

Minutes of the Dec 7, 2017 Meeting
Small Water Systems Technical Assistance Center (TAC)
Advisory Board

A regular meeting of the TAC Board was called to order by Chairperson Serena DiMagno at 9:10 AM in Room 105 of the Rachel Carson State Office Building. The purpose of the meeting was to discuss the draft final-form General Update and Fees regulation language (Annex A) and finalize TAC's comments.

The following Board members were present:

Amy Batdorf, Pennsylvania Municipal Authorities Association (PMAA)
Doug Crawshaw, American Water Works Association (AWWA)
Serena DiMagno, Water Works Operators Association of Pennsylvania (WWOAP)
Lauren Gross, Pennsylvania Association of Realtors (PAR)
Christine Maloni Hoover, Office of Consumer Advocate (OCA)
Penny McCoy, Pennsylvania Rural Water Association (PRWA)
Mary Roland, State Board for Certification of Sewage Treatment Plant & Waterworks Operators (SBCSTPWWO)
Mike Sienkiewicz, Pennsylvania Manufactured Housing Association (PMHA)
Sukhwindar Singh, RCAP Solutions
James Steele, Pennsylvania Builders Association (PBA)

The following Alternate members were present:

Chip Bilger, Water Works Operators Association of Pennsylvania (WWOAP)
Christine Caldara Piatos, Center for Rural Pennsylvania (CRP)
Jennifer Case, Pennsylvania Municipal Authorities Association (PMAA)
Lisa Daniels, Pennsylvania Department of Environmental Protection (DEP)
Sharon Fillmann, American Water Works Association (AWWA)
Mary Gaiski, Pennsylvania Manufactured Housing Association (PMHA)
Mike Kelly, Pennsylvania Department of Community & Economic Development (DCED) – *morning only*
Larry Miller, Pennsylvania Builders Association (PBA)
Curt Steffy, State Board for Certification of Sewage Treatment Plant and Waterworks Operators (SBCSTPWWO)
James Wheeler, Pennsylvania State Association of Township Supervisors (PSATS) – *afternoon only*

The following Organizations were not represented:

County Commissioners Association of Pennsylvania (CCAP)
League of Women Voters, Pennsylvania
Pennsylvania Association of Conservation Districts, Inc. (PACD)
Pennsylvania Infrastructure Investment Authority (PIIA)
Pennsylvania Public Utility Commission (PUC)
Rural Utilities Services (RUS) (*unable to connect to webinar*)

Members/alternates from 13 organizations were present; therefore, a quorum was present.

The following DEP staff were present:

Jeff Allgyer, Bureau of Safe Drinking Water
Kevin Anderson, Bureau of Safe Drinking Water
Ed Chescattie, Bureau of Safe Drinking Water
Sabrina Haydt, Bureau of Safe Drinking Water
Dawn Hissner, Bureau of Safe Drinking Water

Hayley Jeffords, DEP Policy Office
Bill McNamara, Bureau of Safe Drinking Water
Nichole McDannell, Bureau of Safe Drinking Water
David Mittner, Bureau of Safe Drinking Water

Non-Members present at the meeting:

Frank Medora, Aqua Pennsylvania
Kristine Kevismar, Lehigh County Authority
Gretchen Schleppy, Lehigh County Authority
Rita Kopansky, Philadelphia Water Department
Dennis O'Connor, Philadelphia Water Department

Bill Murray, Reading Area Water Authority
Matt Walborn, Western Berks Water Authority
Leda Lipton, PA House of Representatives
Erik Ross, Milliron & Goodman

General Advisory Board business:

Two items of general business were introduced prior to new business:

- Sukhwindar Singh and Seth Loht are acknowledged as the new member and alternate, respectively for RCAP Solutions, Inc.
- The draft minutes from the August 24, 2017 TAC Board meeting were presented for discussion. One edit was noted (Chip Bilger attended in person). Mary Roland (SBCSTPWWO) made a motion to approve the August 24, 2017 minutes with the edit as noted; Doug Craswshaw (AWWA) seconded the motion. The motion passed by a unanimous vote.

Remarks by Secretary McDonnell

- Secretary McDonnell thanked the TAC Board members for their participation on this Advisory Committee, expressed DEP's continued commitment to transparency and working with regulated facilities and the general public on regulation and guidance development.
- Several TAC members offered comments on SDW program implementation:
 - The bottled water industry continues to export water out of Pennsylvania with few restrictions.
 - There is concern about fees and whether DEP has been and is actively pursuing economies within the agency to minimize the need for and cost of annual fees.
(NOTE: DEP has absolutely undertaken economies where possible, such as e-inspections and new technology, but years of budget cuts have taken a toll.)
 - Advisory committees should be provided the draft Comment & Response document for a proposed regulation for review because the e-Comment site does not include the Department's responses to comments.
 - DEP does work well with this Advisory Committee, but there continues to be a lack of consistency across the state in implementing the regulations.
 - Requiring the 6-month Surface Water Identification Protocol to be completed before a facility is approved to operate is very expensive.

TAC Board Discussion on draft Final-Form Annex A – General Update and Fees

DEP reviewed the changes made to the proposed regulation. Discussion occurred on the draft final-form Annex A language and the comments received during the public comment period for the proposed rule.

- Most of the turbidity revisions were deleted. The performance level and IFE trigger levels for membrane plants were retained.
- Under the alarm & shutdown provisions, it was noted that not all water systems use the clearwell as a disinfection segment for Giardia CT (log inactivation).
- TAC requested clarification on who must submit the minor amendment for changing a source designation to/from the reserve status and who must/may submit the documentation.
- Not all equipment and physical pieces of a PWS have NSFD approved components (e.g. gaskets in chemical feed pumps that come into contact with the chemical but do not come into direct contact with the water). Additionally, there is inconsistent implementation between district offices.
- The General Permit fee in the regulation is the maximum fee for each General Permit; each General Permit will have its own fee. It is expected that a many of the minor permit amendments will be evaluated as potential General Permits.
- DEP was questioned on whether all the comments relating to the assessment of fees were considered and that the fees for bottled water facilities should be higher; DEP's response was that yes, all comments were considered but the over-riding issue is the requirement is to ensure the fee assessment is "fair and equitable" based on the level of service provided.
- Feasibility (or pilot) study and permit fees should be based on project complexity not population (*NOTE: larger water systems are automatically more complex, especially when considering the permit history and simultaneous compliance issues.*)
- "Replace-in-kind" for equipment should not require a permit amendment. (*NOTE: Generally, "replace-in-kind," or "like-for-like," does not require a permit, but there are some exceptions that do require a minor permit amendment; DEP will discuss with regional permitting staff.*) DEP needs to develop guidance & training on what constitutes a minor permit amendment. (*NOTE: After the meeting, DEP emailed the link to the existing permit guidance that provides these details to the TAC members.*)
- The fee payment schedule and due dates should be reconsidered because most water systems have already finalized their budgets for 2018 and an annual fee should be based on the calendar year (i.e. Jan 1-Dec 31). DEP should consider offering a discount for early payment (similar to water & sewer bills) and the cap for allowing quarterly payments should be lowered or eliminated.

TAC Board Comments on draft Final-Form General Update and Fees

NOTE: Mike Kelly (DCED) left before the formal comments were presented and approved. However, James Wheeler (PSATS) arrived in time to participate in the formal comments and voting. Therefore, there are 13 organizations counted in the voting on the following comments.

- Serena DiMagno made a motion that TAC would like to express appreciation to DEP for taking their comments regarding the turbidity provisions into consideration. The motion was seconded by Penny McCoy. The motion passed by a unanimous vote.
- Doug Crawshaw made a motion that Section 109.416 – CCR requirements: Subparagraph (4)(ii) should be revised to include an additional sentence, “When e-reporting is available, electronic submission shall suffice in lieu of mailing a paper copy.” This is environmentally prudent and resource conservative. The motion was seconded by Mary Gaiski. The motion passed by a unanimous vote.
- Mary Roland made a motion that language similar to what is included in the Disinfection Requirements Rule for an alternative compliance schedule be added to the alarm and shut-down provisions in Section 109.602(f) & (g) (i.e. “The department may approve in writing an alternate compliance schedule if the water supplier submits a written request with supporting documentation before the effective compliance date.”). The motion was seconded by Amy Batdorf. The motion passed by a unanimous vote.
- Mary Roland made a motion that Subparagraph (iii) in Section 109.602(i)(2) should be revised to replace the term “clearwell water levels” with “water levels to maintain adequate CT for Giardia inactivation” because not all water systems use the clearwell as a disinfection segment for CT. The motion was seconded by Doug Crawshaw. The motion passed by a unanimous vote.
- Doug Crawshaw made a motion that changes to Section 109.606 be deferred (except for subparagraph (e)(3)(v)) until further information is available from NSF or another certification organization because the requirement that all equipment be certified as compliant with NSF standard 61 is not possible. The motion was seconded by Serena DiMagno. The vote was recorded as follows:

Organization	Vote	Organization	Vote	Organization	Vote
DEP	No	PMHA	Yes	PBA	Yes
PRWA	Yes	PSATS	Yes	PAR	Yes
PMAA	Yes	RCAP	No	SBCSTPWWO	Yes
AWWA	Yes	OCA	No	CRP	No
WWOAP	Yes				

The motion passed by a vote of 9 to 4.

- Doug Crawshaw made a motion that if DEP is unable to defer the changes to Section 109.606, then the phrase “which may come into contact with or affect the quality of the water” in Subsections (c) & (d) should be revised so that they state, “which directly comes into contact with or directly affects the quality of the water...”. The motion was seconded by Lauren Gross.

The vote was recorded as follows:

Organization	Vote	Organization	Vote	Organization	Vote
DEP	No	PMHA	Yes	PBA	Yes
PRWA	Yes	PSATS	Yes	PAR	Yes
PMAA	Yes	RCAP	Yes	SBCSTPWWO	Yes
AWWA	Yes	OCA	No	CRP	Yes
WWOAP	Yes				

The motion passed by a vote of 11 to 2.

- Sharon Fillmann made a motion to adopt IRRC Comment #7. “Philadelphia Water Department (PWD) comments that the term *equipment* and the expanded certification requirements in this provision are unclear. PWD states that potentially requiring every pump or piece of equipment in a treatment facility to be certified will be very costly, and it is uncertain what public health risk this proposed change is designed to address. NAWC comments similarly that the current wording in the regulation is overly broad. The Board should define *equipment*, clarify its intent regarding certification, and explain the reasonableness of the expanded certification, including addressing economic impacts.” The motion was seconded by Mary Gaiski. The motion passed by a vote of 12 to 1 (DEP voted No).
- Jim Steele made a motion that the phrase “or the components of a POE device” should be added to the language in Section 109.612(b), so that it states, “POE devices or the components of a POE device used by a public water supplier shall be tested and certified by the NSF or other certification organization acceptable to the Department...”. The motion was seconded by Mary Roland. The motion passed by a vote of 11 to 1 with 1 abstention (OCA voted No; DEP abstained).
- Chip Bilger made a motion that the \$10,000 annual fee cap for quarterly payments should be eliminated and the option to submit the annual fee over 4 quarters should be allowed for all water systems. The motion was seconded by Doug Crawshaw. The motion passed by a vote of 11 to 1 with 1 abstention (PRWA voted No; DEP abstained).

NOTE: Lauren Gross (PAR) was not present for the remainder of the meeting. Therefore, there are 12 organizations counted in the voting on the following comments.

- Mary Roland made a motion that the fees in Section 109.1402 should be reevaluated to bear a reasonable relationship to the cost of the service. The motion was seconded Chip Bilger. During the discussion of the motion DEP asked whether this evaluation is different than what was presented in the preamble to the proposed rule and what is in Section 109.1413...the response was Yes. The vote was recorded as follows:

Organization	Vote	Organization	Vote	Organization	Vote
DEP	No	WWOAP	Yes	OCA	No
PRWA	No	PMHA	Yes	PBA	Yes
PMAA	Yes	PSATS	Yes	SBCSTPWWO	Yes
AWWA	Yes	RCAP	Yes	CRP	No

The motion passed by a vote of 8 to 4.

- Penny McCoy made a motion that Subchapter N be eliminated and DEP should request adequate funding from the legislature. The motion was seconded Larry Miller. The vote was recorded as follows:

Organization	Vote	Organization	Vote	Organization	Vote
DEP	No	WVOAP	Yes	OCA	No
PRWA	Yes	PMHA	Yes	PBA	Yes
PMAA	Yes	PSATS	No	SBCSTPWWO	Yes
AWWA	Yes	RCAP	No	CRP	No

The motion passed by a vote of 7 to 5.

- Serena DiMagno made a motion that Section 109.1402(c)(1) be revised so that the payment schedule begins on January 1 of the calendar year following the publication date of the final regulation (the language should be revised to what was presented to TAC on 11/14/2016 for the proposed rule). This is an annual fee that should be based on the calendar year beginning January 1 because of budget cycles set by water systems. Most water systems have already finalized their 2018 budgets. The motion was seconded Mary Gaiski. The motion passed by a vote of 11 to 1 (PRWA vote No).

Adjourn

Penny McCoy made a motion to adjourn. The motion passed by a unanimous vote; the meeting adjourned at 3:30 PM.