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REVENUE COMMISSION

November 9, 2007

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Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

ENVIRONMENTAL QUALITY BOARD

RE: Proposed Rulemaking: Public Notice on Drinking Water Systems (Public Notification Revisions to Title 25, Pa. Code Chapter 109. Safe Drinking Water)
DEP ID: 7-407 (#2637)

Dear Environmental Quality Board:

Enclosed for filing please find the Pennsylvania Section, American Water Works Association, Water Utility Council's comments in the matter referenced above.

The Pennsylvania-Section, American Water Works Association (PA-AWWA) consists of 2,500 + members representing all classes of water utilities in Pennsylvania, including those owned by investors, authorities and municipalities, plus regulators, vendors, contractors, engineers and others dedicated to promoting the health and welfare of Pennsylvania by providing affordable drinking water of superior quality and sufficient quantity. The Water Utility Council of AWWA includes representatives from the National Association of Water Companies, Pennsylvania Chapter; Pennsylvania Municipal Authorities Association; Pennsylvania Rural Water Association; and Water Works Operators' Association of Pennsylvania.

Very truly yours,

STEVE E. TAGERT

Chairman

Pennsylvania Section, American Water
Works Association, Water Utility Council

1309 Bridge Street

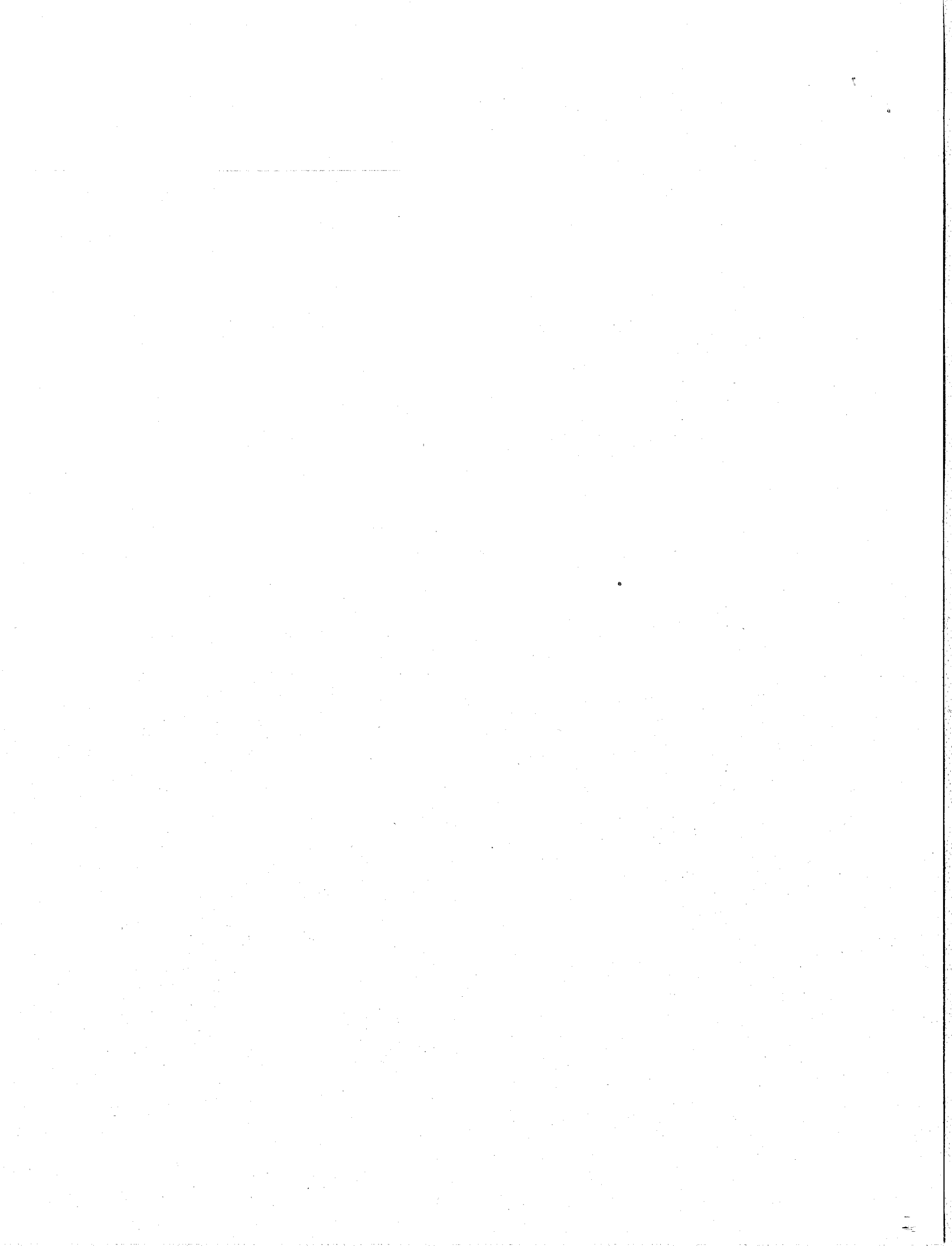
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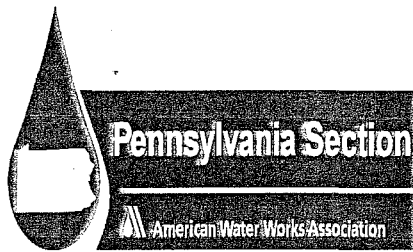
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CC: Independent Regulatory Review Commission
Arthur Coccodrilli, Chairman





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Summary of Comments on Public Notice Proposed Rulemaking, DEP ID: 7-407 (#2637)

The Water Utility Council (WUC) recognizes the need to revise our public notification methods and practices in this post-9/11 environment. However, we do have concerns about the proposed rulemaking, particularly with respect to the handling of main breaks. A summary of our comments follows:

Subchapter D. Public Notification

While the WUC shares the concerns expressed by the TAC regarding the costs associated with implementing an automatic telephone dialing system, we favor its inclusion over more costly proposals. However, it is important to note that even an automatic telephone dialing system cannot guarantee 100 percent notification. The appropriate use of automatic telephone dialing systems, hand delivery, broadcast media and websites should be considered a reasonable effort to notify residents of a Tier 1 situation.

Subchapter G. System Management Responsibilities

Questions have arisen among system operators regarding the one-hour reporting requirements, under § 109.701 (3) of the proposed rulemaking, as to when the clock officially starts. The Pennsylvania Public Utility Commission's (PUC) regulations, under 52 Pa. Code § 67.1, provide that a utility shall notify the PUC by telephone within one hour after a preliminary assessment of conditions reasonably indicates that there is an unscheduled service interruption... Therefore, WUC recommends that § 109.701 (3) be revised as follow:

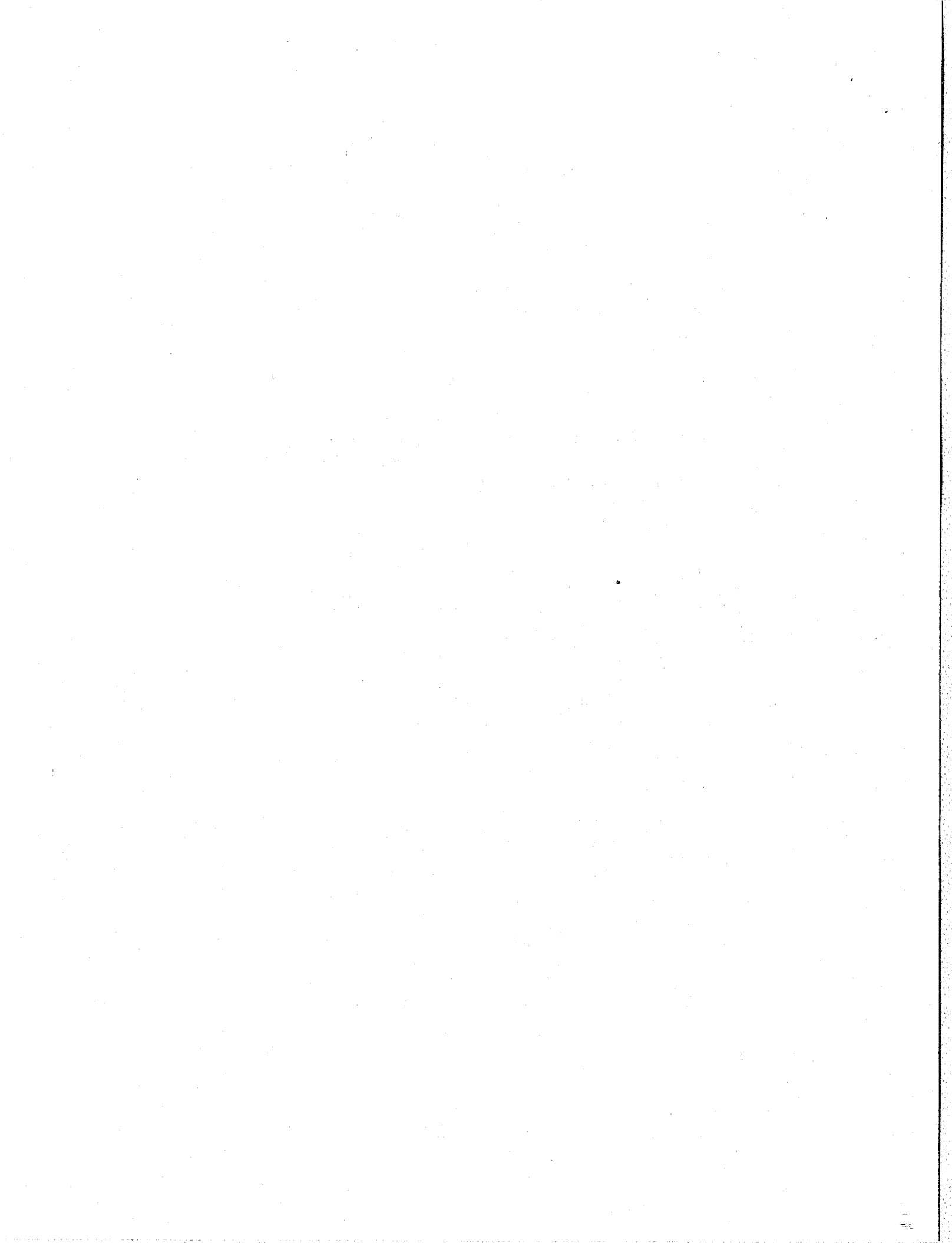
"(3) [Compliance report] **One-hour reporting requirements.** A public water supplier shall report the circumstances to the Department within 1 hour of discovery, **AFTER A PRELIMINARY ASSESSMENT OF CONDITIONS**, for the following violations or situations:"

Proposed Guidance/Main Breaks

The WUC and TAC have expressed concern over how the Department intends to handle main breaks. Requiring notice of every main break is not necessary and the WUC doesn't want an influx of notices involving "less serious" situations to drown out those notices that are potentially serious or adverse situations. The water industry's experience, through sampling, has shown that most main breaks do not "allow contamination to enter the distribution system through back-flow by back-pressure or back-siphonage" and are not a health concern. Tier 1 notice should be limited to situations that absolutely affect the quality or quantity of finished water and have a significant potential to have serious adverse effects on human health as a result of short-term exposure. Few main breaks will meet these criteria. We are also concerned that the issuance of precautionary boil water advisories for every main break will diminish customer confidence or desensitize the public to such notices.

Compliance Period

WUC recommends the inclusion of a six month compliance period to allow water systems time to implement an automatic dialing system. Implementation of such a system may require budget amendments, new capital project authorizations or possible rate increases, and negotiations with vendors, including possible shared-service arrangements with other systems or municipalities.



**Before the
Pennsylvania Department of Environmental Protection**

In Re: Proposed Rulemaking: Public Notice
on Drinking Water Systems (Public
Notification Revisions to Title 25, Pa. Code
Chapter 109. Safe Drinking Water)

DEP ID: 7-407 (#2637)

**Comments of
Pennsylvania Section, American Water Works Association
Water Utility Council**

The Pennsylvania-Section of the American Water Works Association (PA-AWWA) seeks to promote public health, safety, and welfare through the continual improvement of the quality and quantity of water delivered to the public in this Commonwealth. PA-AWWA consists of over 2,500 members representing all classes of water utilities in Pennsylvania (including those owned by investors, authorities and municipalities) plus regulators, vendors, contractors, engineers and others dedicated to promoting the health and welfare of Pennsylvania by providing affordable drinking water of superior quality and sufficient quantity.

PA-AWWA created the Water Utility Council (WUC) to (among other things) respond and comment on legislative, regulatory and other matters which directly affect water utilities and to encourage provision of high quality drinking water service to the consuming public. WUC includes representatives from the National Association of Water Companies - Pennsylvania Chapter; Pennsylvania Municipal Authorities Association; Pennsylvania Rural Water Association; and Water Works Operators' Association of Pennsylvania. These comments reflect the consensus of the WUC, but should not be construed as the position of the participating associations listed above. Each participating association may submit their own comments.

I. Introduction

The purpose of the proposed rulemaking is to amend the Department of Environmental Protection's Safe Drinking Water regulations to strengthen the public notice requirements for imminent threats to public health. The goal should be to encourage commitment, communication, and cooperation among regulators, public health agencies and water utilities to improving the effectiveness of public notice in these circumstances.

II. General Comments

Following significant flooding events and an accidental release of fluoride affecting public drinking water in 2005, Governor Rendell directed the Department to strengthen the public notification procedures that public water suppliers must follow to alert residents when there is an imminent threat to drinking water supplies. The Department found that consumers were dissatisfied with media notices for the following reasons:

- Some notices were delivered too infrequently.
- Consumers had to be watching television or listening to the radio to receive the notice.¹

The WUC recognizes the need to revise our public notification methods and practices in this post-9/11 environment. In addition, the WUC recognizes and appreciates the effort put forth by the Department in working with the water industry and the Technical Assistance Center Advisory Board (TAC) on this proposed rulemaking. Specifically, the WUC supports and applauds the Department's adoption of the following recommendations from the TAC:

1. Increasing the population for hand delivery of a Tier 1 public notice to systems serving 3,300 or fewer persons and providing systems serving 3,301 or greater the option to seek Department approval in writing for hand delivery of a Tier 1 public notice instead of using an automated telephone dialing system.

¹ IBID

2. Clarifying that Tier 1 public notice shall be provided to each "service connection" since it is more inclusive.
3. Revised § 109.702 (Operation and maintenance plan) to remove the requirement to provide information to consumers about available treatment options. Also, specifies that systems must maintain EPA Technical Fact sheets. Systems only have to maintain fact sheets that EPA has developed.
4. Revised § 109.707 (Emergency response plan) to require an annual review and update instead of annual drills and testing.
5. Allowing a public water supplier to use an abbreviated notice in accordance with § 109.411(b) (relating to content of a public notice). However, if systems use an abbreviated notice, they also have to post the entire public notice on a website or record the notice on a dedicated telephone line.

Finally, the WUC appreciates the Department's decision to develop guidance to provide additional information about situations that require one-hour reporting. The content of this guidance is of great interest to our members and should be developed in close coordination with water utilities, and will likely draw the most interest, particularly as it relates to situations causing a "negative water pressure" or main breaks.

III. Specific Comments

1. Subchapter D. Public Notification.

The TAC referred delivery issues to a workgroup that met on August 29, 2006 and September 15, 2006 and the final report of the workgroup was unanimously approved at the November 16, 2006 meeting of the full TAC Board. With respect to costs and funding for automatic delivery systems, TAC recommended the following:

"The obligation imposed upon systems serving <100,000 population to implement an auto-dialer communications system is an unwarranted economic burden to those systems which

may preclude those systems from implementing essential capital improvements to their systems. We believe there are alternative delivery methods for Tier 1 public health notifications available that do not require similar levels of financial burden. For example, a paid media release of a one time cost or an electronic media warning program."

While the WUC shares the concerns expressed by the TAC regarding the costs associated with implementing an automatic telephone dialing system, particularly for medium sized systems (serving populations 3,301 to 100,000), we favor its inclusion over more costly proposals which would have required "an opt-in system so individuals can request to be contacted by e-mail, text message, beeper, cell phone or other personal electronic devices in the event of an imminent threat situation."².

Moreover, Pennsylvania American Water, United Water Pennsylvania and The York Water Company have successfully implemented or utilized automatic telephone dialing systems in 2007 to notify customers, including sensitive sub-populations like hospitals, schools, daycare facilities, nursing homes, industrial and commercial users, of boil water advisories and "problem corrected" notices.

In addition, we believe that an opportunity exists for small and medium sized systems to cooperate on a regional basis through shared-service agreements. The WUC recommends that the Department encourage systems to pursue and vendors to accommodate shared-service agreements for automatic telephone dialing systems to reduce the costs associated with compliance of this direct delivery method.

However, it is important to note that even an automatic telephone dialing system cannot guarantee 100 percent notification. The appropriate use of automatic telephone dialing systems, hand delivery, broadcast media and websites should be considered a reasonable effort to notify residents of a Tier 1 situation.

² IBID

2. Subchapter G. System Management Responsibilities.

Questions have arisen among system operators regarding the one-hour reporting requirements, under § 109.701 (3) of the proposed rulemaking, as to when the clock officially starts. Specifically, § 109.701 (3) says "A public water supplier shall report the circumstances to the Department within 1 hour of discovery for the following violations or situation..." For example, if an operator gets an alarm via pager or auto dialer indicating low chlorine at an unmanned facility, does the one-hour reporting begin upon receiving the alarm or when the operator reaches the plant and does an assessment to determine if the alarm is valid? The operators should be provided an opportunity to assess the situation to determine if there is in fact a violation or situation requiring that the Department be notified. The Pennsylvania Public Utility Commission's (Commission) regulations, under 52 Pa. Code § 67.1, provide that a utility shall notify the Commission by telephone within one hour after a preliminary assessment of conditions reasonably indicates that there is an unscheduled service interruption...³ The WUC recommends that § 109.701 (3) be revised as follow:

"(3) [Compliance report] **One-hour reporting requirements.** A public water supplier shall report the circumstances to the Department within 1 hour of discovery, **AFTER A PRELIMINARY ASSESSMENT OF CONDITIONS,** for the following violations or situations:"

3. Proposed Guidance/Main Breaks.

The WUC and TAC have expressed concern over how the Department intends to handle main breaks, with respect to situations requiring one-hour reporting to the Department, and the issuance of a BWA (boil water advisory) to the public. Specifically, the WUC is concerned that the Department's "Instructions for BWA Due to Line Breaks/Loss of Pressure"⁴ unnecessarily treats every main break as a Tier 1 violation. The WUC believes that this provision will require a one-hour notification to the Department when even a minor main break occurs; thus generating thousands of calls to the Department annually (based on the Water Industry Data Base for all

³ 52 Pa. Code § 67.1 (c)

⁴ DEP's website, "Instructions for BWA Due to Line Breaks/Loss of Pressure"

<http://164.156.71.80/VWRQ.asp?docid=cb7cd840f80b00000000b8000000b80&context=2&backlink=WXOD.aspx%3ffs%3dcb7cd840f80b00008000014d0000014d%26ft%3d1>

types of piping, there are 0.27 water main breaks per mile of pipe per year, which would equate to 237,600 water main breaks in the United States annually (Kirmeyer et al, 1994)).⁵ Can DEP ensure that there would be a person answering the phone and making a decision for each one of as many as 20,000 calls a year? The water industry's experience, through sampling, has shown that most main breaks do not "allow contamination to enter the distribution system through back-flow by back-pressure or back-siphonage"⁶ and are not a health concern. Does the Department have evidence that main breaks by themselves are associated with any significant increase in occurrence of adverse public health consequences? Tier 1 notice should be limited to situations that absolutely affect the quality or quantity of finished water and have a significant potential to have serious adverse effects on human health as a result of short-term exposure. Few main breaks will meet these criteria.

The WUC believes that this is another area where the Department and Commission should work together to provide a uniform standard. Requiring notice of every main break is not necessary and the WUC doesn't want an influx of notices involving "less serious" situations to drown out those notices that are potentially serious or adverse situations. We are also concerned that the issuance of precautionary boil water advisories for every main break will diminish customer confidence or desensitize the public to such notices.

The WUC looks forward to reviewing the Department's proposed guidance and stands ready to cooperate in the drafting of a uniform statewide standard on the issuance of boil water advisories.

4. Compliance Period/Assistance Plan.

The Preamble of the Notice of Proposed Rulemaking indicates that "the proposed revisions address additional planning and delivery requirements. As a result, financial assistance should not be necessary."⁷ However, the Preamble also specifically states that "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

⁵ Kirmeyer, G., W. Richards, and C.D. Smith. 1994. An Assessment of Water Distribution Systems and Associated Research Needs. Denver, CO: AWWARF.

⁶ IBID

⁷ Preamble -- Notice of Proposed Rulemaking, 25 Pa. Code, Chapter 109, Page 9

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."⁸

The Preamble also included the following table:

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

Water System Population Size	1st Year Costs(Purchase, installation and training)	Annual Costs (Maintenance, per call cost, database administration)
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.⁹

In light of these estimated costs, the WUC recommends the inclusion of a six month compliance period to allow water systems serving a population of 3,301 or greater time to implement an automatic dialing system. Implementation of such a system may require budget amendments, new capital project authorizations or possible rate increases, and negotiations with vendors, including possible shared-service arrangements.

IV. Conclusion

The Pennsylvania Safe Drinking Water Act¹⁰ (the "SDWA") gives the Department primary, but not exclusive, jurisdiction to regulate the quality of water supplied to the public in Pennsylvania.

⁸ Preamble -- Notice of Proposed Rulemaking, 25 Pa. Code, Chapter 109, Page 7

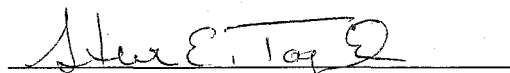
⁹ Preamble -- Notice of Proposed Rulemaking, 25 Pa. Code, Chapter 109, Page 9

The Commission also regulates the quality of water provided by a utility to its ratepayers because the "water" supplied to the ratepayers is part of the "service and facilities" of a public utility.¹¹

This proposed rulemaking presents an opportunity for harmonization between the Department and Commission with respect to public notification procedures. The WUC strongly recommends that both agencies work together to create one unified standard to reduce confusion among public water suppliers and their customers.

The WUC appreciates the opportunity to present comments on this Proposed Rulemaking: Public Notice on Drinking Water Systems and requests that the Department consider its comments on these issues.

Respectfully submitted,


Steve E. Tagert, Chairman

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¹⁰ 35 Pa. Stat. §§ 721.1 to 721.17.

¹¹ See 66 Pa. C.S. § 102.