

## **Executive Summary**

### **Title 25, Pa. Code Chapter 109 Safe Drinking Water General Update and Fees**

#### **Purpose of Proposed Rulemaking:**

The purpose of the proposed rulemaking package is to amend the Department's Safe Drinking Water regulations to: (1) incorporate the remaining general update provisions that were separated from the proposed Revised Total Coliform Rule (RTCR) as directed by the EQB on April 21, 2015, including revisions to treatment technique requirements for pathogens; clarifications to permitting requirements; and new requirements for alarms, shutdown capabilities, and auxiliary power; (2) amend permit fees and add new annual fees to supplement state costs and fill the funding gap (\$7.5M); and (3) add new amendments to establish the basis for issuing general permits; and address concerns related to gaps in the monitoring, reporting and tracking of back-up sources of supply.

Collectively, these amendments will provide for the increased protection of public health at public water systems (PWS), promote healthy and sustainable communities, and ensure state and federal minimum program elements are met and primacy is retained.

Safe drinking water is vital to maintaining healthy and sustainable communities. Proactively avoiding incidents such as waterborne disease outbreaks can prevent loss of life, reduce the incidents of illness, and reduce health care costs. Proper investment in public water system infrastructure and operations helps ensure a continuous supply of safe drinking water, enables communities to plan and build future capacity for economic growth, and ensures their long-term sustainability for years to come.

#### **Summary of Amendments:**

One purpose of this rulemaking is to incorporate the remaining general update provisions that were separated from the proposed RTCR as directed by the EQB on April 21, 2015. These general updates are intended to:

- Clarify the source water assessment, source water protection area, and source water protection program elements and requirements.
- Revise the treatment technique requirements for pathogenic bacteria, viruses and protozoan cysts by adding specific turbidity performance requirements for membrane filtration.
- Revise the disinfection profiling and benchmarking requirements to clarify that all public water systems using filtered surface water or groundwater under the direct influence of surface water (GUDI) sources must consult with the Department prior to making significant changes to disinfection practices to ensure adequate Giardia inactivation is maintained.

- Revise and clarify the monitoring, calibration, recording and reporting requirements for the measurement of turbidity.
- Revise the permit requirements to clarify the components that must be included in a permit application for a new source, including a source water assessment, pre-drilling plan, evaluation of water quantity and quality, and hydrogeologic report.
- Revise the design and construction standards to require public water systems (PWS) using surface water or GUDI sources to be equipped with alarm and shutdown capabilities. These provisions would be required for plants that are not staffed continuously while the plant is in operation.
- Clarify that treatment technologies must be certified for efficacy through an approved third party.
- Update the system management requirements for community water systems (CWSs) to strengthen system service and resiliency by requiring auxiliary power or an alternate provision such as finished water storage or interconnections.
- Clarify system management responsibilities relating to source water assessments and sanitary surveys.
- Revise the corrective action timeframes in response to a significant deficiency for PWSs using groundwater and surface water sources to be consistent.
- Delete the provision that allows a PWS to avoid the requirement for a corrective action by collecting five additional source water samples after an *E. coli*-positive triggered source water sample.

The proposed rulemaking also includes new annual fees and amended permit fees to supplement state costs and improve program performance. The proposed fees will total approximately \$7.5 million annually and will account for nearly 50% of the program's state funding. The fees will augment the program funding currently coming from the General Fund (\$7.7 million). Note: If General Funds do not keep pace with state costs, the funding gap will continue to grow.

The annual fees range from \$250 - \$40,000 for CWSs, \$50 - \$1,000 for NCWSs, and \$1,000 - \$2,500 for bottled, vended, retail, and bulk water haulers (BVRB). The fees will most likely be passed on to the 10.7 million customers of these PWSs as a user fee. Per person costs are expected to range from \$0.35 to \$10 per year, depending on the water system size.

Finally, the proposed rulemaking includes new amendments to establish the regulatory basis for issuing general permits, clarify that noncommunity water systems (NCWS) require a permit or approval from the Department prior to construction and operation, and address concerns related to gaps in the monitoring, reporting and tracking of back-up sources of supply.

The following proposed revisions will be more stringent than federal regulations:

- **Amended turbidity and filtration requirements:** Several provisions will strengthen turbidity requirements and filtration monitoring and reporting requirements. These amendments are based on the Department's experiences with inspections and more than

1,250 filter evaluations. These evaluations have documented that existing requirements are not sufficient to prevent turbidity spikes or the shedding of particles and microbial pathogens into the finished water.

- **System resiliency requirements for back-up power or alternate provisions:** These requirements are necessary to ensure a continuous supply of safe and potable water is delivered to consumers. Back-up power has been a long-standing requirement for wastewater treatment plants. These requirements will ensure consistency for both drinking water and wastewater facilities.
- **Clarifications to monitoring requirements for back-up sources of supply and comprehensive monitoring plan requirements:** These requirements are necessary to ensure that all permitted sources of supply are included in routine compliance monitoring.
- **Requirements for responding to significant deficiencies:** These amendments will simplify the requirements for responding to significant deficiencies by combining the notification and corrective action requirements for surface water and groundwater systems into one consistent protocol.

**Advisory Committee Review:**

The draft proposed amendments were submitted for review to the Small Water Systems Technical Assistance Center Advisory Board (TAC) for review and discussion on November 14, 2016 and January 5, 2017. Comments were received from the TAC on January 23, 2017.

**Adoption Deadline:**

The Department recommends that the Board incorporate the proposed amendments into the Pa. Safe Drinking Water Regulations (25 Pa. Code Chapter 109) to maintain primacy and provide for the increased protection of public health at PWS. Failure to adopt these regulations may result in Pennsylvania losing primacy for the drinking water program.

**Recommendations for Public Comment:**

The Department recommends adoption of this proposed rulemaking with a 30-day public comment period.