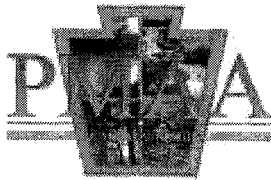


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PENNSYLVANIA MUNICIPAL AUTHORITIES ASSOCIATION

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November 21, 2007

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MUNICIPAL AUTHORITIES ASSOCIATION

Transmitted Via Electronic Mail
To: RegComments@state.pa.us

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

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)

To Whom It May Concern:

On behalf of the Pennsylvania Municipal Authorities Association (PMAA), I would like to offer comments on the proposed amendments to the rulemaking on Public Notification under Chapter 109 Safe Drinking Water Act regulations. PMAA represents over 700 municipal authorities that provide public drinking water, wastewater treatment, and solid waste management to over six million Pennsylvania citizens. 285 member water authorities would be directly impacted by the proposed amendments.

PMAA recognizes the importance of revising the Safe Drinking Water regulations to strengthen the public notice requirements for imminent threat violations and situations (Tier 1). We are pleased that the Department has adopted several of the TAC Board recommendations which we also support including:

- § 109.408 (c) (1) (i) increasing the population for hand delivery of a Tier 1 public notice to systems serving 3,300 or fewer persons, and using the word "service connection" rather than bill paying customer since it more accurately describes those that can be reached on the system,
- § 109.702(a)(6) (ii), removing the requirement in the operation and maintenance plan to provide information to consumers about available treatment options and instead specifying that systems must maintain EPA Technical Fact sheets,
- § 109.707 requiring under the emergency response plan an annual review and update of information instead of annual drills and testing,
- § 109.411 (b) allowing systems to deliver an abbreviated public notice as opposed to an entire public notice but also post the entire notice on a website or record it on a dedicated telephone line.

PMAA appreciates the Department's effort in working with impacted stakeholders in the water industry sharing the development of the proposal and educating our members at meetings and our annual convention this past September. At that time, our members annually vote on PMAA's legislative and regulatory platform (slate of resolutions) for the upcoming year. One of these is as follows:

Resolution 27-07

RESOLVED, That PMAA oppose the proposed amendments to the Safe Drinking Water Chapter 109 Public Notification regulations published on September 22, 2007 for imminent threat violations and situations. Further, that PMAA work with the PA Department of Environmental Protection to ensure that reasonable, cost effective solutions are sought for delivery of public notices, one hour reporting, and other requirements of drinking water systems.

As noted, while the membership opposes the proposed rulemaking in its current form, we are committed to working with the Department on creating reasonable and cost effective solutions in the proposed regulations.

We offer the following comments and recommendations:

Subchapter D. Public Notification

§ 109.408. Tier 1 public notice – categories, timing and delivery of notice.

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

The current language in the regulation in the second sentence in this section states - To reach all persons served, a water supplier shall use, as appropriate to the type and size of the water system, the following forms of delivery. . . :

We recommend that the words *all persons served* remain consistent with the language in § 109.407 (c) (2) limiting public notice if the violation is in a portion of the distribution system to *only those persons served* by that portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system ...

We suggest using *all persons affected* rather than *all persons served* in this section.

We are concerned that unnecessary notifications will not only alarm and irritate customers when they are not affected by it, but may also cause customers to ignore public notices in situations when they are affected.

Many examples and situations exist when not all customers would be affected, i.e, different sources of supply such as groundwater versus surface water reaching different customers within a distribution system, other systems physically isolated by pumping stations, etc.

§ 109.408 (c) (1) (ii) (A)

Of utmost concern is that this is another unfunded mandate. No state funding is available for this while water infrastructure need in Pennsylvania is already \$10 billion. We are concerned that some of the requirements in the proposed rulemaking place an extreme financial burden on public water

utilities and their customers. Likewise, the requirement for systems serving 3,301 or more persons have few options to notify the public. If costly automatic dialing systems are one of the few options, it may preclude those systems from the ability to invest in essential capital improvements and upgrades to their systems. We recommend that state funding be available to systems to implement this requirement.

Furthermore, we suggest that the Department work with and assist the Department of General Services in adding automatic telephone dialing vendors to the state procurement system. This will aid public water suppliers in a number of ways. It will defray some of the cost because it will be offered at a discounted rate as part of the state procurement system, it will eliminate the requirement to bid for the service as otherwise would be required by state law for any supply or service over \$10,000, and it will save time and money on researching a reliable supplier(s) of the service.

We would like to offer a number of concerns or issues to be considered with respect to public notification using the automatic telephone dialing system.

- 1) More and more people are using cell phones exclusively and they may be reluctant to use their minutes for this type of call depending on their cell phone plan.
- 2) Customers that have an unlisted number or refuse to release their number. Will public water suppliers be held accountable for the inability to obtain this information or to what standard will they be held accountable by the Department? Will sending a letter to these customers explaining that if they refuse to give the information, they must be attentive to the media be suitable by Department standards?
- 3) If the auto dialer system malfunctions, is this the responsibility of the public water supplier? Shouldn't the vendor that manufactures the product be held accountable? Again, to what standard will the water supplier be held accountable by the Department?
- 4) For large water systems with many customers, maintaining accurate phone records may be costly and time consuming. This is another added expense to this particular requirement that they must absorb.

Subchapter G. System Management Responsibilities

§ 109.701. Reporting and recordkeeping.

§ 109.701 (a) (3)

It is unclear how reporting to the Department within one hour will actually be implemented especially in the situation of non-working hours, middle of the night, early in the morning, etc. The Department should clarify in a guidance document what phone numbers are to be used for all the DEP regions at any given time.

In addition, we are in agreement with the comments offered by the Water Utility Council of the Pennsylvania Section, American Water Works Association that a public water supplier shall report the circumstances to the Department within one hour of discovery, **AFTER A PRELIMINARY ASSESSMENT OF CONDITIONS**, for the following violations or situations:" An opportunity should be provided to assess the situation to determine if a violation or situation requires notifying the Department. It would also be important to further clarify this aspect in the supplemental guidance that is developed.

We further suggest that wording be added to subsection 109.701(a)(3)(iii) that mirrors the new language in 109.408(a)(7) to make it clear that this one-hour reporting provision pertains to situations that "have significant potential to have serious adverse effects on human health as a result of short-term exposure".

Effective Date

The Preamble states that the proposed rulemaking will go into effect once the final-form is published in the Pennsylvania Bulletin. We suggest that the regulation should include an effective date in order to implement. **We suggest one year from the date of promulgation in order to allow for a number of steps to be undertaken before a final system is in place such as planning and design, budgeting, procurement, training, and testing and evaluating of the system.** Alternatively, the Department could consider phasing in the requirement based upon system size.

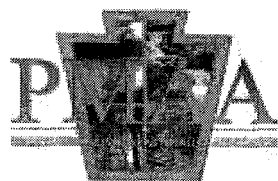
Thank you for your consideration of these comments on this rulemaking. We look forward to working closely with the Department as these amendments are developed.

Sincerely,



Jennifer L. Case
Government Relations Liaison

2637



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INDEPENDENT REGULATORY
REVIEW COMMISSION

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

Below is a summary of the attached comments and recommendations:

Subchapter D. Public Notification

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Of utmost concern is that this is another unfunded mandate. No state funding is available for this while water infrastructure need in Pennsylvania is already \$10 billion. We are concerned that some of the requirements in the proposed rulemaking place an extreme financial burden on public water utilities and their customers. Likewise, the requirement for systems serving 3,301 or more persons have few options to notify the public. If costly automatic dialing systems are one of the few options, it may preclude those systems from the ability to invest in essential capital improvements and upgrades to their systems. We recommend that state funding be available to systems to implement this requirement.

Furthermore, we suggest that the Department work with and assist the Department of General Services in adding automatic telephone dialing vendors to the state procurement system. This will aid public water suppliers in a number of ways including defraying the cost through a discounted state procurement program.

Subchapter G. System Management Responsibilities

§ 109.701 (a) (3) Reporting and recordkeeping

It is unclear how reporting to the Department within one hour actually be implemented especially in the situation of non-working hours, middle of the night, early in the morning, etc. The Department should clarify in a guidance document what phone numbers are to be used for all the DEP regions at any given time.

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