plan.

[(a) A public water supplier who knows or has reason to believe that circumstances exist which may adversely affect the quality or quantity of drinking water supplied by the system, shall notify the Department immediately under § 109.402 relating to emergency public notification.]

[(b)] (a) [The] A community water supplier shall develop a plan for the provision of safe and adequate drinking water under emergency circumstances, and submit the plan to the Department for approval by December 8, 1985. The emergency response plan shall conform to the guidelines contained in the Department's Public Water Supply Manual and shall contain at least the following information:

(1) [The plan shall identify] Identification of probable emergency situations, including, but not limited to, those specified in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping), and alternative solutions to respond to situations including how the system will maintain its ability to provide service in the event of contamination or an outage of one or more of its sources of supply. Consideration shall

be given to providing reserve capacity according to § 109.609 (relating to reserve capacity and finished water storage).

(2) **[The plan shall establish]** Procedures for communications and coordination with the local emergency management organization.

[(3)] (b) The plan shall be kept on file in a readily accessible location by the public water supplier.

[(4)] (c) The plan shall be reviewed and updated at least annually.

Subchapter H. LABORATORY CERTIFICATION

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§ 109.805. Certification procedure.

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(e) In addition to terms and conditions in the certification issued to a laboratory, the certified laboratory shall fulfill the following requirements to maintain certification:

* * * * *

(4) The laboratory shall submit results of test measurements or analyses performed by the laboratory under this Chapter in accordance with § 109.810 (relating to reporting and notification requirements).

§ 109.806. Standards for certification.

The certification will be based upon compliance with Departmental guidelines and the minimum criteria contained in the most current edition of the *Manual for the Certification of Laboratories Analyzing Drinking Water* published by the EPA. The evaluation for certification will include, but is not limited to, consideration of facilities, personnel, equipment, methodology, quality assurance, **[and] performance, record keeping, reporting and notification.**

§ 109.810. Reporting and notification requirements.

* * * * *

(b) A laboratory certified under this subchapter shall whenever an MCL, MRDL or a treatment technique performance requirement under § 109.202 (relating to State MCLs, MRDLs and treatment technique requirements) is violated, or a sample result requires the collection of check samples under § 109.301 (relating to general monitoring requirements):

(1) Notify the public water supplier by telephone within 1 hour of the laboratory's determination. If the supplier cannot be reached within that time, notify the Department by telephone within 2 hours of the determination. **[If the Department cannot be reached due to an occurrence during weekend, holiday or evening hours, notify the Department by phone within 2 hours of the beginning of the next business day.] If it is necessary for the laboratory to contact the Department after the Department's routine business hours, the laboratory shall contact the appropriate Department regional office's after-hours emergency response telephone number and provide information regarding the occurrence, the name of a contact person and the telephone number where that individual may be reached in the event further information is needed. In the event the Department's appropriate emergency number cannot be reached, the laboratory shall notify the appropriate Department regional office by telephone within 1 hour of the beginning of the next business day. Each certified laboratory shall be responsible for the following:**

(i) Obtaining and then maintaining the Department's current after-hours emergency response telephone number(s) for each applicable regional office.

(ii) Establishing or updating a standard operating procedure no later than _____ (Editor's note: The blank refers to a date 90 days from the effective date of the adoption of this proposal), and at least annually thereafter to provide the information needed to report such occurrences to the Department. The information

regarding the public water system shall include, but is not limited to, the PWSID number of the system, the system's name, the contaminant involved in the occurrence, the level of the contaminant found, where the sample was collected, the dates and times that the sample was collected and analyzed, the name and identification number of the certified laboratory, the name and telephone number of a contact person at the laboratory and what steps the laboratory took to contact the public water system before calling the Department.

(2) Notify the **appropriate** Department **district office** in writing within 24 hours of the determination. For the purpose of determining compliance with this requirement, the postmark, if the notice is mailed, or the date the notice is received by the Department, whichever is earlier, will be used. **Upon approval by the Department, such notice may be made electronically to the Department as long as the information is received within the 24-hour deadline.**

* * * * *

(d) A laboratory shall notify the public water supplier served by the laboratory within 48 hours of the following:

(1) A failure to renew **or Department denial of renewal of** existing certification for a category of certification.

* * * * *

**Subchapter J. BOTTLED WATER AND VENDED WATER SYSTEMS, RETAIL
WATER FACILITIES AND BULK WATER HAULING SYSTEMS**

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§ 109.1003. Monitoring requirements.

* * * * *

[(b) *Special monitoring requirements for unregulated contaminants. Bottled water and vended water systems, retail water facilities and bulk water hauling systems, except vended water systems permitted by rule, shall monitor for the unregulated contaminants in accordance with the initial monitoring schedule for VOCs as prescribed in subsection (a).]*

[(c) (b) * * *

* * * * *

[(d) (c) * * *

* * * * *

§ 109.1004. Public notification.

(a) *General public notification requirements.* A bottled water [, **vended water,**] or retail water [**or bulk water**] supplier shall give public notification in accordance with this section. **[In addition,] a bulk water or vended water supplier shall give public notification in accordance with [§§ 109.401(a) and 109.406(b)] Subchapter D (relating to **[general]** public notification requirements [; and public notice requirements for unregulated contaminants]). For the purpose of establishing a bulk water or vended water supplier's responsibilities under Subchapter D, a bulk water supplier shall comply with the public notification requirements specified for a community water system and a vended water supplier shall comply with the public notification requirements specified for a noncommunity water system.**

(1) A bottled water [, **vended water,**] or retail water [**or bulk water**] supplier who knows that a primary MCL or an MRDL has been exceeded or treatment technique performance standard has been violated or has reason to believe that circumstances exist which may adversely affect the quality of drinking water, including, but not limited to, source contamination, spills, accidents, natural disasters or breakdowns in treatment, shall report the circumstances to the Department within 1 hour of discovery of the problem.

(2) If the Department determines, based upon information provided by the bottled water [, vended water,] or retail water [or bulk water] supplier or other information available to the Department, that the circumstances present an imminent hazard to the public health, the water supplier shall issue a water supply warning approved by the Department and, if applicable, initiate a program for product recall approved by the Department under this subsection. The water supplier shall be responsible for disseminating the notice in a manner designed to inform users who may be affected by the problem.

* * * * *

(b) *Description and content of notice.* Notice given under this section shall be written in a manner reasonably designed to fully inform the users of the system. When appropriate or as designated by the Department, additional notices in a foreign language shall be given.

* * * * *

(3) Notices shall include a balanced explanation of the significance or seriousness to the public health of the subject of the notice including potential adverse health effects, the population at risk, a clear explanation of steps taken by the supplier to correct the problem, necessity for seeking alternative supplies, guidance on safeguards and alternatives available to users, and the results of additional sampling. In addition, bottled

water system and [vended water systems,] retail water [facilities and bulk water hauling system] facility notices shall describe a program for product recall, if applicable.

* * * * *

(5) In all notices, [except for those required by § 109.401(a)(2),] when providing the information on potential adverse health effects required by subsection (b)(3), the water supplier shall include language established by the EPA for the contaminant [under 40 CFR 141.32(e)] specified in Appendix B to Subpart O of 40 CFR PART 141 (relating to mandatory health effects language) and incorporated by reference, or language established by the Department by regulations or order. The health effects language for fluoride is not incorporated by reference. A public water system shall include the health effects language specified in § 109.411(d)(1) (relating to content of a public notice) in each public notice required for violation of the primary MCL of 2 mg/L for fluoride [or 40 CFR 143.5(b) (relating to public notices for fluoride)].

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Subchapter K. LEAD AND COPPER

* * * * *

§109.1102. Action levels and treatment technique requirements.

* * * * *

(b) *Treatment technique requirement for corrosion control.*

(1) *Optimal corrosion control treatment.* A community water system or nontransient noncommunity water system shall provide optimal corrosion control treatment which minimizes the lead and copper concentrations at users' taps while ensuring that the treatment does not cause the system to violate a primary MCL. **Water systems deemed to have optimized corrosion control treatment under this subsection shall operate in compliance with Department designated water quality parameters and continue to conduct lead and copper tap monitoring.** A system may achieve optimal corrosion control treatment in one of the following ways:

* * * * *

(ii) A [large] water system is deemed to have optimized corrosion control if the system demonstrates to the Department that for two consecutive 6-month monitoring periods conducted in accordance with §109.1103 that the system does not exceed a lead or copper action level and the difference between the 90th percentile tap water lead level and the highest source water lead concentration is less than 0.005 mg/l, which is the

Practical Quantitation Level for lead. To make this demonstration, the system shall collect one sample for lead from each entry point during a monitoring period prior to initiation of construction or modification of corrosion control treatment facilities. If the system thereafter exceeds an action level during a monitoring period, the system shall complete applicable compliance activities under paragraph (2). The Department may require a system to repeat compliance activities previously completed when the Department determines that this is necessary for the system to achieve optimal corrosion control treatment.

* * * * *

(iv) Any water system deemed to have optimized corrosion control in accordance with this subsection shall continue monitoring for lead and copper at the tap no less frequently than once every three calendar years using the reduced number of sites specified in § 109.1103(e) (relating to reduced monitoring), and collecting the samples at times and locations specified in § 109.1103(e)(iv) (relating to sample sites and timing).

(2) *Corrosion control treatment compliance schedule.* A system shall comply with the following schedule unless the system achieves optimal corrosion control treatment under paragraph (1)(i) or (ii) prior to initiation of construction or modification of corrosion control treatment facilities.

(i) A[n existing] large water system in existence prior to *(Editor's*

note: The blank refers to the effective date of the adoption of this proposal shall:

* * * * *

(ii) A **large water system not in existence prior to** *(Editor's note:*
The blank refers to the effective date of the adoption of this proposal) **that exceeds**
an action level, or any medium or small water system that exceeds an action level shall:

* * * * *

§109.1103. Monitoring requirements.

* * * * *

(d) *Monitoring after performance requirements are established.* A system shall conduct the applicable monitoring under this subsection beginning no later than the next 6-month monitoring period following the Department's designation of optimal corrosion control treatment water quality parameter performance requirements under § 109.1102(b)(5) or source water performance requirements under §109.1102(b)(4).

* * * * *

(2) *Water quality parameter performance monitoring.* A system shall measure the applicable water quality parameters specified in subsection (c)(2)(iii) in the distribution system during each monitoring period at the number of sites specified in subsection (a)(2)(ii) and at each entry point at least once every 2 weeks. The results of this monitoring will be used by the Department in determining compliance with the water quality parameter performance requirements established under §109.1102(b)(5). A system that is not in compliance with the water quality parameter performance requirements established under § 109.1102(b)(5) shall provide public notification in accordance with §109.1104(b)(2).

* * * * *

(iii) A system **[may take a confirmation sample for any water quality parameter value no later than 3 days after the first sample. If a confirmation sample is taken, the result shall be averaged with the first sampling result and the average shall be used for compliance determinations under §109.1102(b)(5).] is out of compliance with the requirements of §109.1102(b)(5) (relating to water quality parameter performance requirements) for a 6-month period if it has excursions for any**

Department specified water quality parameter on more than any 9 days during the 6-month monitoring period. An excursion occurs whenever the daily value for one or more of the water quality parameters is below the minimum value or outside the range of values designated by the Department. The Department has the discretion to delete results of sampling errors from this calculation. **Daily values are calculated as follows:**

(A) On days when more than one sample for the water quality parameter(s) is collected at a sampling location, the daily value shall be the average of all results collected during the day including continuous monitoring or grab samples, or both.

(B) On days when only one sample for the water quality parameter(s) is collected at a sampling location, the daily value shall be the result of that sample.

(C) On days when no sample is collected for the water quality parameter(s) at a sampling location, the daily value shall be the most recent calculated daily value for which a water quality parameter was sampled at a sample location.

(e) *Reduced monitoring.*

* * * * *

(ii) *Triennial lead and copper tap monitoring.*

* * * * *

(D) Any system that demonstrates for two consecutive 6-month monitoring periods that the tap water lead level as determined under § 109.1102(a)(3) is less than or equal to 0.005 mg/L and the tap water copper level as determined under § 109.1102(a)(3) is less than 0.65 mg/L may reduce the number of samples in accordance with § 109.1103(e)(1) and reduce the frequency of sampling to once every three years.

* * * * *

(iv) *Sample sites and timing.* A system that reduces the number of sample sites and frequency of sampling shall collect samples from sample sites included in the pool of targeted sampling sites identified in subsection (g)(2). Systems sampling annually or less frequently shall conduct the lead and copper tap sampling between June 1 and September 30. **The Department may approve a different period for conducting lead and copper tap monitoring sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur.**

* * * * *

(2) *Reduced water quality parameter monitoring for large water systems.* A large water system conducting reduced water quality parameter monitoring shall collect two sets of distribution samples from the following reduced number of sample sites. The sets of samples shall be collected from the same sample sites on different days and analyzed for the applicable water quality parameters.

System size (# of people served)	# of Sample Sites
> 100,000	10
50,001 to 100,000	7

* * * * *

(ii) *Reduced annual water quality parameter monitoring.*

(A) A large water system that maintains the range of values for water quality parameter performance requirements reflecting optimal corrosion control treatment specified by the Department under §109.1102(b)(5) during 3 consecutive years of monitoring at the reduced number of sites under subparagraph (i) may reduce the

frequency with which it collects sets of water quality parameter distribution samples from every 6 months to annually. A system conducting annual sampling shall collect these sets of samples evenly throughout the year to reflect seasonal variability. The system shall continue monitoring at each entry point as specified in subsection (c)(2)(iii)(B).

(B) A large water system may reduce the frequency with which it collects tap water samples for applicable water quality parameters specified in § 109.1102(b)(5) to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to the PQL for lead of 0.005 mg/L, that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/L, and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Department under § 109.1102(b)(5) (relating to water quality parameter performance requirements).

(iii) *Reduced water quality parameter monitoring revocation.* A large water system subject to reduced water quality parameter monitoring that fails to operate within the range of performance requirements for the water quality parameters specified by the Department under §109.1102(b)(5) **on more than any 9 days in any 6-month period** shall resume water quality parameter distribution sampling in accordance with the number and frequency requirements specified in subsection (d)(2).

(iv) A large system may resume annual monitoring for water quality parameters at the tap at the reduced number of sites specified in subsection (e)(2) after it has completed two subsequent consecutive 6-month rounds of monitoring that meet the criteria of subsection (e)(2)(i).

(v) A large system may resume triennial monitoring for water quality parameters at the tap at the reduced number of sites specified in subsection (e)(2) after it demonstrates through subsequent rounds of monitoring that it meets the criteria of subsection (e)(2)(ii).

* * * * *

(g) *Sample site location plan.* The water supplier shall complete a sample site location plan which includes a materials evaluation of the distribution system, lead and copper tap sample site locations, water quality parameter sample site locations, and certification that proper sampling procedures are used. The water supplier shall complete the steps in paragraphs (1)—(3) by the applicable date for commencement of lead and copper tap monitoring under subsection (a)(1) and the step in paragraph (4) following completion of the monitoring. The water supplier shall keep the sample site location plan on record in accordance with §109.1107(a)(1). If the system is required to prepare a corrosion control treatment feasibility study in accordance with § 109.1102(b)(3)(i), the system shall include the sample site location plan as part of the study.

* * * * *

(2) *Lead and copper tap sample site selection.* Lead and copper tap sampling sites are classified as tier 1, tier 2 or tier 3. Tier 1 sites are the highest priority sample sites.

(i) *Site selection for community water systems.* The water supplier shall select all tier 1 sample site locations, if possible. A community water system with an insufficient number of tier 1 sampling sites shall complete its sampling pool with tier 2 sites. Tier 3 sites shall be used to complete the sampling pool if the number of tier 1 and tier 2 sites is insufficient. If the system has an insufficient number of tier 1, tier 2 and tier 3 sites, the water supplier shall sample from other [available] **representative sites throughout the distribution system in which the plumbing materials used at the site would be commonly found at other sites served by the system.**

* * * * *

(D) Tier 3 sampling sites shall consist of single-family structures, **constructed as a single family residence and currently used as either a residence or business,** that contain copper pipes with lead solder installed before 1983.

(ii) *Site selection for nontransient noncommunity water systems.* The water supplier shall select all tier 1 sample site locations, if possible. A nontransient noncommunity water system with an insufficient number of tier 1 sampling sites shall complete its sampling pool with **[tier 2 sites. If the system has an insufficient number of tier 1 and tier 2 sites, the water supplier shall sample from other available sites.] sampling sites that contain copper pipes with lead solder installed before 1983. If additional sites are needed to complete the sampling pool, the system shall use representative sites throughout the distribution system in which the plumbing materials used at the site would be commonly found at other sites served by the system.**

* * * * *

(B) **[Tier 2 sampling sites shall consist of buildings that contain copper pipes with lead solder installed before 1983.]**

[(C)] If a nontransient noncommunity water system or a community water system that meets the criteria of § 109.1104(a)(2)(i)(E) [the system] contains a fewer number of buildings than the required number of sampling sites, the water supplier shall sample from different taps within a representative number of buildings. The taps shall be those most commonly used for drinking and the samples shall be taken on different days. If the

system has an insufficient number of these taps to take each sample from a different tap, the water supplier may [sample from the same tap on different days] apply to the Department, in writing, to substitute non-first-draw samples. Such systems must collect as many first-draw samples from appropriate taps as possible and identify sampling times and locations that would likely result in the longest standing time for the remaining sites. Non-first-draw samples must be one-liter in volume and collected from an interior tap that is typically used to provide drinking water.

* * * * *

[(v) *Site selection justification.* A water supplier shall provide justification in the sample site location plan for the following conditions:

(A) A system whose sampling pool does not consist exclusively of tier 1 sites shall explain why a review of the information listed in subsection (g)(1) was inadequate to locate a sufficient number of tier 1 sites.

(B) A community water system which includes tier 3 or lower sampling sites in its sampling pool shall explain why it was unable to locate a sufficient number of higher tier sampling sites.

(C) A system that cannot identify a sufficient number of sampling sites served by a lead service line shall explain why the system was unable to locate a sufficient number of these sites.]

* * * * *

(h) Sample collection methods.

(1) Lead and copper tap samples. Tap samples for lead and copper collected in accordance with this subchapter, with the exception of lead service line samples collected under §109.1107(d)(3) **and tap monitoring samples collected under § 109.1103 (g)(2)(ii)(B)**, shall be first-draw samples and the following sample collection methods shall be used:

* * * * *

(v) [If the sample is not acidified immediately after collection, the sample must stand in the original container for at least 28 hours after acidification.]

Acidification of first-draw samples may be done up to 14 days after the sample is collected. After acidification, the sample shall stand in the original container for the

time specified according to the approved EPA method before analyzing the sample.

* * * * *

(i) Invalidation of lead or copper tap water samples. A sample invalidated under this paragraph does not count toward determining lead or copper 90th percentile levels under § 109.1102 (a) or toward meeting the minimum monitoring requirements of this section. The Department's decision and rationale for invalidating a sample must be documented in writing.

(1) The Department may invalidate a lead or copper tap water sample if at least one of the following conditions is met:

(i) The laboratory establishes that improper sample analysis caused erroneous results.

(ii) The Department determines that the sample was taken from a site that did not meet the site selection criteria of this section.

(iii) The sample container was damaged in transit.

(iv) There is substantial reason to believe that the sample was subject to tampering.

(2) The system shall report to the Department the results of all samples, along with supporting documentation for samples the system believes should be invalidated.

(3) A system shall collect replacement samples for any samples invalidated under this subsection if, after the invalidation of one or more samples, the system has too few samples to meet the minimum monitoring requirements of this section.

(i) Replacement samples shall be taken as soon as possible but no later than 20 days after the Department invalidates the sample or by the end of the applicable monitoring period, whichever occurs later.

(ii) Replacement samples taken after the end of the applicable monitoring period shall not be used to meet the monitoring requirements of a subsequent monitoring period.

(iii) Replacement samples shall be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

(k) *Monitoring waivers for small systems.* Any small system that meets the criteria of this subsection may apply to the Department to reduce the frequency of monitoring for lead and copper under this section to once every 9 years if it meets all of the materials criteria specified in subsection (k)(1) and all of the monitoring criteria specified in subsection (k)(2). Any system that meets the criteria in subsections (k)(1) and (k)(2) only for lead, or only for copper, may apply to the Department for a waiver to reduce the frequency of tap water monitoring to once every 9 years for that contaminant only.

(1) *Materials criteria.* The system shall demonstrate that its distribution system, service lines and all drinking water plumbing, including plumbing conveying drinking water within all residences and buildings connected to the system, are free of lead-containing materials or copper-containing materials or both as follows:

(i) *Lead.* To qualify for a waiver of tap monitoring requirements for lead, the system shall provide certification and supporting documentation to the Department that the system is free of all lead-containing materials as follows:

(A) It contains no plastic pipes which contain lead plasticizers, or plastic service lines which contain lead plasticizers.

(B) It is free of lead service lines, lead pipes, lead soldered pipe joints, and leaded brass or bronze alloy fittings and fixtures, unless such fittings and fixtures meet the specifications of any standard established pursuant to 42 U.S.C. 300g-6(e) (relating to plumbing fittings and fixtures).

(ii) Copper. To qualify for a waiver of the tap water monitoring requirements for copper, the system shall provide certification and supporting documentation to the Department that the system contains no copper pipes or copper service lines.

(2) Monitoring criteria for waiver issuance. The system shall have completed at least one 6-month round of routine tap water monitoring for lead and copper at sites approved by the Department and from the number of sites as required under § 109.1103 (a)(1)(v). The system shall demonstrate that the 90th percentile levels for any and all rounds of monitoring conducted since the system became free of all lead-containing or copper-containing materials, as appropriate, meet the following criteria:

(i) Lead Levels. To qualify for a waiver of the lead tap monitoring, the system shall demonstrate that the 90th percentile lead level does not exceed 0.005 mg/L.

(ii) Copper Levels. To qualify for a waiver of the copper tap monitoring, the system shall demonstrate that the 90th percentile copper level does not exceed 0.65 mg/L.

(3) Department approval of waiver application. The Department shall notify the system of its waiver determination, in writing, setting forth the basis of the decision and any condition of the waiver. A system must continue monitoring for lead and copper at the tap as required by this Section until it receives written notification from the Department that the waiver has been approved.

(4) Monitoring frequency for systems with waivers.

(i) A system must conduct tap water monitoring for the contaminant waived in accordance with subsection (e)(1)(iv) at the reduced number of sites identified in subsection (e) at least once every 9 years and provide the materials certification specified in paragraph (k)(1) for the contaminants waived along with the monitoring results.

(ii) A system shall continue to monitor for any non-waived contaminants in accordance with the requirements of subsection (a)(1), as appropriate.

(iii) A system with a waiver shall notify the Department, in writing, within 60 days after becoming aware that it is no longer free of lead-containing or copper-containing materials, as appropriate, including but not limited to new construction or repair.

(5) Continued Eligibility. If the system continues to satisfy the requirements of subsection (k)(4), the waiver will be renewed automatically unless any of the conditions listed in subsections (k)(5)(i) through (k)(5)(iii) occurs. A system whose waiver has been revoked may re-apply for a waiver at such time as it again meets the appropriate materials and monitoring criteria of subsections (k)(1) and (k)(2).

(i) A system with a lead waiver no longer satisfies the materials criteria of subparagraph (k)(1)(i) OR has a 90th percentile lead level greater than 0.005 mg/L.

(ii) A system with a copper waiver no longer satisfies the materials criteria of subparagraph (k)(1)(ii) of this section or has a 90th percentile copper level greater than 0.065 mg/L.

(iii) The Department notifies the system, in writing, that the waiver has been revoked.

(6) Requirements following waiver revocation. A water system whose waiver has been revoked is subject to the corrosion control treatment, and lead and copper tap water monitoring requirements as follows:

(i) If the system exceeds the lead and/or copper action level, the system shall implement corrosion control treatment in accordance with § 109.1102(b), and any other applicable requirements of this Subchapter.

(ii) If the system meets both the lead and copper action levels, the system shall monitor for lead and copper at the tap no less frequently than once every 3 years using the reduced number of sample sites specified in § 109.1103(e).

§109.1104. Public education and notification.

(a) *Public education program.* The water supplier for a system that exceeds the lead action level based on tap monitoring conducted under §109.1103 (relating to monitoring requirements) shall implement a public education program in accordance with this

section. The public education program will remain in effect until the system qualifies for discontinuation under paragraph (3).

(1) *Content.* The water supplier shall include mandatory language established by the EPA under 40 CFR 141.85 (relating to public education and supplemental monitoring requirements), which is incorporated by reference, [except as specified in subparagraph (v),] in all of the printed and broadcast materials distributed through the lead public education program. Additional information presented by a system shall be consistent with the information specified in this section and be in plain English that can be understood by laypersons. If appropriate or as designated by the Department, public education materials shall be bilingual or multilingual. **Systems may delete information pertaining to lead service lines, upon approval by the Department, if no lead service lines exist in the system's service area.**

(i) *Mandatory language for newspapers and water bill inserts.* The **community** water supplier shall include the information contained in 40 CFR 141.85(a) in all printed material submitted to newspapers and inserted with customers' water bills. In addition to the water bill insert, the water supplier shall provide the following alert on the water bill itself in large print:

"Some homes in this community have elevated lead levels in their drinking water. Lead can pose a significant risk to your health. Please read the enclosed notice for further information."

If a water supplier is unable to include the alert verbatim on the water bill because of insufficient space on the bill, the water supplier may request, and the Department may allow, a minor wording change so long as the content remains essentially unaffected.

Public education language in 40 CFR 141.85(a)(1)(iv)(B)(5) and (a)(1)(iv)(D)(2) may be modified regarding building permit record availability and consumer access to these records, upon approval by the Department.

(ii) *Mandatory language for pamphlets and brochures.* The water supplier shall include the information contained in 40 CFR 141.85(a)[(2)] **(1)(ii)** and [(4)] **(1)(iv)**, **except as described in subparagraph (v),** in all pamphlets or brochures printed and distributed in accordance with this section.

* * * * *

(iv) *Mandatory language for nontransient noncommunity water systems.* The water supplier for a nontransient noncommunity water system shall include **either** the information contained in 40 CFR 141.85(a)(1), **or the information contained in 40 CFR 141.85(a)(2),** in public education materials printed and distributed in accordance with this section.

[(v) *Mandatory language relating to Pennsylvania Lead Ban.* The water supplier

who is required to include language under subparagraphs (ii) and (iv) shall replace the language contained in 40 CFR 141.85(a)(4)(D) with the following language:

"The Pennsylvania Plumbing System Lead Ban and Notification Act prohibits the use of any pipe, pipe fitting, solder or flux that is not lead free in the construction, modification or repair of any plumbing system after January 6, 1991. If your copper pipes are joined with lead solder that was installed after January 6, 1991, notify the plumber who did the work and request that he or she replace the lead solder with lead-free solder. Lead solder looks dull gray, and when scratched with a key looks shiny. In addition, notify the Department of Environmental Resources about the violation."]

(2) *Delivery.*

(i) *Community water system requirements.* Within 60 days after exceeding the lead action level, **unless it is already repeating public education tasks pursuant to § 109.1104(a)**, the water supplier for a community water system shall deliver the public education materials to its customers in accordance with clauses (A)—(D). The water supplier shall repeat the tasks contained in clauses (A)—(C) every 12 months, and in clause (D) every 6 months for as long as the system exceeds the lead action level.

(A) The water supplier shall insert notices with and include the alert on each customer's water bill containing the information in paragraph (1)(i). If the billing cycle or

billing form prevents distribution of this notice within 60 days of the lead action level exceedance, the water supplier [shall] may deliver the information required in paragraph (1) within 60 days of the lead action level exceedance in one of the following ways:

* * * * *

(E) A community water system may apply to the Department, in writing, to use the text specified in 40 CFR 185(a)(2) in lieu of the text in 40 CFR 185(a)(1), and to perform the tasks listed under § 109.1104(a)(2)(ii)(A) in lieu of the tasks under § 109.1104(a)(2)(i)(A), (B), (C) and (D) if:

(I) The system is a facility, such as a prison or a hospital, where the population served is not capable of or is prevented from making improvements to the plumbing or installing point-of-use treatment devices.

(II) The system provides water as part of the cost of services provided and does not charge for water consumption.

(F) A community water system serving 3,300 or fewer persons may omit the task contained in § 109.1104(a)(2)(D) provided notices containing the information required under § 109.1104(a)(1) are distributed to every household served by the

system at least once during each calendar year the system exceeds the lead action level.

(ii) *Nontransient noncommunity water system requirements.* Within 60 days after exceeding the lead action level, the water supplier for a nontransient noncommunity water system shall deliver the public education materials contained in paragraph (1)(iv) to its consumers, **unless it is already repeating public education tasks pursuant to § 109.1104(a).**

(A) The water supplier shall post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system and distribute informational pamphlets or brochures, or both, on lead in drinking water to each person routinely served by the nontransient noncommunity water system. **Systems may use electronic transmission in lieu of or combined with printed materials as long as it achieves at least the same coverage.**

* * * * *

(b) *Public notification requirements.* A water supplier shall give public notification in accordance with [§ 109.401 (relating to general public notification requirements)]

and shall otherwise comply with] Subchapter D (relating to public notification) when one of the following occurs:

(1) The water supplier fails to perform monitoring and analyses as required by 109.1103.

(2) The water supplier is not in compliance with **[the water quality parameter performance requirements] a treatment technique** established under § 109.1102(b)[(5)] (relating to **[action levels and] treatment technique requirements for corrosion control**) **[or source water treatment performance requirements established under § 109.1102 (b)(4)].**

* * * * *

§109.1107. System management responsibilities.

(a) *Reporting and recordkeeping.* Systems shall comply with the following requirements and otherwise comply with §109.701 (relating to reporting and recordkeeping):

* * * * *

(2) *Reporting of monitoring results.* Reporting of monitoring results shall comply with the following requirements:

* * * * *

(ii) *Water quality parameter monitoring results.* The water supplier shall **[retain] assure that** the results of analyses conducted in accordance with this subchapter for water quality parameters [and present or submit the results to the Department upon request] **are reported to the Department within the first 10 days following the end of the required monitoring period as stipulated by this Subchapter. The following minimum information is required when reporting water quality parameter results to the Department:**

(A) The name, address and public water system identification number (PWSID) of the public water system from which the samples are taken.

(B) The contaminant ID.

(C) The parameter name.

(D) The sample period.

(E) The sample type.

(F) The number of samples required and the number of samples taken.

(G) The analytical methods used.

(H) Whether an excursion has occurred on more than any 9 days during a six-month monitoring period for any department specified water quality parameter.

* * * * *

(4) *Public education reporting requirements.* A water supplier required to implement a public education program in accordance with §109.1104(a) (relating to public education and notification) shall **[, upon completion of this program, but no later than December 31 of the year in which the educational program is required to be implemented,]** submit a letter to the Department demonstrating that the system has complied with the public education program requirements of this subchapter **within 10 days after the end of each period in which the system is required to perform public education tasks.** [The water supplier shall submit this letter to the Department **annually for as long as the system exceeds the lead action level.**] The letter shall contain a list of newspapers, radio and television stations, facilities and organizations to which the system has delivered public education materials during the **[year] most recent period for which the system was required to perform public education tasks.**

(5) *Lead service line replacement reporting.*

(i) A water system that is required to initiate lead service line replacement in accordance with subsection (d) shall, within the first 3 months of the first year of lead service line replacement, submit to the Department the following:

* * * * *

(C) **[For a water supplier which rebuts the presumption that the system has control over lead service lines, a legal opinion describing the legal authority which limits the system's control over the lead service lines and the extent of the system's control]. The initial number of lead service lines in its distribution system and the portions owned by the system based on a materials evaluation, including the evaluation required under § 109.1103(g) and relevant legal authorities regarding the portion owned by the system.**

(D) The date, location, [and] the results of this sampling, and method of sampling used, if lead service line sampling is completed in individual lead service lines.

* * * * *

(6) *Record Maintenance.* The water supplier shall retain on the premises of the system or at a convenient location near the premises the following:

* * * * *

(ii) Copies of written correspondence with the Department relating to lead service line replacement, which shall be kept for at least [5] 12 years after completion of the replacement of applicable lead service lines.

* * * * *

(d) *Lead service line replacement.*

* * * * *

(4) *Conditions of replacement.* The water supplier shall replace **[the entire lead service line—up to the building inlet—unless it demonstrates to the satisfaction of the Department in accordance with subsection (a)(5)(i)(C) that it controls less than the entire service line. The water supplier may not replace less than the entire lead service line unless it receives written approval from the Department and complies**

with the requirements established in 40 CFR 141.84(d) and (e) (relating to service lines replacement requirements).] the portion of the lead service line that it owns. In cases where the system does not own the entire lead service line, the system shall notify the owner of the line, or the owner's authorized agent, that the system will replace the portion of the service line that the system owns and shall offer to replace the owner's portion of the line. A system is not required to replace the line if the owner refuses to pay for the cost of replacement of the privately owned portion of the line, or if any laws prohibit such replacement. A system that does not replace the entire length of service line shall complete the following tasks:

(i) The system shall provide notice to residents of all buildings served by the line at least 45 days prior to commencing partial line replacement. The Department may allow a shorter time period for notification in the case of emergency repairs. The notice shall explain that residents may experience a temporary increase of lead levels in their drinking water, along with information on measures consumers can take to minimize their exposure to lead. Residents shall be informed that the system will, at the system's expense, collect a sample from each partially-replaced lead service line that is representative of the water in the service line for analysis of lead content in accordance with § 109.1103(h)(5) within 72 hours after the completion of the partial replacement of the service line.

(ii) The system shall collect the partial lead service line replacement sample and

report the results of the analysis to the owner and the resident(s) served by the line within 3 business days of receiving the results.

(iii) Information required under subparagraphs (i) and (ii) shall be provided by mail to the residents of individual dwellings. Systems have the option to post this information in a conspicuous location in those instances where multi-family dwellings are served by the line.

* * * * *



Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063
August 28, 2001

The Secretary

Phone: 717-787-2814
E-Mail: DavidHess@state.pa.us

Mr. Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
14th Floor, Harrisstown #2
333 Market Street
Harrisburg, PA 17120

RE: Proposed Rulemaking: Safe Drinking Water Amendments (#7-368)

Dear Bob:

Enclosed is a copy of a proposed regulation for review and comment by the Commission pursuant to Section 5(a) of the Regulatory Review Act. This proposal is scheduled for publication as a proposed rulemaking in the *Pennsylvania Bulletin* on September 8, 2001, with a 60-day public comment period. One public hearing has been scheduled as indicated on the enclosed public notice. This proposal was approved by the Environmental Quality Board (EQB) on July 17, 2001.

This proposal will amend Chapter 109 to incorporate the requirements of three recent federal rulemakings: the new Consumer Confidence Report (CCR) Rule, revisions to the existing Public Notification (PN) Rule, and Lead and Copper Rule Minor Revisions (LCRMR). The CCR and PN rules expand and clarify requirements that deal with the public's right to know what is in the water they receive from a regulated public water supplier. The proposal also includes several technical changes to address differences between state and federal regulations at 40 CFR Part 141 that involve primacy concerns. In addition, the proposal will require regulated entities to submit self-monitoring test data electronically to the Department.

The Water Resources Advisory Committee (WRAC) and the Small Water Systems Technical Assistance Center Advisory Board (TAC) reviewed drafts of the proposal in March 2001. Both advisory groups support the amendments and offered suggestions to clarify some of the public notice requirements.

The Department will provide the Commission with any assistance required to facilitate a thorough review of this proposal. Section 5(g) of the Act provides that the Commission may, within ten days after the expiration of the Committee review period, notify the agency of any



Mr. Robert E. Nyce

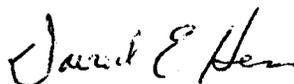
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August 28, 2001

objections to the proposed regulation. The Department will consider any comments or suggestions received by the Commission, together with Committee and other public comments prior to final adoption.

For additional information, please contact Sharon Trostle, Regulatory Coordinator, at 787-4526.

Sincerely,

A handwritten signature in cursive script that reads "David E. Hess".

David E. Hess
Secretary

Enclosures



ENVIRONMENTAL QUALITY BOARD

NOTICE OF PUBLIC MEETING/HEARING ON PROPOSED AMENDMENTS TO 25 PENNSYLVANIA CODE, CHAPTER 109 (SAFE DRINKING WATER)

The Environmental Quality Board (EQB) will hold a public meeting and hearing to discuss and accept comments on proposed amendments to Pennsylvania's safe drinking water regulations in 25 *Pennsylvania Code*, Chapter 109. This proposal will incorporate new primacy requirements contained in three rulemakings recently promulgated by the United States Environmental Protection Agency (USEPA), as well as clarify existing requirements. The three federal rules include: the new Consumer Confidence Report (CCR) Rule, revisions to the existing Public Notification (PN) Rule, and Lead and Copper Rule Minor Revisions (LCRMR).

The CCR amendments include new requirements for community water systems to prepare and provide to their customers an annual consumer confidence report on the quality of the water delivered by the public water system. The report will contain information that the community water system already collects and can raise consumer awareness of where the water comes from, help consumers understand the process by which safe drinking water is delivered to their homes, and educate consumers about the importance of preventative measures, such as source water protection, that ensure a safe drinking water supply.

The amendments include major revisions to the PN requirements and will incorporate the provisions of the federal PN Rule. Public water suppliers use public notification to alert consumers to potential health risks from violations of drinking water standards and to tell them how to avoid or minimize such risks. The PN revisions modify the minimum requirements public water suppliers must meet regarding the form, manner, frequency and content of public notices and make it easier for water suppliers to provide consumers with more accurate and timely information on violations and the seriousness of any potential adverse health effects.

The amendments reflect minor revisions to the regulation of lead and copper. The lead and copper regulations apply to community and nontransient noncommunity water systems. While the proposed revisions do not change the lead or copper maximum contaminant level goals, the action levels or the basic regulatory requirements, they are intended to streamline the regulatory process where such changes can be made without jeopardizing protection of public health or the environment.

Public Meeting/Hearing

The public meeting/hearing will be held as follows:

October 9, 2001
6:30 p.m.

Sheraton Reading Hotel
1741 Papermill Road
Wyomissing, Pa.

The meeting segment will begin at 6:30 p.m. , with Department of Environmental Protection staff providing a brief overview of the amendments and responding to questions. The public hearing will follow and begin no later than 7:30 p.m. Persons interested in presenting testimony at the hearing should contact Debra Failor at the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-2063, 717-787-4526, at least one week in advance of the hearing to reserve a time to present testimony. Testimony for each speaker is limited to ten minutes. Speakers are requested to submit three written copies of their testimony at the hearing.

Persons with a disability who wish to attend the function and require an auxiliary aid, service or other accommodation in order to participate should contact Debra Failor at 717-787-4526, or through the AT&T Relay Service at 1-800-654-5984 (TDD), to discuss how their needs may be accommodated.

Written comments will be accepted and must be received by the EQB, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: 15th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101-2301) by November 7, 2001. Comments may also be submitted via e-mail to RegComments@state.pa.us. (Comments submitted by facsimile or voice mail will not be accepted.) In addition to written or e-mail comments, a one-page summary of comments may also be submitted to the EQB and must be received by November 7, 2001. The one-page summary will be distributed to each EQB member when the final regulation is considered.

Copies of the Proposal

Copies of this proposal are available from Lisa Daniels, Division of Drinking Water Management, Bureau of Water Supply and Wastewater Management, Department of Environmental Protection, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 772-2189 (e-mail ldaniels@state.pa.us), and on the DEP web site at www.dep.state.pa.us (Public Participation Center/Proposals Open for Comment).

David E. Hess
Chairman

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

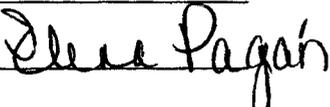
I.D. NUMBER: 7-368
 SUBJECT: Safe Drinking Water Amendments
 AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

TYPE OF REGULATION

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
 REVIEW COMMISSION
 2001 AUG 28 PM 3:18

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8/28/01		HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
8/28/01	Patricia A. Carnathan	SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
8/28/01		INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL
8/28/01		LEGISLATIVE REFERENCE BUREAU

August 17, 2001