

Minutes of the January 5, 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 9:05 AM in Room 105 of the Rachel Carson State Office Building. The purpose of the meeting was to present information and review the draft General Update and Fees regulation language (Annex A). This was the first meeting of the Board in 2017.

The following Board members were present:

Stan Brown, Pennsylvania Public Utility Commission (PUC)
Doug Crawshaw, American Water Works Association (AWWA)
Serena DiMagno, Water Works Operators Association of Pennsylvania (WWOAP)
Lauren Gross, Pennsylvania Association of Realtors (PAR) – *not yet approved by DEP Secretary*
E. Lee Koch, Pennsylvania Municipal Authorities Association (PMAA)
Penny McCoy, Pennsylvania Rural Water Association (PRWA) – *via webinar*
Mike Sienkiewicz, Pennsylvania Manufactured Housing Association (PMHA)
Mary Roland, State Board for Certification of Sewage Treatment Plant & Waterworks Operators (SBCSTPWWO)

The following Alternate members were present:

Dennis Beck, Pa. Association of Conservation Districts, Inc. (PACD) – *not yet approved by DEP Secretary*
Chip Bilger, Water Works Operators Association of Pennsylvania (WWOAP)
Robert Boos, Pennsylvania Infrastructure Investment Authority (PIIA)
Christine Caldara Piatos, Center for Rural Pennsylvania (CRP)
Jennifer Case, Pennsylvania Municipal Authorities Association (PMAA)
Lisa Daniels, Pennsylvania Department of Environmental Protection (DEP)
Mary Gaiski, Pennsylvania Manufactured Housing Association (PMHA)
Erin Gannon, Office of Consumer Advocate (OCA)
Mike Kelly, Pennsylvania Department of Community & Economic Development (DCED)
Mike McFadden, American Water Works Association (AWWA)
James Steele, Pennsylvania Home Builders Association (PBA)
Curt Steffy, State Board for Certification of Sewage Treatment Plant and Waterworks Operators (SBCSTPWWO)

The following Organizations were not represented:

County Commissioners Association of Pennsylvania (CCAP)
League of Women Voters, Pennsylvania
Pennsylvania State Association of Township Supervisors (PSATS)
RCAP Solutions
Rural Utilities Services (RUS) – Judith Tutino attended via webinar, but has not yet been officially named as their new member so she abstained from any votes.

The following DEP staff were present:

Jeff Allgyer, Bureau of Safe Drinking Water
Kevin Anderson, Bureau of Safe Drinking Water
Pat Bowling, Bureau of Safe Drinking Water
Ed Chescattie, Bureau of Safe Drinking Water
Joanne Nardone, Bureau of Safe Drinking Water

Sabrina Haydt, Bureau of Safe Drinking Water
Dawn Hissner, Bureau of Safe Drinking Water
Wendy Lloyd, Bureau of Safe Drinking Water
Bill McNamara, Bureau of Safe Drinking Water
Hayley Jeffords, DEP Policy Office

Non-Members present at the meeting:

Frank Medora, Aqua Pennsylvania
Sharon Fillman, Chester Water Authority
Scott Sharp, Pennsylvania American Water
Chris Swailes, Suez Water
Mary Neutz, Suez Water

Rita Kopansky, Philadelphia Water Department
Dennis O'Connor, Philadelphia Water Department
Matt Walborn, Western Berks Water Authority
Eric Ross, Milliron & Goodman
Jonathan Lutz, PA House of Representatives

General Advisory Board business:

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

- Changes in members:
 - Lauren Gross has been nominated by the Pennsylvania Association of Realtors (PAR) as their member and was in attendance at this meeting, but will abstain from any votes until the nomination is approved.
 - Del Becker is no longer representing RUS. Judith Tutino participated via webinar on behalf of Rural Utilities Service/Rural Development (RUS) and will be nominated as their member. Susanne Gantz will continue as the alternate member for RUS.
- The draft internal list of members with contact information was passed around for final edits. The updated list will be emailed to the members & alternates. This list will be used to update the list of members & alternates posted on the website.
- The draft minutes from the November 14, 2016 TAC Board meeting were presented for discussion. Lisa Daniels (DEP) made a motion to approve the November 14, 2016 minutes as presented; Mary Roland (SBCSTPWWO) seconded the motion. The motion passed by a unanimous vote.

Discussion of Election for Officers & Committee Chairs

- The list of existing officers (chair and 5 vice chairs), effective since December 2014, was reviewed.
 - Chairperson: Serena DiMagno (WWOAP)
 - Vice-chairpersons: Dan Standish (AWWA) – *replaced by Doug Crawshaw in 2016*
 - Mary Roland (SBCSTPWWO)
 - Penny McCoy (PRWA)
 - Tom Essig (RCAP)
 - Brion Johnson (PIIA)
- Serena DiMagno, chairwoman confirmed that she is still interested holding her office. No other members expressed any interest being nominated as the chairperson. Mike Sienkiewicz (PMHA) made a motion to close the nominations; this was seconded by Penny McCoy. The motion passed by a unanimous vote, so Serena DiMagno will continue to serve as the chairperson.

- Each vice-chair present confirmed that they are still interested holding their office. *However, Tom Essig (RCAP) and Brion Johnson (PIIA) were not present to either agree or disagree.* No other members expressed any interest in challenging the current vice-chairpersons. Each vice-chairperson was confirmed as follows:
 - Vice-chair 1: Doug Crawshaw
 - Vice Chair 2: Mary Roland
 - Vice Chair 3: Penny McCoy
 - Vice Chair 4: Tom Essig
 - Vice Chair 5: Brion Johnson
- Committees: there are four committees each chaired by one of the Vice-chairs (the 5th Vice-chair serves as the Board Chairperson in the event the Chairperson is not in attendance). Each member is required to serve on one committee. These are the committees & the current committee chairpersons:
 - Education, Training and Outreach Committee – Doug Crawshaw
 - Regulation Committee – Mary Roland
 - Capability Enhancement Committee – Tom Essig
 - Ad Hoc Committee – Penny McCoy
- Nominations were held for the committee chairs, *but because 2 of the current Vice-chairs were not present, these nominations cannot be concluded.* The committee chair nominations are noted as follows:
 - Education, Training and Outreach Committee – Doug Crawshaw. Nominated by Serena DiMugno.
 - Regulation Committee – Mary Roland. Nominated by Chip Bilger.
 - Capability Enhancement Committee – Penny McCoy. Nominated by Chip Bilge; seconded by Lee Koch.
 - Ad Hoc Committee – Chip Bilger. Nominated Mary Roland; second by James Steele.

NOTE: the election of the committee chairs and re-designation of members for each committee will be re-visited at a future 2017 meeting.

General Update and Fees Draft Regulatory Language Presentation

DEP reviewed the document titled *Draft Proposed Annual Fees Additional Background Information* (available on DEP's TAC website). The key points from the discussion were:

- The annual fee is based on individual water systems (PWSID); therefore, any company that owns multiple water systems will need to pay more than one fee. It was also noted that the water companies that own more than one water system are collecting utility bills from customers of each individual water system.
- Discussion over fee increases in the future: it was noted that there is a 3-year review process built into the regulation to evaluate the fees collected vs. the program costs on a routine basis to ensure the fees are appropriate and adequate.
- Discussion that fees (for community water systems) should be based on gallons per day instead of population served, but using gallons per day will require additional reporting to PADWIS by water systems (that information is not currently tracked).
- Discussion relating to water systems that are also regulated by PUC: these fees cannot just be passed on to customers - these water systems will need PUC approval for a rate hike. It was noted that rate increases related to the cost of doing business are usually approved, but that water companies do not annually request rate hikes (it could be 5-10 years between these requests).

TAC Board Discussion & Comments of Draft Annex A – General Update & Fees

- Mary Roland made a motion that TAC recommends in general that DEP’s regulations be no more stringent than the federal regulations. The motion was seconded by Mike Sienkiewicz. The motion passed; the vote was recorded as:

Organization	Vote	Organization	Vote	Organization	Vote
DEP	No	PMHA	Yes	DCED	Yes
PRWA	Yes	OCA	No	PIIA	No
PMAA	Yes	PBA	Yes	SBCSTPWWO	Yes
AWWA	Yes	PUC	No	CRP	No
WWOAP	No				

Serena DiMagno introduced a document that contained the comments from the Water Utility Council of the PA AWWA for the Board’s consideration. The Board discussed and voted on each comment as follows:

- Comment: Section 109.1 – Definition of Surface Water Intake Protection Area: PA DEP needs to be mindful of Act 156, 2006 and undertake measures to protect confidentiality of source water and intake locations. Serena DiMagno made a motion to accept this comment; the motion was seconded by Lee Koch. The motion passed by a majority vote by voice.
- Comment: Section 109.202(c)(1)(i)(A)(V): The federal turbidity requirement is 0.3 NTU, not 0.30; adding a zero to the MCL is not based on science (see Standard Methods methodology regarding significant figures). The same issue applies to establishing the turbidity limit of 1.0 NTU; it should be 1 NTU per the EPA limit. Reference the formal public comment regarding significant figures by Jeanne VanBriesen, Professor, Carnegie Mellon University provided to PA DEP on the proposed Disinfection Requirements Rule. Mike Sienkiewicz made a motion to accept this comment; the motion was seconded by Mary Roland. The motion passed by a majority vote by voice (DEP opposed).
- Comment: Section 109.204: Subsection (d) should be revised to reflect the federal regulations related to disinfection benchmarking and profiling. Subsection (e) should be revised to require the submittal with the permit application. Mary Roland made a motion to accept this comment; the motion was seconded by Mike Sienkiewicz. The motion passed by a majority vote by voice (DEP opposed).
- Comment: Section 109.301(1)(i)(C): Many filter plants do not have the capability to sample combined filter effluent; therefore, an alternative methodology and locations should be available to meet the regulation. PA DEP should allow averaging of the individual filter effluent or, in some instances, allow the plant effluent to be utilized. Doug Crawshaw made a motion to accept this comment; the motion was seconded by Mary Roland. The motion passed by a majority vote by voice.
- Comment: Section 109.301(1)(iv): In the event that equipment cannot be repaired or replaced within the 5 working days, upon notification to the PA DEP, it should result in no monitoring or reporting violation. Mike Sienkiewicz made a motion to accept this comment; the motion was seconded by Lee Koch. The motion passed by a majority vote by show of hands - 7 Yea; 4 Nay; 1 abstain (AWWA).

- Comment: Section 109.301(11)(ii): The implementation and details for how this provision is going to be applied by PA DEP is needed to go beyond the above one sentence provision. For instance, how is this provision going to be applied to interconnections? There are instances when water suppliers have regulatory agreements with Basin Commissions or other entities that preclude use of a source except under emergency conditions. How will the water supplier be able to comply with these competing regulations? There needs to be more thought and discussions to address a variety of situations that water suppliers face. This provision should also have an effective date of one year after the effective date of this proposed rulemaking.

Doug Crawshaw made a motion to accept this comment; the motion was seconded by Mary Roland. The motion passed by a majority vote by voice.
- Comment: Section 109.303(a)(4): This provision requires additional discussion and examples from the PA DEP as the conditions described are confusing. There may too many real world scenarios to be covered by a blanket requirement. This provision should be addressed in the facility permit.

Mary Roland made a motion to accept this comment; the motion was seconded by Doug Crawshaw. The motion passed by a majority vote by voice (DEP opposed).
- Comment: Section 109.304(e): The calibration schedule should remain at the current quarterly frequency for consistency and ease of enforcement [see 109.301(1)(B)]. Every 90 days is more difficult to track and is not the same as quarterly.

Mike Sienkiewicz made a motion to accept this comment; the motion was seconded by Lee Koch. The motion passed by a majority vote by voice (PRWA opposed).
- Comment: Section 109.416(4)(ii): PA DEP should incorporate the EPA allowance for electronic submission of CCRs to PA DEP as an option. This is environmentally prudent and resource conservative.

Doug Crawshaw made a motion to accept this comment; the motion was seconded by Penny McCoy. The motion passed by a majority vote by voice.
- Comment: Section 109.503(a)(1)(iii)(A): PA DEP needs to provide confidentiality of the source and intake identification and location per Act 156, 2006 and PA Right-to-Know Law requirements.

Chip Bilger made a motion to accept this comment; the motion was seconded by Lee Koch. The motion passed by a majority vote by voice.
- Comment: Section 109.511: The entity who submits the initial General Permit Application should not incur all of the cost for submitting the General Permit Application since the General Permit benefits all future users and PA DEP.

Doug Crawshaw made a motion to accept this comment; the motion was seconded by Lisa Daniels. The motion passed by a majority vote by voice.
- Comment: Section 109.602(i): PA DEP should provide accurate cost estimates for compliance with these provisions and an evaluation of whether the 12 months is adequate time for systems to comply given the costs associated overall with the regulatory package and the addition of fees. We have concerns with the provision in 109.602(i)(2)(iv) that it may be too far reaching and cost prohibitive.

Doug Crawshaw made a motion to accept this comment; the motion was seconded by Mike Sienkiewicz. The motion passed by a majority vote by voice.

- Comment: Section 109.606(e)(2)(ii): Water suppliers have encountered product suppliers that have certified product either Standard 60 or 61 or PDWEP that do not mark individual product containers. For example, bulk deliveries typically are provided with certification document not product markings.

Chip Bilger made a motion to accept this comment; the motion was seconded by Mary Roland. The motion passed by a majority vote by voice.
- Comment: Section 109.612(b): The phrase “or components” should be added to this language so that it states “POE devices **or components** used by a public water supplier shall be tested and certified by the NSF or other certification organization acceptable to the Department...”.

James Steele made a motion to accept this comment; the motion was seconded by Mary Roland. The motion passed by a majority vote by voice.
- Comment: Section 109.701(a)(2)(i)(A)(VIII): Combined filter effluent may not be available in certain filter plants; also concerned with the addition of a zero to the required MCLs. The “zero” is not a significant digit. What is the rationale, scientific methodology, peer review or public health benefit vs. cost and where is the data to support previous statement by PA DEP at the last TAC Board Meeting that public health may be improved by “ratcheting it down”? PA DEP proposes to change 0.3 NTU to 0.30 NTU for conventional water treatment plants.

Doug Crawshaw made a motion to accept this comment; the motion was seconded by Lee Koch. The motion passed by a majority vote by voice (DEP opposed).
- Comment: Section 109.701(a)(2)(ii)(A)(III): Significant figure issue. Same comments as prior comments. PA DEP proposes to change maximum CFE from 1 NTU to 1.0 NTU. This is more stringent than the Federal requirement. Concern for some public water suppliers possibly generating more Boil Water Advisories which are required when turbidity exceeds 1 NTU currently vs the proposed 1.0 NTU.

Lee Koch made a motion to accept this comment; the motion was seconded by Mary Roland. The motion passed by a majority vote by voice (DEP opposed).
- Comment: Section 109.701(e)(2)(v)-(vi): Significant figure issue. More stringent than Federal IFE turbidity standards, see prior comments regarding significant figures. Provision also reduces IFE turbidity standards significantly as well. The requirements of the IESWTR/LT1ESWTR per EPA Fact Sheets and EPA Compilation of Quick Reference Guides from 2011. PA DEP proposed turbidity standards are more stringent than Federal EPA turbidity standards. PA DEP is proposing to reduce the following:

 - IFE turbidity in 2 consecutive 15 minute readings at end of 4 hours of operation or after filter is off line from 0.5 NTU to 0.3 NTU.
 - IFE turbidity maximum in 2 consecutive 15 minute readings from 1.0 NTU to 0.30 NTU.

Ramifications of these turbidity reductions include additional reporting, self-assessments and comprehensive performance evaluations, as well as possible Public Notifications. PA DEP should provide rationale, science and methodology, cost vs. benefits, public health benefit, etc. and data to support the proposed changes.

Doug Crawshaw made a motion to accept this comment; the motion was seconded by Mike Sienkiewicz. The motion passed by a majority vote by voice (DEP opposed; PRWA abstained).
- Comment: 109.701(e)(2)(vii)-(viii): These provisions are more stringent than Federal IFE turbidity standards. Same as previous comments regarding significant figures and also reducing IFE turbidity standards

significantly as well. EPA documents referenced previously should be reviewed. PA DEP is proposing to reduce the following:

- IFE turbidity in 2 consecutive 15 minute readings for 3 consecutive months from 1.0 NTU to 0.30 NTU.
- IFE turbidity 2 consecutive 15 minute readings for 2 consecutive months from 2.0 NTU to 1.0 NTU.

Mike Sienkiewicz made a motion to accept this comment; the motion was seconded by Mary Roland. The motion passed by a majority vote by voice (DEP opposed).

- Comment: Section 109.703(b)(1): One full filter volume may be excessive and unnecessarily wasting water. Also, facilities may not be able to hold that volume of filter waste. Many facilities do not have the capability to do filter to waste which is prohibitively expensive to provide. Also 0.30 is more stringent than EPA regulation; and again a significant figure issue. PA DEP needs to allow new filter backwash technologies such as sub-fluidization; or resting a filter after backwash before putting filter back in service. Suggested language is filter to waste for one full filter volume or until the filter bed effluent turbidity is less than 0.3 NTU at the normal production flow rate or unless a filter plant can demonstrate that an alternate methodology provides turbidity compliance.
Doug Crawshaw made a motion to accept this comment; the motion was seconded by Lee Koch. The motion passed by a majority vote by voice.
- Comment: Section 109.703(b)(5): PA DEP should not be requiring best management practices unless a facility is not meeting turbidity requirements or not meeting Filter Plant Performance objectives.
Lee Koch made a motion to accept this comment; the motion was seconded by Mike McFadden. The motion passed by a majority vote by voice (DEP, OCA, PUC and CRP opposed).
- Comment: Section 109.703(c)(1): PA DEP should allow for testing via simulation of shutdown.
Curt Steffy made a motion to accept this comment; the motion was seconded by Lee Koch. The motion passed by a majority vote by voice.
- Comment: Section 109.706: Medium to large facilities will not be able to capture all of the minimum requirements on one system map. Systems should be able to develop maps and or schematics of their systems as appropriate for that system. Direction of flow is not predictable or known under all circumstances depending on system conditions. Flow may go in different directions dependent on system demands. PA DEP request for one system map is overly simplified and not realistic for how systems operate; distribution systems are dynamic and not static; therefore, larger systems will not be able to meet this requirement. This information should be protected under Act 156, 2006 and PA Right-to-Know Law requirements.
Chip Bilger made a motion to accept this comment; the motion was seconded by Penny McCoy. The motion passed by a majority vote by voice.
- Comment: Section 109.708: PA DEP should not be prescribing the methods by which a public water supplier obtains auxiliary power; PA DEP has not sufficiently evaluated the cost of providing auxiliary power; secondary power feeds may not be attainable in rural areas or may be extremely cost prohibitive; PA DEP has not properly evaluated the total cost for implementing generator power. Also, systems may avail themselves of the resources from PA WARN in order to meet auxiliary power demands. This provision should be addressed in the Emergency Response Plans and not in regulation.

Curt Steffy made a motion to accept this comment; the motion was seconded by Mike Sienkiewicz. The motion passed by a majority vote by voice (DEP, OCA and PIIA opposed).

- Comment: Section 109.713(b): This provision mandates that a public water supplier is responsible for ensuring protection of their sources, when the Source Water Protection Program does not provide legal access or the authority for the water supplier to inspect or enforce up-gradient facilities that pose a potential source water contamination.

Chip Bilger made a motion to accept this comment; the motion was seconded by Doug Crawshaw. The motion passed by a majority vote by voice.

- Comment: Section 109.1401: DEP should evaluate a surcharge rate factor based on gallons produced for each permitted facility to determine the annual fee for community, bottled, vended, retail and bulk hauling water systems.

Rob Boos made a motion to accept this comment; the motion was seconded by Chip Bilger. The motion passed by a majority vote by voice.

- Comment: Section 109.1401: The public water supply community needs adequate time to review and evaluate the Fee Package as proposed. The Fee proposal was never discussed as part of the General Updates to Chapter 109 previously drafted and therefore, there needs to be adequate time to allow public input to the proposed fees.

PA DEP prior to seeking fees from the regulated water suppliers should be requesting adequate funding from the Legislature to maintain the Safe Drinking Water Program and its core functions, including upgraded IT systems. Further, PA DEP should streamline their operating costs and improve their efficiencies before seeking fees. Improving IT systems would greatly improve the efficiency in the Department.

The General Fund should subsidize the small systems not the rate payers of the medium and large systems. There needs to be a cap on the fees to the medium and large systems. The \$40,000 is presented as a cap; however, the fees are based on PWSID #s which means the \$40,000 is not a cap.

The bottled and vended water fees do not seem equitable in relationship to the cost of the product. Why isn't the fee based on the gallons produced?

Chip Bilger made a motion to accept this comment; the motion was seconded by Doug Crawshaw. The motion was voted down by a majority vote by show of hands (DEP, PMHA, PMAA, PBA, OCA, PIIA, and CRP opposed).

- The language was modified to delete the statement on a fee cap. The new comment was proposed as:
Section 109.1401: The public water supply community needs adequate time to review and evaluate the Fee Package as proposed. The Fee proposal was never discussed as part of the General Updates to Chapter 109 previously drafted and therefore, there needs to be adequate time to allow public input to the proposed fees. PA DEP prior to seeking fees from the regulated water suppliers should be requesting adequate funding from the Legislature to maintain the Safe Drinking Water Program and its core functions, including upgraded IT systems. Further, PA DEP should streamline their operating costs and improve their efficiencies before seeking fees. Improving IT systems would greatly improve the efficiency in the Department. The General Fund should subsidize the small systems not the rate payers of the medium and large systems. The bottled and vended water fees do not seem equitable in relationship to the cost of the product. Why isn't the fee based on the gallons produced?

Lee Koch made a motion to accept this comment; the motion was seconded by Penny McCoy. The motion passed by a majority vote by voice (DEP, OCA, PIIA and CRP opposed).

- Comment: DEP needs to explain and document the basis for the \$49/hour used to calculate the fee and that fees be based only on the direct costs (salary and benefits) of a field inspector. Penny McCoy made a motion to accept this comment; the motion was seconded by Mike Sienkiewicz. The motion passed by a majority vote by voice.
- Comment: Section 109.1404(a): Permit Fees should not be based on population but on type of project, scope of project, project size and complexity. Minor Permits should not require extensive PA DEP review so the minor permit fees should be substantially less based on the effort required by the PA DEP. Mike Sienkiewicz made a motion to accept this comment; the motion was seconded by Lee Koch. The motion passed by a majority vote by voice.
- Comment: Section 109.1407: Pilot Study/Feasibility Study should not be based on population but on the type of project, scope of the project and complexity of the project. Lee Koch made a motion to accept this comment; the motion was seconded by Mike Sienkiewicz. The motion passed by a majority vote by voice.
- Comment: Section 109.1413: A three-year review is acceptable provided that any changes to the fees or fee structure are approved through the regulatory review process. Mike Sienkiewicz made a motion to accept this comment; the motion was seconded by Penny McCoy. The motion passed by a majority vote by voice.

Public Comments

- Chester Water Authority noted that the provisions regarding membrane filtration are equivalent to current requirements.

Adjourn

Lee Koch made a motion to adjourn. The motion passed and the meeting adjourned at 3:00 pm.