

**Minutes of the
March 9, 2010 Meeting
Small Water Systems Technical Assistance Center (TAC)
Advisory Board**

A regular meeting of the TAC Board was called to order by Chairperson Brion Johnson in Room 105 of the Rachel Carson State Office Building, Harrisburg, PA at 10:04. The purpose of the meeting was to discuss the Department's proposed revisions to the fees charged for the Drinking Water Program as identified in Chapter 109 (Drinking Water).

The following board members/alternates were present:

Penny McCoy, Pennsylvania Rural Water Association
Serena DiMagno, Water Works Operators Association of Pennsylvania
John Poklembo, Water Works Operators Association of Pennsylvania
Mary Gaiski, Pennsylvania Manufactured Housing Association
Stan Brown, Pennsylvania Public Utility Commission
Herb Spencer, American Water Works Association, Pennsylvania Chapter
Daniel Standish, American Water Works Association, Pennsylvania Chapter
Brion Johnson, Pennsylvania Infrastructure Investment Authority
Mary Roland, State Board for Certification of Water and Wastewater Systems Operators
E. Lee Koch, Pennsylvania Municipal Authorities Association
Christine Hoover, Pennsylvania Office of Consumer Advocate
Tom Essig, RCAP Solutions, Inc.
James Wheeler, Pennsylvania State Association of Township Supervisors
Participating by phone: Mike Sienkiewicz, PA Manufactured Housing Association

Members/alternates from the following organizations were not present:

County Commissioners Association of Pennsylvania
Pennsylvania Association of Realtors
Pennsylvania Builders Association
League of Women Voters of Pennsylvania
Pennsylvania Association of Conservation Districts, Inc.
Department of Community and Economic Development
Center for Rural Pennsylvania
Rural Utilities Services

The following DEP staff was present:

Veronica Kasi, Bureau of Water Standards and Facility Regulation
Janet Fisher, Bureau of Water Standards and Facility Regulation
Lisa Daniels, Bureau of Water Standards and Facility Regulation
Kevin McCleary, Bureau of Water Standards and Facility Regulation
Duke Adams, DEP, Office of Policy and Communications
Marylou Barton, DEP, Office of Regulatory Council

Joanne Nardone, Bureau of Water Standards and Facility Regulation
Dawn Hlssner, Bureau of Water Standards and Facility Regulation
Kevin Anderson, Bureau of Water Standards and Facility Regulation
Deb Rotz, Bureau of Water Standards and Facility Regulation

Non-members present at this meeting:

Erik Ross, Delta Development
Stephen Hoffman, Independent Regulatory Review Council

General TAC Business

The following changes to the December 17 meeting minutes were suggested:

1. Mike Metcalf from the PUC was in attendance at the last meeting
2. OCA was not present at the last meeting
3. Mike's motion to send a letter to the Department supporting the Chapter 302 regulations needs to indicate that the one nay vote was by Serena DiMagno, representing the Water Works Operators Association of Pennsylvania.

Christine M. Hoover made a motion to approve the December 17, 2009 meeting minutes as amended. The motion was seconded by Mary Roland. Motion passed.

Nomination of officers – Brion Johnson appointed a committee comprised of Stan Brown, Dan Standish, Tom Essig and Christine Hoover to develop a list of nominations for committee officers. Elections will be held at the June meeting.

Janet Fisher asked the Board to change the date of the May 21st meeting since DEP will not be ready to present the regulation changes needed for final publication relative to the Lead and Copper rule at that time. At end of meeting, after checking room availability, James Wheeler made a motion to change the date from May 21 to June 18. Motion was seconded by Stan Brown. Motion passed. Meeting times will be from 9:30 am to 3:30 pm.

Chapter 109 (Drinking Water) Fee Package Presentation - Lisa Daniels and Kevin McCleary, both of DEP

Kevin Mcleary and Lisa Daniels provided an overview of the proposed revisions to the fee package and answered questions as to how the fees were developed and what they are intended to cover. Below is a summary of comments collected on flip charts by Nicki Kasi.

Reasons given for no increase in fees:

- What will happen to the General Funds that are no longer needed? Since no corresponding decrease in taxes is being proposed, these fees are actually another "tax".
- Systems are already getting assessed fees for a number of programs. This needs to stop somewhere.

- The majority of small systems are working with deficit budgets in current economy. Public water systems can't carry this load, especially small and medium systems.
- Unfair to ask industry associations to support or not support fees where the association gets funding from the Department. Is there a potential conflict of interest? (General consensus of those in the room...there was no conflict) What happens if the systems refuse to pay the fees? Need ways to collect. Members expressed concern over those who don't pay where the fees may not be collectible.

Reasons given for recognizing need for fee increases:

- In order to insure comments have value, members need to recognize the trend today is to go to fee based framework and recognize these as costs for doing business as long as there is due process for the review of fee increases.
- This proposal is analogous to how the PUC, OCA and other agencies operate where they have programs serving fixed utilities where there is no General Fund support.
- Another main purpose for the fees to cover program costs is to keep primacy & protect public health.

Recommendations for revisions, future consideration:

- Add language to 109.1412 to the regulations to limit fee increases to 3% of the Consumer Price Index.
- There is a need to build in public comment and review as part of fee changes. Currently with this incorporated as part of the regulatory process, any fee changes would take two years. Since moving to a fee based structure, the Department needs to look at an expedited review, possibly without going through the regulatory process.
- The requirement to justify fees through the regulatory process may be too long. The two year lag in time between defining the necessary fee increase and actually having the ability to collect the fee increases will make covering program costs difficult. A perpetual shortfall may always exist. Look at other models for capping increase besides 3% Consumer Price Index such as:
 1. Current legislation exists establishing a methodology
 2. Zero based budgeting
- Need to recognize that this is generally a good idea in that budget cuts have cut back Department resources too far one way. We need to bring pendulum back more to center. However, the Department shouldn't be given all its wants and needs. The current level of oversight is not needed.
- Since the Department is asking the community to support more of the program, it needs to see how to do things differently and cut back on requirements and processes.
- Has any consideration been given to out-sourcing training and outreach assistance? Look to advisory committee as way to identify opportunity for assistance from outside groups

- Need to make sure safeguards are put in place to insure expansion of existing program doesn't happen as a result of the income generated, or the funds are re-allocated to other programs. Support language where the fees are going into a restricted account.
- Need to look at ways to resolve conflicts between requirements and regulations for one program that prevent compliance with recommendations and requirements for another regulation. Can we consolidate regulations?
- The Department needs to look at total fees impacting systems from different packages.
- The biggest problem is with the annual service fee.
- Base the fees on:
 1. Bigger systems should pay more?
 2. Number of connections
 3. Level of service provided
 4. Income of system, the median household income of the customers and the capability of system to pay. Need to consider the effectiveness of the system, so that those who are more effective in their operations are not unduly "punished" while those that are not run well benefit from their lack of good management.
- Let systems have options on how/when pay.
- Need to look at how to allocate fees for BVRB by:
 1. Looking at the source of water
 2. Production line
 3. Population served – need to be defined
 4. # gal processed
 5. design vs. production flow

Other comments:

- Need to deal with perspective of customers where water is "free".
- Members haven't had enough time to circulate the proposed language to constituents for review in order to provide adequate comment
- To vote in support of the proposed fee package, members need to justify this to their membership. Why should systems pay to have sanitarian come to their system to change what the system has been doing well for a long time? Further justification for fees and information on budget and how the fees were created to take back to constituents is needed. Members need to see the workload analysis data, where the FTEs are assigned, where the work overload is and the types of activities causing the workload (example, violation response)
- Fees include funding for 6 new staff:
 1. 3 in SERO to take over Health Dept work (2 Sanitarians, 1 Engineer)
 2. 2 in SCRO (Sanitarians to reduce the ratio of sanitarians to number of systems)
 3. 1 in NCRO (Ops Chief)
 4. Rest of the fees are based on restoring the number of positions back to existing complement as of June '09, before the budget cuts and furloughs.

- Additional information needed includes:
 1. What budget is now
 2. Workload analysis
 3. Details from other states who assess fees for similar services

Serena Dimagno made a motion to convene a meeting of the Legislation and Regulation Committee to develop recommendations on revisions to the proposed fee language, based on comments made today. Motion seconded by Dan Standish. Committee consists of Mary Roland, Mary Gaiski, Dan Standish and Lee Koch. Lisa Daniels and Kevin McLeary of DEP will also attend.

Motion to recommend a comment period of 90 days for this regulation was made by Serena DiMagno and seconded by Mike Sienkiewicz. Vote was 8 in favor and 3 opposed. Motion passed with comments that it was unnecessary at this time.

Motion to adjourn was made by Penny McCoy. Motion seconded by Stan Brown. Motion approved. Meeting adjourned at 1:17 pm.