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Philadelphia Water comments to The Environmental Quality Board

Public Hearing on the proposed rulemaking

[25 PA CODE CH.109] Safe Drinking water; Revised Total Coliform Rule [45 Pa.B. 5943]

Pennsylvania Department of Environmental Protection

Southeast Regional Office, Schuylkill and Delaware River Conference Rooms

2 East Main Street, Norristown, PA 19401

November 5, 2015

Philadelphia Water (PW) is in the process of reviewing PaDEP proposed rulemaking and proposed changes to Chapter 109 relating to implementation of Federal Revised Total Coliform Rule (RTCR). At present, we would like to outline some of the issues that we intend to comment on and will provide full formal comments to the proposed rulemaking prior to December 1, 2015.

1. We recommend that the PaDEP incorporate the revisions to the Total Coliform Rule as closely as possible to the US EPA's revisions. The US EPA, along with national experts, stakeholders and States, spent considerable time in reviewing the RTCR, the latest science, best practices, and real experience for more than two years. PW actively supported EPA's Federal Advisory Committee process and provided data, time and resources to the effort. The revisions were carefully developed and all stakeholders agreed that they move Public Water Supply (PWS) practice and regulatory oversight in a strong and positive direction.
2. In the background and purpose section (section D) of the proposed rulemaking for RTCR, proposed rulemaking states that "the lack of disinfectant residual" is a sanitary defect. PaDEP references EPA's RTCR Assessment and Corrective Action Manual. The manual does not identify disinfectant residual alone as being a pathway for contamination. PaDEP is suggesting that "the lack of a disinfectant residual" is a sanitary defect, i.e. a pathway for contamination (microbial pathogens) to enter the distribution system. An example of a pathway for contamination is a hole in a storage tank through which unwanted objects from the environment can gain access, but the level of disinfectant residual may or may not indicate that contamination gained access to the distribution system. In other words, disinfectant residual is an indicator that a pathway may exist, but it is not the pathway. There is no scientifically based research showing a direct correlation between "lack" of a disinfectant residual and microbial contamination. This was noted during special TAC meetings with presentations from various utilities and experts, in which there were often cases where samples were positive for *E. coli* despite the presence of adequate chlorine residuals. PW strongly recommends removing the inaccurate language about lack of disinfection residual being a pathway of contamination from the proposed rulemaking.

3. **§109.301(3)(ii)(B) Monitoring Requirements for coliform/Repeat monitoring.**

Proposed rulemaking is limiting the use of advanced technology, like system modeling and other means to better determine where to repeat sample upstream and downstream after obtaining a positive total coliform result. Some PWSs are developing better practices and tools for maintaining water quality. Issues associated with smaller system capabilities and PaDEP limitations should not become a disincentive to larger systems. For example, the application of online sensors, hydraulic models, event detection and customer complaint surveillance for water security is providing real benefits for routine system operations and helps utilities better understand water quality issues. By limiting the use of more accurate decision-making tools, the proposed rulemaking will be weakening public health protection.

We strongly recommend that the PaDEP follow the EPA's TCR revision by allowing public water systems utilizing advanced technologies to develop better repeat sampling plans than the 5 upstream/downstream requirement, which never had any demonstrated scientific background. A PWS that can select, in real time, the most valid upstream and downstream sample location is better able to meet the intent of the rule.

4. **§109.409 (a)(3) Tier 2 public notice.**

PW is concerned about overuse of public notifications for issues that do not in themselves signify a public health threat but result in eroding trust in the water systems and in drinking water. One example of the overuse of the public notification in the proposed changes to Chapter 109 is a requirement to provide a Tier 2 public notice for a failure to report a single occurrence of a positive *E. coli*. Proposed changes to Chapter 109 require 1 hour notice from the water system to PaDEP for a single *E. coli* occurrence. By contrast, the federal rule requires notification by the end of the day for the same single occurrence of a positive *E. coli*. MCL violation for *E. coli* is caused by a positive *E. coli* sample preceded or followed by a total coliform positive and Tier 2 Public notification is appropriate in this case. After a single *E. coli* positive occurrence, a system is still investigating and collecting follow up samples and trying to determine if there is a possibility of contamination in the area of the distribution system where the positive has occurred. A failure to report a single occurrence of *E. Coli* within 1 hour does not in itself represent a treat to public health, especially since there have been documented cases of *E. Coli* positive samples that did not signal water contamination. Tier 3 public notification is appropriate for this type of reporting violation and is consistent with other reporting violations that fall under Chapter 109 related to reporting and recordkeeping requirements. We recommend a requirement to notify PaDEP of a single *E. coli* occurrence by the end of the day and to classify a failure to notify PaDEP about a single *E. coli* occurrence as a Tier 3 violation to be consistent with current reporting and recordkeeping requirements.

Philadelphia Water contacts:
Gary Burlingame or Rita Kopansky
Bureau of Laboratory Services, Philadelphia Water
gary.burlingame@phila.gov rita.kopansky@phila.gov