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From: Gambatese.Jason@epamail.epa.gov
Sent: Tuesday, August 12, 2003 11:22 AM
To: RegComments@state.pa.us
Subject: Safe Drinking Water; Long Term 1 Enhanced Surface Water Treatment Rule



comments on PA's
LT1.doc

Attached are comments on PA's proposed Long Term 1 Enhanced Surface Water Treatment Rule (LT1). In order for the US Environmental Protection Agency to approve a state's regulation, it must be at least as stringent as the Federal Regulation. The comments are in bold and underlined.

(See attached file: comments on PA's LT1.doc)

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§ 109.301(1)(iv)(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 § 109.701(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 **before a violation is incurred**.

§ 109.714(2) If an individual filter demonstrates a condition under § 109.701(e)(2)(iii), the public water system shall notify the Department within 24 hours of the individual filter turbidity level exceedance, shall conduct a self-assessment of the filter within 14 days of the exceedance and shall report to the Department that a filter self-assessment was conducted. A filter self-assessment shall consist of at least the following components:

- (i) Assessment of filter performance.
- (ii) Development of a filter profile.
- (iii) Identification and prioritization of factors limiting filter performance.
- (iv) Assessment of the applicability of corrections.
- (v) Preparation of a filter self-assessment report.
- (vi) **If a self-assessment is required, the public water system shall report the date that it was triggered and the date that it was completed**

§ 109.714(3)(iv) In lieu of paragraph (3)(ii) and (3)(iii), for public water systems serving fewer than 10,000 persons:

- (A) Arrange for the conduction of a CPE by the Department no later than 60 days following the turbidity level exceedance.
- (B) Ensure that the CPE is completed and submitted to the Department no later than 120 days following the turbidity level exceedance.
- (C) A new CPE is not required if a CPE was completed by the Department within the 12 prior months, or the system and the Department are jointly participating in a program involving a combination of CPE results as the bases for implementing process control priority-setting techniques and maintaining long-term involvement to systematically train staff and administrators at the system.
- (D) **If a CPE is required, the public water system shall report that a CPE is required and the date that it was triggered.**

§ 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 MCL or 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, G or ~~Subchapter~~ K (relating to system management responsibilities; and lead and copper).

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

(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, when permitted by the Department in writing to exceed the MCL in accordance with 40 CFR 141.11(d) (relating to MCLs for inorganic contaminants).

(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, 40 CFR Part 141, Subpart Q, Appendix A (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).

Source

The provisions of this § 109.407 adopted August 9, 2002, effective August 10, 2002, 32 Pa.B. 3894.

§ 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, G or K (relating to MCLs, MRDLs or treatment technique requirements; **system management responsibilities**; and 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 when 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 (relating to monitoring requirements) or Subchapter K, when 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 subsection (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 will 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 will 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 reasonably 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 reasonably designed to reach other persons regularly served by the system, if they would not normally be reached by the notice required in subparagraph (i). Those 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, when known.

(ii) Any other method reasonably designed to reach other persons served by the system if they would not normally be reached by the notice required in subparagraph (i). Those 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.

Source

The provisions of this § 109.409 adopted August 9, 2002, effective August 10, 2002, 32 Pa.B. 3894.

Cross References

This section cited in 25 Pa. Code § 109.407 (relating to general public notification requirements).