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# Regulatory Analysis Form

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(1) Agency  
Department of Environmental Protection

2007 SEP 11 PM 3:07  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

(2) I.D. Number (Governor's Office Use)  
#7-407

IRRC Number: 2637

(3) Short Title  
Chapter 109 – Public Notification Revisions

(4) PA Code Cite  
25 Pa. Code, Chapter 109

(5) Agency Contacts & Telephone Numbers  
Primary Contact: Michele Tate, 783-8727  
Secondary Contact: Kelly Jean Heffner, 787-4686

(6) Type of Rulemaking (Check One)  
 Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?  
 No  
 Yes: By the Attorney General  
 Yes: By the Governor

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

The purpose of the proposed rulemaking package is to amend the Department's Safe Drinking Water regulations to strengthen the public notice requirements for imminent threat violations and situations (also known as Tier 1). The amendments will enhance the planning requirements of both the Operation and Maintenance Plan and the Emergency Response Plan sections that relate to public notification. In addition, we will revise the delivery requirements for community water systems, as appropriate to the type and size of the water system. Finally, these revisions will provide a few more examples of those situations that need to be reported to the Department within 1 hour of discovery.

***Planning Requirements for the Operation and Maintenance Plan and Emergency Response Plan:***

Both plans include public notice elements. The revisions specify additional elements that all public water suppliers should have available in advance.

**Operation and Maintenance Plan:**

- The Department wants suppliers to store contaminant fact sheets as a resource to respond to questions from the consumers and media about health effects and available treatment options.

**Emergency Response Plan:**

- The Department has specified the information that must be included in an emergency response plan.
- The Department has expanded the list of people suppliers need to communicate and coordinate with during an emergency to include: local emergency management agencies, government agencies, and sensitive sub-populations.
- The Department included a requirement for procedures for providing an approved alternative water source during an emergency situation.

***Delivery methods for Tier 1 public notices:***

- Currently the public notification regulation allows water suppliers to chose one or more of the following types of delivery for a Tier 1 notice: broadcast media, posting in conspicuous locations throughout the area served, hand delivery to persons served, or another delivery method approved by DEP.
- The revisions will specify the type of delivery method that must be used based on a system's population size and

the type of consumers who are being contacted.

- To contact bill paying customers, we are now requiring that water suppliers provide direct delivery either by hand delivery, e-mail, or automatic telephone dialing systems.
- To reach those people who are transient and nontransient users, the revisions will also require suppliers to use broadcast media such as radio or TV.

***“Problem Corrected” Notice:***

- The revisions now require water suppliers to issue a “problem corrected” notice that a Tier 1 violation or situation has been corrected.

***Content of abbreviated public notices:***

- The Department is now defining the minimum content elements that must be included in any Tier 1 notice that is delivered by automatic telephone dialers, TV scrollers, bullhorn announcements, or radio station news flashes.
  - It is impossible to record the entire Tier 1 public notice on an automatic telephone dialer or expect broadcast media to read the entire message.
  - Furthermore, consumers would become quite annoyed at the length of the message.
  - Consequently, the Department is specifying the immediate and essential elements that need to be included and requiring suppliers to provide a telephone number or a website where consumers can hear or read the entire notice if they wish.

***One-Hour Reporting:***

- The Department is including a few more examples of situations that require one hour reporting to the Department. These situations include:
  - An overfeed of a drinking water treatment chemical.
  - A situation that causes negative pressure in the distribution system.
  - A lack of resources that affect operations, such as staff shortages, notification by the power utility of planned lengthy power outages, or imminent depletion of treatment chemical inventories.

(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. §§ 510-17 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.

No. These amendments will be more stringent than EPA.

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

Tier 1 public notices are required when consumers may face acute health effects if they consume the water for even a short period of time. Because of the urgency of this notice, the water suppliers are required to deliver this notice as soon as possible, but no later than twenty-four hours. There are a few problems with the current Tier 1 public notification requirements because the mandatory content elements of a public notice exceed the capacity of the delivery systems that can be used to satisfy the twenty-four hour delivery timeframe. Additionally, the current regulations allow the water suppliers to select one or more delivery options instead of mandating certain forms of delivery. Water suppliers must rely on broadcast media (i.e. radio or TV) to issue a Tier 1 notice to comply with the twenty-four hour delivery timeframe, unless systems are small enough to directly deliver the Tier 1 notice by hand to their residents. Unfortunately, the media often abbreviate the public notice because it is too long and does not fit their own time slots. As a result, the public receives an incomplete notice. The revisions will outline the minimum elements that must be used in an abbreviated public

notice and require water suppliers to post the entire notice on a website or record it on a telephone line so consumers can get the entire notice if they wish. To address the problem that not all consumers are watching TV or listening to their radios to receive this important notice, the revisions are mandating **direct** delivery to each bill-paying customer by hand delivery, e-mail, or automatic telephone dialing systems based upon the type and size of the water system. To reach transient and nontransient users, the revisions mandate the use of broadcast media such as radio or TV. By mandating both forms of delivery, water suppliers will inform more people.

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

Failure to promulgate these revisions will mean that fewer consumers may be notified during an imminent threat violation or situation.

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

All 10.5 million Pennsylvanians who drink water that is delivered by a community water system may benefit at some time. Additionally any nontransient and transient consumers may also benefit from this regulation. However, this benefit will only occur during an imminent threat situation and will only affect the population of users of the water system that is experiencing the *imminent threat violation or situation*.

(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 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.)

All community water systems ( $\approx 2,106$ ) and all nontransient noncommunity water systems ( $\approx 1,200$ )

(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 rulemaking was submitted to the Small Water Systems Technical Assistance Center (TAC) Advisory Board for review and discussion on May 18, 2006, July 12, 2006, and November 16, 2006. Comments and recommendations were received from TAC on November 21, 2006.

(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.

Compliance costs to implement the direct delivery requirements for Tier 1 notices will increase for many of the community water systems, except those very small systems who are currently hand delivering their Tier 1 public notices. The greatest increase in cost will be incurred by systems serving more than 3,300 people and will be associated with costs for contracting services for or purchasing an automatic telephone dialing system. These costs will vary based on system size and the number of telephone lines the system has available.

The costs for community water systems serving less than 3,300 people will be based on the number of hours it takes to pay employees their hourly wage to hand deliver public notices to each service connection. For some very small community water systems (serving less than 500 people), the cost to implement the new delivery requirements may be negligible because these systems are currently delivering Tier 1 notices by hand. However, for a community system serving 3,300 people, the cost to deliver a Tier 1 public notice by hand delivery was estimated to be approximately \$1,100.00 for a single Tier 1 event. This cost estimate was calculated based on the following assumptions:

**Hand delivery using employees**

Deliver 1 notice to each service connection

3,300 people = 1,650 service connections (2 people/connection)

1 person can deliver 1 notice every 2 minutes so 30 notices can be delivered each hour

Average employee wage = \$10/hour

Delivery time for 1,650 connections = 55 hours (1650 connections/30 notices per hour)

Delivery cost = \$550.00 per public notice event (55 hours x \$10/hr)

Total cost to deliver initial notice and "problem corrected" notice = \$1,100.00

To gather cost estimates for purchasing automatic dialing systems or service contracts with automatic dialing system providers, the Department surveyed 11 vendors and the cost ranges reported below represent the survey results that the Department received from 7 of the vendors.

The cost estimates below for purchasing or contracting an automatic dialing system are based on the following assumptions:

- Costs are based on one 60-second call (Tier 1 notice) and one 30-second call ("problem corrected") per year.
- Costs do not include employee time to learn, maintain and administer the system or costs for additional phone lines.
- Water suppliers can negotiate different rates with individual vendors.

**Purchasing an automatic dialing system (on-site system) – 2 vendor quotes**

Water System Population Size	1 <sup>st</sup> Year Costs (Purchase, installation and training)	Annual Costs (Maintenance)
3,301 – 10,000	\$18,500 – 32,500	\$3,700 – 4,350
More than 10,000 population	Not feasible to meet the 24-hour delivery timeframe if using only 1 phone line.	

The first year cost estimate range was \$18,500 - \$32,500 with an annual cost range of \$3,00 – 4,350 for systems serving between 3,300 and 10,000 people. In order to meet the 24-hour delivery timeframe, water systems may have to install additional phone lines.

Water systems serving more than 10,000 people could not purchase and use an on-site automatic dialing system because they could not meet the 24-hour delivery timeframe for such a large population. For example, a system serving 20,000 people (10,000 service connections) would need 10,000 minutes to notify each service connection if using only one

telephone line. Assuming that calls aren't placed between the hours of midnight and 6 AM, the water supplier really only has 18 hours of time (1,080 minutes) to place the calls.

**Contracted service with an automatic dialing system provider – 5 vendor quotes**

<b>Water System Population Size</b>	<b>1<sup>st</sup> Year Costs (Purchase, installation and training)</b>	<b>Annual Costs (Maintenance, per call cost, database administration)</b>
3,301 – 10,000	\$4,000 – 29,000	\$2,300 – 16,500
10,001 – 30,000	\$4,000 – 29,000	\$4,500 – 20,000
30,001 – 50,000	\$4,000 – 29,000	\$6,500 – 25,000
50,001 – 100,000	\$4,000 – 29,000	\$13,250 – 37,500
More than 100,000	\$4,000 – 29,000	\$26,000 – 187,500+

The cost range for all population sizes for the first year cost of using a contracted service provider was \$4,000 - \$29,000. The annual costs varied based on population size.

(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.

See answer to item 17 above.

(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.

State costs are not expected to substantially increase or decrease.

(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
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	0	0	0	0	0	0
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Savings</b>	0	0	0	0	0	0
<b>COSTS:</b>						
<b>Regulated Community</b>	\$6,300 – 216,500*	\$2,300 – 187,500+*				
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Costs</b>	\$6,300 – 216,500*	\$2,300 – 187,500+*				
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	0	0	0	0	0	0
<b>Local Government</b>	0	0	0	0	0	0
<b>State Government</b>	0	0	0	0	0	0
<b>Total Revenue Losses</b>	0	0	0	0	0	0

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

\*The low end of this range reflects the minimum amount of costs for a water system serving 3,301 population to contract for service with an automatic dialing system provider. The upper end of this range reflects the maximum amount of costs for a water system serving more than 100,000 population to contract for service with an automatic dialing system provider.

See answer to item 17 above for more details.

State costs are not expected to substantially increase or decrease.

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

Program	FY 2003	FY 2004	FY 2005	FY 2006
Environmental Protection Operations (160-10381)	\$76,393,000	\$85,898,000	\$87,897,000	\$89,847,000
Environmental Program Management (161-10382)	\$43,679,000	\$37,594,000	\$37,049,000	\$36,868,000

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

The benefits of improving the delivery methods for Tier 1 notices outweigh the costs by preventing consumers from getting ill if they are not adequately informed to take specific actions during a Tier 1 situation. For instance, if consumers need to boil their water and they don't get that message and fail to take that action, they may ingest microorganisms that could make them ill. Providing increased protection of public health outweighs the cost of implementing direct public notice delivery methods.

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

No nonregulatory alternatives were considered.

(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.

(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. All the provisions are more stringent than federal standards.

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

This regulation will be more stringent than those adopted by all of the other 49 states. Pennsylvania will not be placed at a competitive disadvantage because this regulation only impacts public water systems.

(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 amendments will be incorporated into the existing language of 25 Pa Code Chapter 109. Other than this incorporation, the 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.

It is not anticipated that public meetings or hearings will be required.

(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 revisions address planning and delivery requirements. As a result, some changes to forms, reports and other paperwork are expected.

(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 amendments should have no effects on one particular group relative to another since it will apply to most of Pennsylvania's population.

(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 amendments are targeted for promulgation during 2007. 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.

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REVIEW COMMISSION

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

*Amy M. Elliott*

By: (Deputy Attorney General)

AUG 17 2007

DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached.

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

DEPARTMENT OF ENVIRONMENTAL  
PROTECTION  
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-407

DATE OF ADOPTION May 16, 2007

BY *Kathleen A. McGinty*

TITLE KATHLEEN A MCGINTY  
CHAIRPERSON

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality  
Executive or Independent Agencies

BY

*Andrew C. Clark*

Andrew C. Clark

DATE OF APPROVAL

JUL 16 2007

(Deputy General Counsel)  
(Chief Counsel - Independent Agency)  
(Strike inapplicable title)

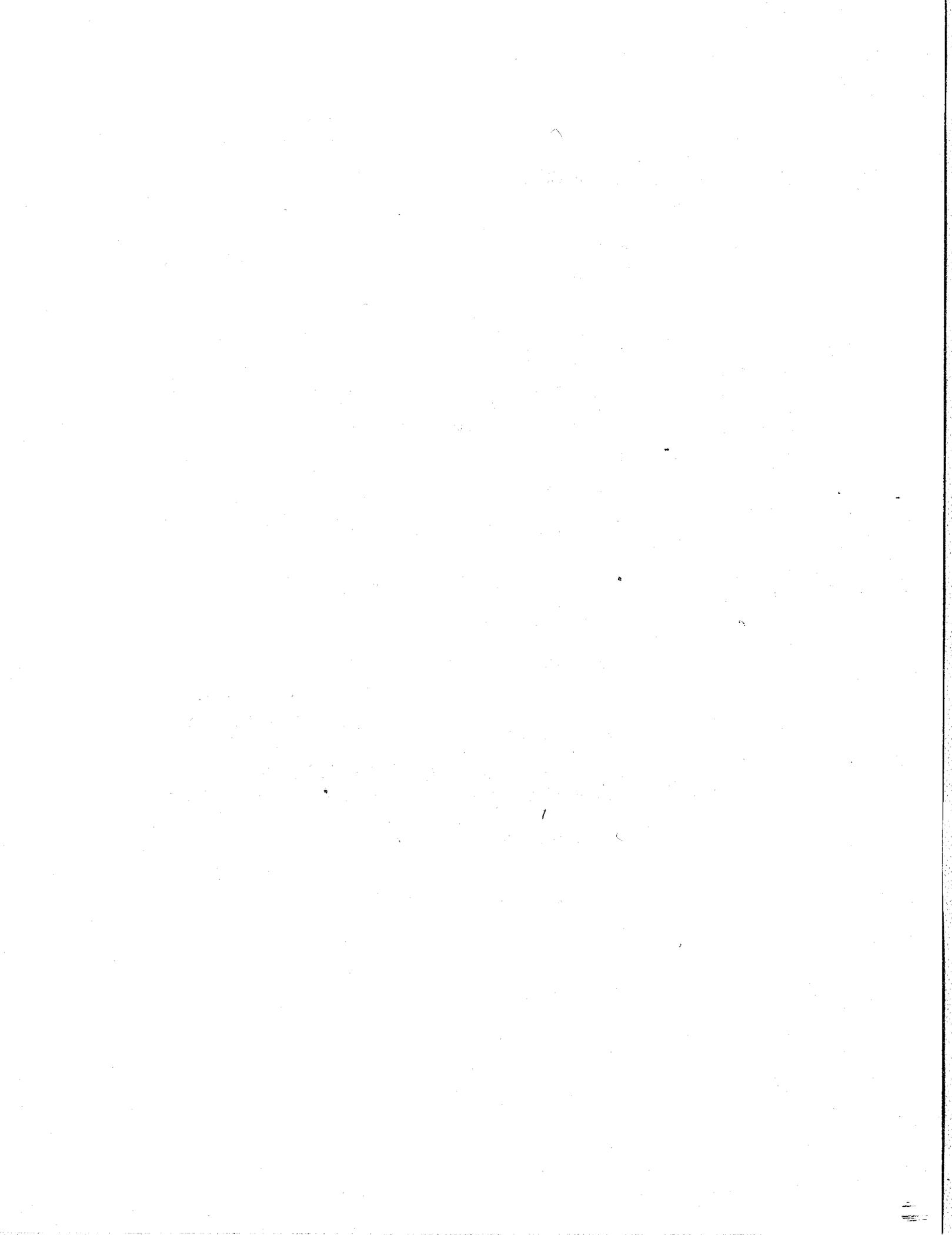
Check if applicable. No Attorney General Approval  
or objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL QUALITY BOARD

Chapter 109 - Public Notification Revisions

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 – Public Notification Revisions)**

**Preamble**

The Environmental Quality Board (Board) proposes to amend 25 Pa. Code, Chapter 109 (relating to Safe Drinking Water). The amendments will strengthen the public notice requirements for imminent threat violations and situations (also known as Tier 1). The amendments will enhance the planning requirements of both the Operation and Maintenance Plan and the Emergency Response Plan sections that relate to public notification. The amendments will revise the delivery requirements for community water systems, as appropriate to the type and size of the water system. Finally, these revisions will provide a few more examples of those situations that need to be reported to the Department within 1 hour of discovery.

This proposal was adopted by the Board at its meeting of May 16, 2007.

**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 Lisa Daniels, Division of Operations Monitoring and Training, P.O. Box 8467, Rachel Carson State Office Building, Harrisburg, PA 17105-8467, (717) 772-2189, or Marylou Barton, 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 J 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). The 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. §§ 510-17 and 510-20).

## **D. Background and Purpose**

The purpose of the amendments is to strengthen the public notice requirements for imminent threat violations and situations (also known as Tier 1). The amendments will enhance the planning requirements of both the Operation and Maintenance Plan and the Emergency Response Plan sections that relate to public notification. The amendments will revise the delivery requirements for community water systems, as appropriate to the type and size of the water system. Finally, these amendments will provide a few more examples of those situations that need to be reported to the Department within 1 hour of discovery.

### ***Operation and Maintenance Plan:***

- The Department will require water suppliers to maintain contaminant fact sheets as a resource to respond to questions from the consumers and media about health effects and available treatment options.

### ***Emergency Response Plan:***

- The Department has specified the information that must be included in an emergency response plan.
- The Department has expanded the list of people suppliers need to communicate and coordinate with during an emergency to include: local emergency management agencies, government agencies, and sensitive sub-populations.
- The Department has included a requirement for procedures for providing an approved alternative water source during an emergency situation.

### ***Delivery methods for Tier 1 public notices:***

- Currently the public notification regulation allows water suppliers to choose one or more of the following types of delivery for a Tier 1 notice: broadcast media, posting in conspicuous locations throughout the area served, hand delivery to persons served, or another delivery method approved by DEP.
- The amendments will specify the type of delivery method that must be used based on the system's population size and the type of consumers who are being contacted.
  - To contact bill paying customers, DEP will require water suppliers to provide direct delivery of the Tier 1 public notice by hand delivery, e-mail, or automatic telephone dialing systems.
  - To reach those people who are transient and nontransient users, the amendments will also require suppliers to use broadcast media such as radio or TV.

### ***“Problem Corrected” Notice:***

- The amendments now require water suppliers to issue a “problem corrected” notice that a Tier 1 violation or situation has been corrected.

### ***Content of abbreviated public notices:***

- The Department is now defining the minimum content elements that must be included in any Tier 1 notice that is delivered by automatic telephone dialing systems, TV scrollers, bullhorn announcements, or radio station news flashes.
  - It is impossible to record the entire Tier 1 public notice on an automatic telephone dialer or expect broadcast media to read the entire message.
  - Furthermore, consumers would become quite annoyed at the length of the message.
  - Consequently, the Department is specifying the immediate and essential elements that need to be included and requiring suppliers to provide a telephone number, or a website where consumers can hear or read the entire notice if they wish.

### ***One-Hour Reporting:***

- The Department is including a few more examples of situations that require one hour reporting to the Department. These situations include:
  - An overfeed of a drinking water treatment chemical.
  - A situation that causes negative pressure in the distribution system.
  - A lack of resources that affect operations, such as staff shortages, notification by the power utility of planned lengthy power outages, or imminent depletion of treatment chemical inventories.

In summary, the Board proposes to incorporate these amendments into the Pennsylvania Safe Drinking Water Regulations (25 Pa. Code Chapter 109) in order to strengthen the public notice requirements for imminent threat violations and situations (also known as Tier 1).

The draft proposed amendments were submitted for review to the Small Water Systems Technical Assistance Center Advisory Board (TAC) for review and discussion on May 18, 2006, July 12, 2006, and November 16, 2006. Comments were received from the TAC on November 21, 2006.

## E. Summary of Regulatory Requirements

The proposed amendments are more stringent than the current federal requirements under 40 CFR Subpart Q (Public Notification of Drinking Water Violations).

§ 109.407(a)(6) *Violation categories and other situations requiring a public notice.*

This paragraph was amended to replace the word “waterborne” with the term “probable emergency situation” to be consistent with the text under 109.408(a)(7), 109.701(a)(3)(iii) and 109.707(a)(2). The waterborne disease outbreak citation of 109.1 was added for clarity.

§ 109.407(c)(4) *Additional Recipients*

This paragraph was amended to expand the group of individuals notified of a Tier 1 situation from “key public officials” to “additional recipients.” The additional recipients include a water system’s sensitive sub-populations like hospitals, schools, daycare facilities, nursing homes, industrial and commercial users.

§ 109.407(d) *Additional Requirements.*

This subsection was amended to tell water systems that additional planning requirements are found under the Operation and Maintenance Plan and Emergency Response Plan sections.

§ 109.408 *Tier 1 public notice.*

This title was amended to revise “form, manner, and frequency” to “categories, timing and delivery” to accurately reflect the true content of the subsections. This title change occurs under 109.409 (Tier 2 public notice) and under 109.410 (Tier 3 public notice) to maintain consistency within Chapter 109.

§ 109.408(a)(7) *Probable emergency situation.*

This paragraph was amended to include the one-hour reporting cross-reference of 109.701(a)(3)(iii). A phrase was added to qualify that the “probable emergency situation” also had to have a significant potential to have serious adverse effects on human health as a result of short-term exposure. The examples were deleted because of the reference to 109.701(a)(3)(iii).

§ 109.408(b)(5) *“Problem corrected” notice.*

This paragraph was amended to require water suppliers to issue a “problem corrected” public notification for Tier 1 violations or situations.

§ 109.408(c) *Delivery of a Tier 1 public notice.*

This subsection was amended to:

- Specify the forms of **direct** delivery a water supplier must use for contacting each service connection.
- For community water systems that also serve transient and nontransient service connections, require systems to use appropriate broadcast media such as radio or television.
- For community water systems that deliver an abbreviated notice, require that the entire public notice be posted on a website or recorded on a dedicated telephone line.

The Department is seeking comment about whether the population size of 3,301 and more people is the appropriate population level to eliminate hand delivery as a direct delivery option. Is it physically possible for systems serving more than 3,301 people to hand deliver and e-mail public notices within the twenty-four hour time frame?

§ 109.411(b) *Minimum content elements of an abbreviated notice.*

This subsection was amended to specify the minimum content elements that must be included on an abbreviated public notice that is delivered by automatic dialing systems, TV scrollers, bullhorn announcements, or radio station news flashes.

§ 109.701(a)(3) *Compliance Report*

This title was changed to “One-hour reporting requirements” to be descriptive since the requirements under 109.701(a)(3) are one-hour reporting requirements.

§ 109.701(a)(3)(iii) *One-hour reporting examples.*

This subparagraph was amended to add the phrase “a probable emergency situation ” to cross-reference this requirement to the emergency response section. Additionally, the Department has included three more examples of situations that require one-hour reporting which are:

- An overfeed of a drinking water treatment chemical.
- A situation that causes negative water pressure in any portion of the distribution system.
- A lack of resources that affect operations, such as staff shortages, notification by the power utility of planned lengthy power outages, or imminent depletion of treatment chemical inventories.

The Department will be developing guidance to provide additional information about situations that require one hour reporting.

§ 109.702(a)(6) *Operation and Maintenance Plan public notification elements.*

This paragraph was amended to require water suppliers to store additional elements such as EPA contaminant fact sheets and an explanation of their methods of delivery of public notice within their Operation and Maintenance Plan.

§ 109.702(c) *Operation and Maintenance Plan update and storage*

This subsection was amended to clarify that the water supplier must update their Operation and Maintenance plan, place it in secure location(s) and make it available upon request to the Department.

§ 109.707(a) *Emergency Response Plan.*

This subsection was amended to:

- Specify the information that must be included in an emergency response plan.
- For each probable emergency situation, require water suppliers to list contact person names and phone numbers for local emergency management agencies, government agencies, sensitive sub-populations, media, and equipment and chemical suppliers.
- Require water suppliers to develop procedures for providing an approved alternative water supply during an emergency.

§ 109.707(b) and (c) *Emergency Response Plan implementation and storage.*

These subsections were amended to:

- Require water suppliers to implement their emergency response plan when necessary.
- Store their plan in secure location(s).
- Make it available upon request to the Department.

## **F. Benefits, Costs and Compliance**

### **Benefits**

The strengthened public notice requirements for imminent threat violations and situations (also known as Tier 1) will provide greater health protection for the public. Specifically, the amendments requiring direct delivery of Tier 1 notices and requiring systems that have transient and nontransient users to use broadcast media should improve the delivery notification rate during an imminent threat situation. In other words, more people will know what actions they need to take to avoid adverse health effects.

By requiring water suppliers to keep public notice templates and fact sheets onsite, they will be better prepared to handle an emergency situation when it occurs.

By providing more examples of “probable emergency situations” that require one-hour reporting to the Department, the Department expects to consult more often with water suppliers at the beginning of an emergency situation. This consultation should provide greater assistance to both the water industry and the public.

### **Compliance Costs**

Compliance costs to implement the direct delivery requirements for Tier 1 notices will increase for many of the community water systems, except those very small systems who are currently hand delivering their Tier 1 public notices. The greatest increase in cost will be incurred by systems serving more than 3,300 people and will be associated with costs for contracting services for or purchasing an automatic telephone dialing system. These costs will vary based on system size and the number of telephone lines the system has available.

The costs for community water systems serving less than 3,300 people will be based on the number of hours it takes to pay employees their hourly wage to hand deliver public notices to each service connection. For some very small community water systems (serving less than 500 people), the cost to implement the new delivery requirements may be negligible because these systems are currently delivering Tier 1 notices by hand. However, for a community system serving 3,300 people, the cost to deliver a Tier 1 public notice by hand delivery was estimated to be approximately \$1,100.00 for a single Tier 1 event.

The cost estimates below are based on the following assumptions:

#### **Hand delivery using employees**

For community water systems serving 3,300 or fewer people, the cost to deliver a Tier 1 public notice by hand delivery was calculated based on the following estimates made by the program:

- Deliver 1 notice to each service connection
- 3,300 people = 1,650 service connections (2 people/connection)
- 1 person can deliver 1 notice every 2 minutes so 30 notices can be delivered each hour
- Average employee wage = \$10/hour
- Delivery time for 1,650 connections = 55 hours (1,650 connections/30 notices per hour)
- Delivery cost = \$550.00 per public notice delivery event (55 hours x \$10/hr)

- Total cost to deliver initial notice and “problem corrected” notices = \$1,100.00

To gather cost estimates for purchasing automatic dialing systems or service contracts with automatic dialing system providers, the Department surveyed 11 vendors and the cost ranges reported below represent the survey results that the Department received from 7 of the vendors.

The cost estimates below for purchasing or contracting an automatic dialing system are based on the following assumptions:

- Costs are based on one 60-second call (Tier 1 notice) and one 30-second call (“problem corrected”) per year.
- Costs do not include employee time to learn, maintain and administer the system or costs for additional phone lines.
- Water suppliers can negotiate different rates with individual vendors.

**Purchasing an automatic dialing system (on-site system) – 2 vendor quotes**

<b>Water System Population Size</b>	<b>1<sup>st</sup> Year Costs (Purchase, installation and training)</b>	<b>Annual Costs (Maintenance)</b>
3,301 – 10,000	\$18,500 – 32,500	\$3,700 – 4,350
More than 10,000 population	Not feasible to meet the 24-hour delivery timeframe if using only one phone line.	

The first year cost estimate range was \$18,500 - \$32,500 with an annual cost range of \$3,00 – 4,350 for systems serving between 3,300 and 10,000 people. In order to meet the 24-hour delivery timeframe, water systems may have to install additional phone lines.

Water systems serving more than 10,000 people could not purchase and use an on-site automatic dialing system because they could not meet the 24-hour delivery timeframe for such a large population. For example, a system serving 20,000 people (10,000 service connections) would need 10,000 minutes to notify each service connection if using only one telephone line. Assuming that calls aren’t placed between the hours of midnight and 6 AM, the water supplier really only has 18 hours of time (1,080 minutes) to place the calls. In this example only 1,080 calls could be made of the 10,000 calls that are needed unless multiple phones lines are used.

**Contracted service with an automatic dialing system provider – 5 vendor quotes**

<b>Water System Population Size</b>	<b>1<sup>st</sup> Year Costs (Purchase, installation and training)</b>	<b>Annual Costs (Maintenance, per call cost, database administration)</b>
3,301 – 10,000	\$4,000 – 29,000	\$2,300 – 16,500
10,001 – 30,000	\$4,000 – 29,000	\$4,500 – 20,000
30,001 – 50,000	\$4,000 – 29,000	\$6,500 – 25,000
50,001 – 100,000	\$4,000 – 29,000	\$13,250 – 37,500
More than 100,000	\$4,000 – 29,000	\$26,000 – 187, 500+

The cost range for all population sizes for the first year cost of using a contracted service provider was \$4,000 - \$29,000. The annual costs varied based on population size.

**Compliance Assistance Plan**

The proposed revisions address additional planning and delivery requirements. As a result, financial assistance should not be necessary.

**Paperwork Requirements**

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

**G. Pollution Prevention**

Not applicable.

**H. 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.

**I. Regulatory Review**

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 11, 2007, 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 the detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

Under Section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Act specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

#### **J. 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, 16<sup>th</sup> 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 21, 2007. 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 21, 2007. 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](mailto:RegComments@state.pa.us) and must also be received by the Board by November 21, 2007. A subject heading of the proposal and a return name and address must be included in each transmission.

BY:

KATHLEEN A. MCGINTY  
Chairperson  
Environmental Quality Board

**Title 25. Environmental Protection  
Department of Environmental Protection  
Chapter 109. Safe Drinking Water**

**Subchapter D. PUBLIC NOTIFICATION**

**§ 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 K (relating to MCLs, MRDLs or treatment technique requirements; 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, as defined in § 109.1 (relating to definitions), or other [waterborne] probable emergency situation as defined in 109.701(a)(3)(iii) (relating to reporting and recordkeeping) that adversely affects the quality or quantity of finished water and has a significant potential to have serious adverse effects on human health as a result of short-term exposure.

(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] additional recipients** 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).

**(d) Additional Requirements. Community water systems shall comply with the planning requirements specified under § 109.702(a)(6) (relating to operation and maintenance plan) and § 109.707.**

**§ 109.408. Tier 1 public notice— [form, manner and frequency] categories, timing and delivery 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) (relating to maximum contaminant levels for inorganic chemicals).

(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 definitions), or other **[waterborne] probable emergency situation as defined in 109.701(a)(3)(iii) (relating to reporting and recordkeeping)** that adversely affects the quality or quantity of the finished water **[including, but not limited to, the following:] and has a significant potential to have serious adverse effects on human health as a result of short-term exposure.**

**(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. These requirements may include the timing, form, manner, duration, frequency, and content of the initial and any repeat notices, and other actions reasonably 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 may be no less often than once every 30 days as long as the violation or situation persists.

**(5) Provide a public notice, as soon as possible, but no later than 24 hours after the notice is approved by the Department, that the Tier 1 violation or situation has been corrected.**

(c) *[Form and manner] Delivery of a Tier 1 public notice.* The **[form and manner] delivery methods** used by a public water supplier shall fit the specific situation and shall be reasonably designed to reach residential, transient and nontransient users of the water system. To reach all persons served, a water supplier shall use, **[at a minimum] as appropriate to the type and size of the water system, [one or more of]** the following forms of delivery:

(1) **[Appropriate broadcast media, such as radio or television.] Community water systems.**

(i) **Systems serving 3,300 or fewer persons shall provide public notice to each service connection using one or more of the following forms of direct delivery:**

**(A) Hand delivery.**

**(B) Electronic mail.**

**(C) Another form of direct delivery approved in writing by the Department.**

**(ii) Systems serving 3,301 or more persons shall provide public notice to each service connection using one or more of the following forms of direct delivery:**

**(A) Automatic telephone dialing systems or other best available technology.**

**(B) Electronic mail.**

**(C) Another form of direct delivery approved in writing by the Department.**

**(iii) In addition to providing public notice to each service connection under subparagraph (i) or (ii), public water systems that also serve transient and nontransient service connections must provide notice using appropriate broadcast media, such as radio and television.**

**(iv) If a public water supplier delivers an abbreviated notice in accordance with 109.411(b)(relating to content of a public notice), the public water supplier must also provide the entire public notice under this section in one of the following ways:**

**(A) Posted on a website.**

**(B) Recorded on a dedicated phone line.**

**(C) Another method approved in writing by the Department.**

**(2) [Posting of the notice in conspicuous locations throughout the area served by the water system.] Noncommunity water systems shall provide notice to transient and nontransient consumers using one or more of the following forms of delivery:**

**(i) Posting the notice in conspicuous locations throughout the area served by the water system.**

**(ii) Another form of delivery approved in writing by the Department.**

**[(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] categories, timing and delivery of notice.**

\* \* \* \* \*

**(c) [Form and manner] Delivery 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.

\* \* \* \* \*

**§ 109.410. Tier 3 public notice— [form, manner and frequency] categories, timing and delivery of notice.**

\* \* \* \* \*

(c) [*Form and manner*] **Delivery 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 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 or on the Internet or delivery to community organizations.

**§ 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 contaminants of concern, and (as applicable) the contaminant levels.

(2) When the violation or situation occurred.

(3) Any potential adverse health effects from the violation or situation, including the standard language under subsection [(d)] (e)(1) or (2), whichever is applicable.

(4) The population at risk, including subpopulations 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 subsection [(d)](e)(3), where applicable.

**(b) If automatic telephone dialing systems, TV scrollers, bullhorn announcements, or radio station news flashes are used to deliver an abbreviated notice in accordance with § 109.408(c)(1) (ii) or (iii) (relating to tier 1 public notice- categories, timing and delivery), the abbreviated notice shall include, at a minimum, the following elements:**

**(1) A description of the violation or situation, including the contaminants of concern, and (as applicable) the contaminant levels.**

**(2) Whether alternative water supplies should be used.**

**(3) What actions consumer should take, including when they should seek medical help, if known.**

**(4) A telephone number or website address or both where consumers can obtain the entire notice.**

[(b)] (c) \* \* \*

\* \* \* \* \*

[(c)] (d) \* \* \*

\* \* \* \* \*

[(d)] (e) \* \* \*

\* \* \* \* \*

## 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*] **One-hour reporting requirements.** 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; and lead and copper).

(ii) A sample result requires the collection of check samples under § 109.301.

(iii) **A probable emergency situation [Circumstances exist]** which may adversely affect the quality or quantity of drinking water including, but not limited to:

**(A)** The occurrence of a waterborne disease outbreak.

**(B)** A failure or significant interruption in key water treatment processes.

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

**(D)** A chemical spill.

**(E)** An unexpected loading of possible pathogens into the source water **that significantly increases the potential for drinking water contamination.**

**(F)** **An overfeed of a drinking water treatment chemical.**

**(G)** **A situation that causes a negative water pressure in any portion of the distribution system.**

**(H)** **A lack of resources that affect operations, such as staff shortages, notification by the power utility of planned lengthy power outages, or imminent depletion of treatment chemical inventories.**

**§ 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 **generally** 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] elements in accordance with Subchapter D (relating to public notification) that include:**

**(i) [appropriate advance preparations, such as] Public notice templates[,].**

**(ii) EPA contaminant fact sheets, where available.**

**(iii) An explanation of appropriate methods of delivery of public notice in accordance with Subchapter D) [and a designation of public notice recipients for each tier type].**

- (7) Staffing and training.
- (8) Sanitary survey program including the wellhead protection program for any water system that develops one under § 109.713 (relating to wellhead protection programs).
- (9) Safety program.
- (10) Emergency plan and operating procedures.
- (11) Manufacturer's manuals.
- (12) An interconnect, valve and blowoff exercise and testing program.
- (13) Date of last update.**

(b) The community water supplier shall implement the operation and maintenance plan in accordance with accepted practices of the water supply industry.

(c) The **community water supplier shall review and update** the operation and maintenance plan **[shall be reviewed and updated]** as necessary to reflect changes in the operation or maintenance of the water system. The plan shall be:

- (1) **[bound and ]Placed in secure locations** which are readily accessible to the water system's personnel[.].
- (2) **[and shall be] Presented** upon request to the Department.

(d) Noncommunity water suppliers may be directed by the Department to develop and implement an operation and maintenance plan as provided for in this section when the public health is threatened by inadequate operation and maintenance of the facilities.

### **§ 109.707. Emergency response plan.**

(a) 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 **generally** conform to the guidelines contained in the Department's Public Water Supply Manual, **as applicable**, and shall contain at least the following: **[information]**

(1) **[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)] Organization table. Develop an organization table that includes a prioritized list of names and contact numbers of persons in charge of the water system during an emergency.**

**(2) Communication procedures and contact information. For each probable emergency situation, including, but not limited to, those specified in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping), list contact persons and phone numbers for the following groups of people :**

- (i) Local emergency management agencies within a water system's jurisdiction.**
- (ii) Government agencies including, but not limited to the Department, Public Utility Commission, Department Of Health, Department Of Energy, Department of Public Welfare and Pennsylvania Department of Agriculture.**
- (iii) Sensitive sub-populations including, but not limited to hospitals, schools, daycare facilities, nursing homes, industrial and commercial users.**
- (iv) Media.**
- (v) Equipment and chemical suppliers.**

[(2)] (3) [Procedures for communications and coordination with the local emergency management organization] Means of communication. List the following:

- (i) Types of communication equipment.
- (ii) Types of communication for public notification.

(4) Summary description of the system. List the following:

- (i) Location of pertinent operational information.
- (ii) Source information.
- (iii) Treatment information.
- (iv) Finished water storage.

(5) Assessment of available resources. List the following:

- (i) Mutual aid agreement(s).
- (ii) Emergency water supply equipment that includes procedures for providing reserve capacity according to 109.609 (relating to reserve capacity and finished water storage) or an approved alternative water supply.
- (iii) Power supply equipment.
- (iv) Repair equipment.
- (v) Vehicles and construction equipment.
- (vi) Spare equipment.

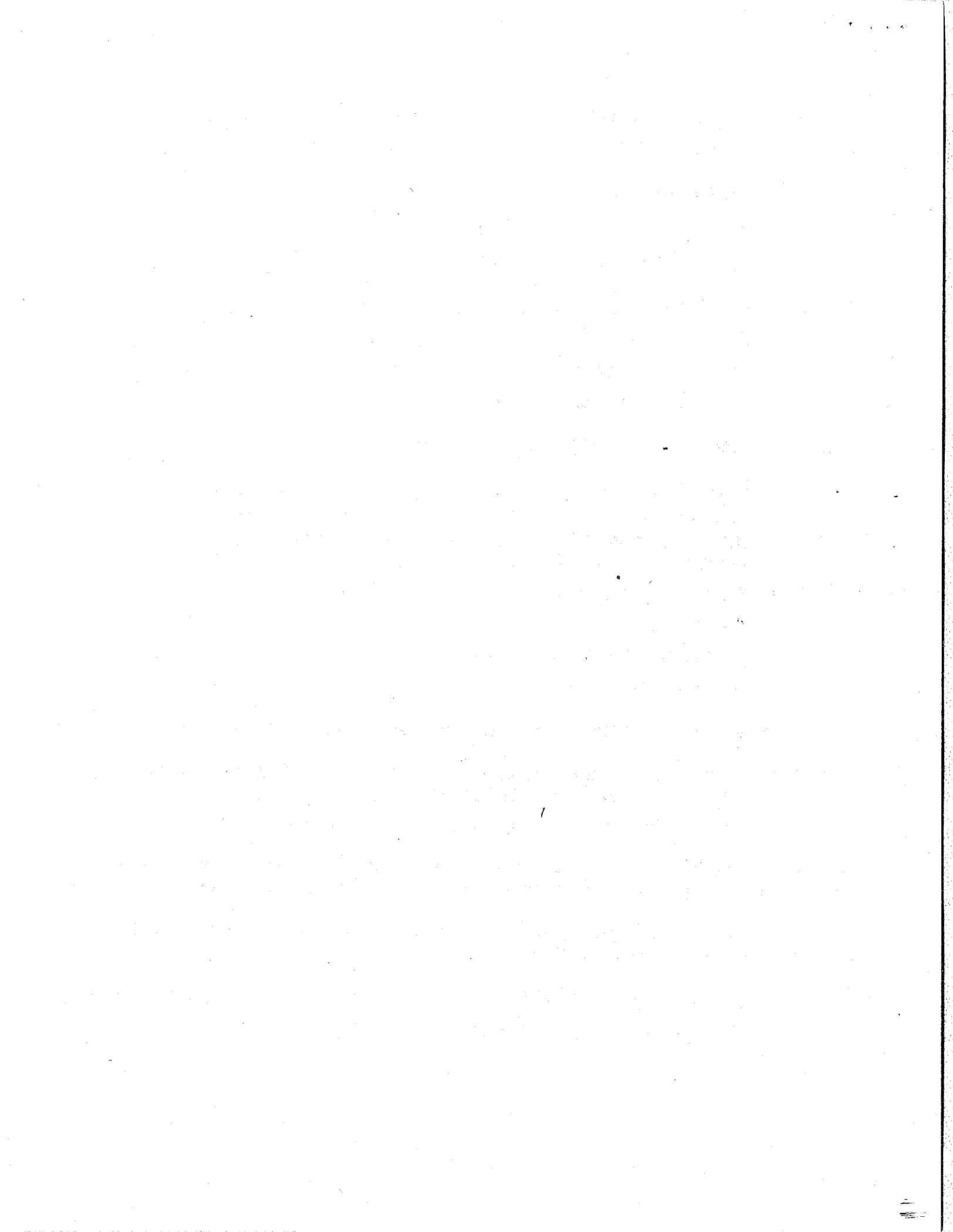
(6) Corrective actions for probable emergency situations. List the following:

- (i) Probable emergency situations including, but not limited to, those specified in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping).
- (ii) Corrective actions for each probable emergency situation.

(b) The [plan shall be kept on file in a readily accessible location by the public water supplier.] community water supplier shall implement the emergency response plan when necessary.

(c) The community water supplier shall review and update the plan [shall be reviewed and updated] at least annually. The plan shall be:

- (1) Placed in secure locations which are readily accessible to the water system's personnel.
- (2) Presented upon request to the Department.





## Pennsylvania Department of Environmental Protection

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Rachel Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063  
September 11, 2007

Policy Office

717-783-8727

Kim Kaufman, Executive Director  
Independent Regulatory Review Commission  
14th Floor  
333 Market Street  
Harrisburg, PA 17101

Re: Proposed Rulemaking: Public Notification Revisions (#7-407)

Dear Mr. Kaufman:

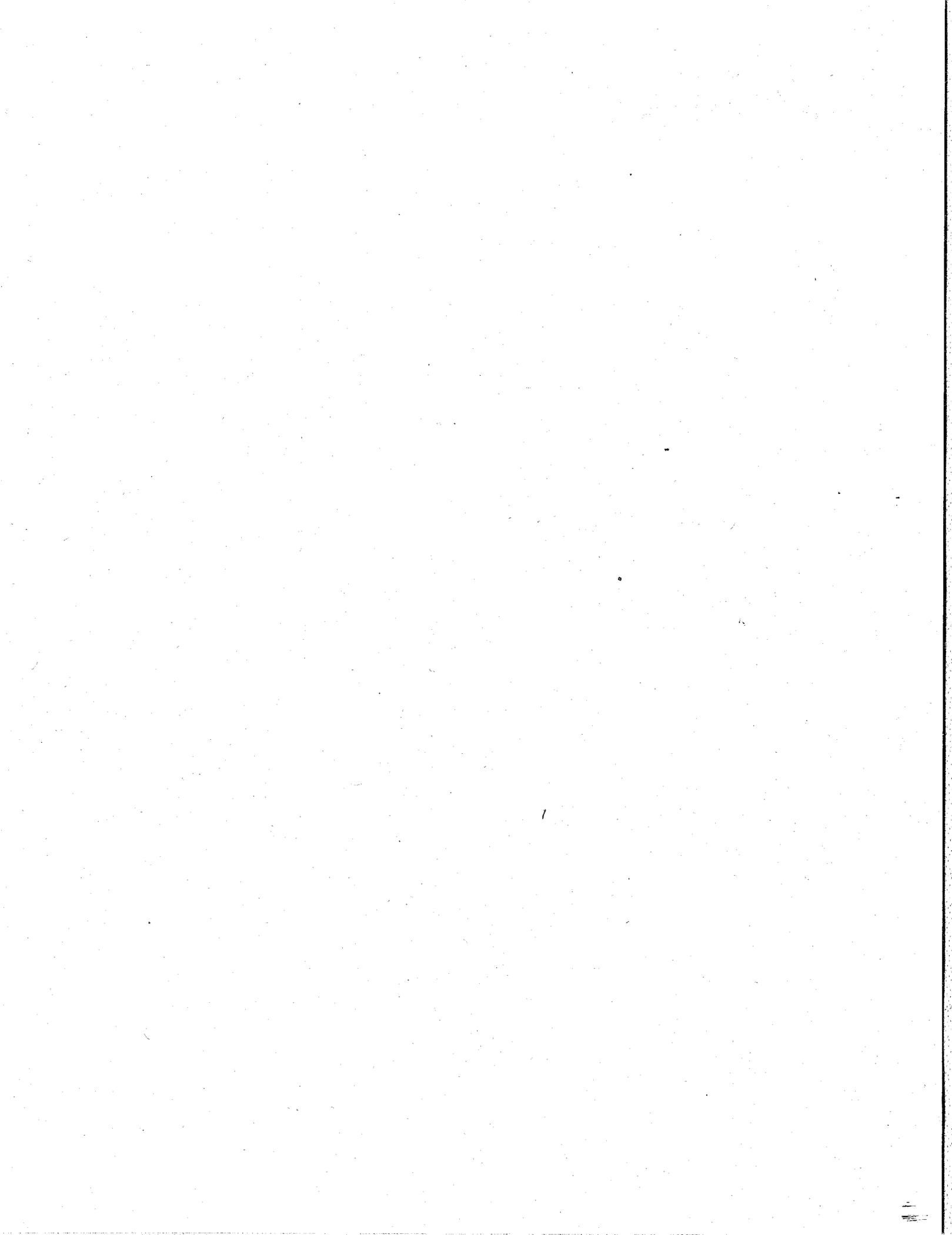
Enclosed is a copy of a proposed regulation for review and comment by the Independent Regulatory Review Commission pursuant to Section 5(a) of the Regulatory Review Act. This proposal is scheduled for publication as a proposed rulemaking in the *Pennsylvania Bulletin* on September 22, 2007, with a 60-day public comment period, that will conclude on November 21, 2007. The Environmental Quality Board (EQB) adopted this proposal on May 16, 2007.

The Pennsylvania Safe Drinking Water Regulations (25 *Pa Code*, Chapter 109) require public water supply systems to provide the public with notification whenever their systems are not in compliance with the regulations. Although critical to public health and safety, such notifications are not always expedient or provide thorough and direct information to the water consumers. Through this rulemaking, the Department is proposing changes to the Safe Drinking Water regulations to strengthen the public notice requirements for imminent threats and situations (known as Tier I incidents). Tier 1 incidents include situations that have the significant potential to cause serious adverse effects on human health as a result of short-term exposure to the affected water.

The proposed amendments will enhance public notification by requiring that certain essential information be communicated about Tier I incidents through public notices. The amendments will also mandate direct delivery of such notices to each bill-paying customer by hand-delivery, e-mail, or automatic telephone dialing systems based upon the type and size of the water system. To reach transient and nontransient users, the amendments further mandate the use of broadcast media such as radio or TV. Finally, the proposed revisions will add additional circumstances that must be reported by public water supply systems to the Department within 1 hour of discovery.

The draft proposed amendments were submitted for review to the Small Water Systems Technical Assistance Center Advisory Board (TAC) for review and discussion on May 18, 2006, July 12, 2006, and November 16, 2006. Comments were received from TAC on November 21, 2006, and were addressed by the Department prior to the finalization of the proposal.





The Department will provide the Commission with the assistance required to facilitate a thorough review of this proposal. Section 5(g) of the Regulatory Review Act provides that the Commission may, within 30 days of the close of the comment period, convey to the agency its comments, recommendations and objections to the proposed regulation. The Department will consider any comments, recommendations or suggestions submitted by the Commission, as well as the Committees and public commentators, prior to final adoption of the regulation.

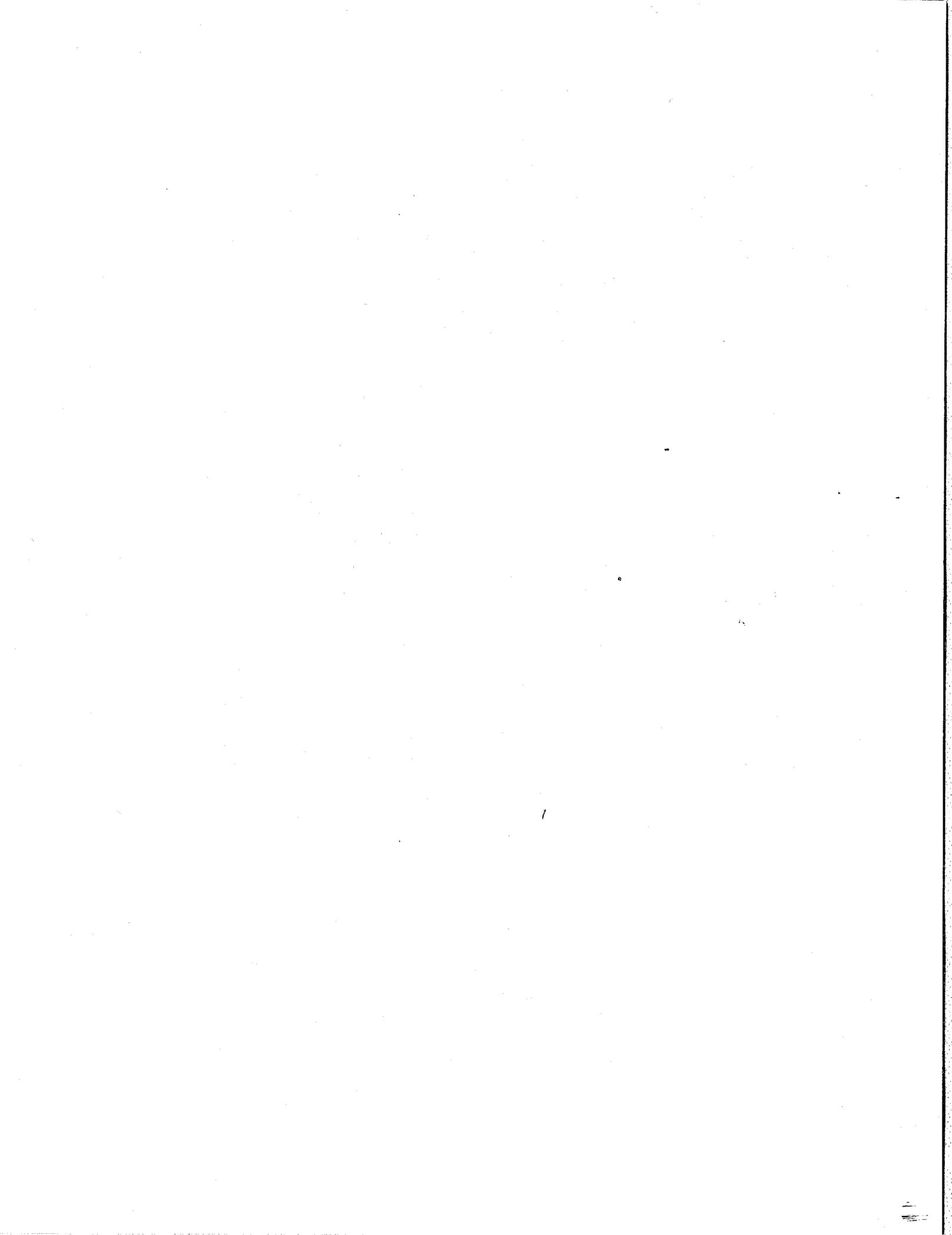
Please contact me at the number above if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Michele L. Tate".

Michele L. Tate  
Regulatory Coordinator

Enclosures





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

I.D. NUMBER: 7-407  
SUBJECT: Public Notification Revisions  
AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

**TYPE OF REGULATION**

- 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  
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INDEPENDENT REGULATORY  
REVIEW COMMISSION

**FILING OF REGULATION**

**DATE**

**SIGNATURE**

**DESIGNATION**

9-11-07

June M. Thomas

Majority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY

9-11-07

K. Beason-Held

Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY

9/11/07

L. Ramsey

Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY

9-11-07

A. Rybarczyk

Minority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY

9/11/07

Kathy Cooper

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

9/14/07

C. LeBaron

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

