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From: Jeffrey Gordon [jeffrey98a@comcast.net]
 Sent: Saturday, November 03, 2007 7:01 PM
 To: RegComments@state.pa.us
 Subject: Comments on Proposed Rulemaking - 25 Pa. Code Chapter 109 - [37 Pa.B. 5158] - [Saturday, September 22, 2007]

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INDEPENDENT REGULATORY REVIEW COMMISSION

Comments in response to Proposed Rulemaking in 25 Pa, Code Chapter 109. Safe Drinking Water dealing with Public Notification revisions as published in the Pennsylvania Bulletin on Saturday, September 22, 2007 [37 Pa.B. 5158].

Dear Secretary McGinty,

I would like to thank the Environmental Quality Board for the opportunity to comment on this proposed rulemaking.

At the time of the fluoride spill and subsequent contamination incident in December 2005 that resulted in these proposed revisions to Chapter 109, I was both a customer of the affected public water system and the Chief of the Division of Operations Monitoring and Training in the Department of Environmental Protection's (DEP) Bureau of Water Standards and Facility Regulation. As a result, I had a unique opportunity to participate in the public notification process that unfolded as a result of the incident. I retired from Commonwealth service in March 2007, but feel it necessary to add my comments regarding this matter.

- Based on that incident, it became strikingly evident to me as well as many others I talked to that the status quo means of issuing public notice for an imminent threat situation was not designed to ensure that bill paying customers as well as individuals who might consume contaminated water, such as tenants, visitors, patrons of facilities served by a system with an imminent threat violation or situation, etc., received vital information in a timely manner.
- We are faced with a growing choice of communications options and a highly mobile society that picks and chooses from those options. With the availability of cable and/or satellite television and radio, personal music playing devices, etc., many individuals don't watch local television programs or listen to local radio stations. As a result, even if a local television station would read or scroll a public notice on-air continuously, very few individuals might be watching and receive the information in a timely manner. In addition, many people are choosing to use a cellular telephone and not pay for a wired telephone in their home or apartment. Therefore, obtaining telephone numbers for individuals using a cell phone, as their only method of communication, could be difficult if the individuals do not volunteer to share that information with their public water supplier.
- The proposed rulemaking in my opinion represents a significant improvement over the current regulatory requirements and addresses serious shortcomings in the federal regulations upon which the current requirements are based. Even the proposed rulemaking will not guarantee that everyone served by a public water system experiencing an imminent threat situation will be contacted, but I expect that the revisions if adopted as written will result in many more people being contacted than in the past. At the time the current federal regulations were promulgated, they represented a number of improvements over what they replaced, but they did not anticipate the explosion of communications options that currently exist and the federal regulations depended on local television and radio stations, which more people used at that time, to get the important information out to the citizens.

The following observations are not issues that need to be addressed in this proposed rulemaking, but need to be considered by the appropriate bodies or agencies in the near future in order to ensure that public health is being

protected in as many ways as possible:

- A spill of a hazardous material, for example onto a highway, usually results in the Pennsylvania Emergency Management Agency (PEMA) becoming involved to ensure that the spill is controlled and remediated in an effort to protect streams, lakes, and rivers as well as public health. However, under current practice, if a problem at a public water system results in an imminent threat situation, but the problem doesn't fit PEMA's current role, it is up to the public water supplier to get the word out. Therefore, I suggest that PEMA's responsibilities to ensure that the Emergency Alert system that is currently in place to break into radio, television and cable broadcasts for severe storms be amended so that the Alert system can also be used to notify individuals in larger communities about a serious water contamination incident (microbiological or chemical) that could cause illness or death if a small amount of water is consumed. This would require that a protocol be developed to limit the use of such a system to the most serious events to avoid misuse of the system. In the long term, it would help to further ensure that the message was distributed to the largest possible number of people. In addition, such a system might allow PEMA to better coordinate the local counties and municipalities involved in such an incident. A source of good information is critical to ensuring that the correct message is delivered to the citizens.
- Radio and television stations and cable television providers need to be made aware of their public responsibility in the event of an imminent threat to public health at a public water system. The abbreviated public notice information described in the proposed rulemaking as provided to the station or cable provider by the public water supplier must be presented verbatim. In addition, if the station or cable provider has the capability, the information contained in the complete public notice as well as any follow-up notices should be placed on the station's or provider's website for the duration of the incident.
- Customers and consumers in general take safe drinking water as a given and may not realize what is involved in making that water fit for human consumption. Many of us only hear from our public water supplier when rates are going up or when we have to boil our water or not use our water until further notice. Public water suppliers need to become more proactive in advance of such critical situations and tell the people they supply what is being done to treat their water in normal times and how they will contact them in those rare instances that a water supply warning must be issued. Customers and consumers need to take responsibility as well and provide a current telephone number, so they can be notified in the event of an imminent threat situation.
- Various ways to financially help public water systems that serve more than 3,300 people should be investigated. A number of counties and local municipalities have, I believe, obtained or are considering obtaining reverse telephone-dialing systems to alert their citizens in the event of an emergency by using funds made available through counter-terrorism funds or other sources. In this age of possible terrorism against critical infrastructure, such as a public water system, the awarding of funding for counter-terrorism activities ought to be given a higher priority for a county or municipality if they partner with public water systems or wastewater treatment facilities within their geographic boundaries to provide the telephone notification for those systems and facilities. Such a partnership could help to ensure that such efforts are not duplicated within a geographic area and save money and valuable time in the event of an imminent threat. In addition, it could make reverse telephone-dialing systems available to public water systems that serve 3,300 or fewer people and save those smaller suppliers the task of hand delivery, if they choose, at a reasonable cost for each incident.

My former staff and colleagues need to be recognized for their efforts involved in the development of the proposed rulemaking. They opened up an on-going dialogue with the public drinking water industry, public interest groups, the public, other state agencies, the US Environmental Protection Agency (EPA), etc. to help bring public notification up to the present day and to ensure that the Safe Drinking Water regulations provide for future innovations in how everyone communicates with each other.

The EPA and other states are watching what Pennsylvania does to improve public notification during an imminent threat incident. DEP has been a leader in this area in the past and needs to continue to lead in the future to ensure that the health of the citizens of and visitors to Pennsylvania is protected.

Sincerely,

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