

## **Executive Summary**

### **Safe Drinking Water General Update (25 Pa Code, Chapter 109)**

#### **Purpose of Final-form Rulemaking:**

The purpose of the final-form rulemaking package is to amend the Department's Safe Drinking Water regulations via a general update to: (1) incorporate necessary federal requirements needed to obtain and/or maintain primary enforcement authority (primacy) for the Phase II/IIB/V, Filter Backwash Recycling (FBRR), Lead and Copper (LCR), and Radionuclide (RAD) rules; (2) amend several sections to improve data quality; (3) coordinate efforts with several other drinking water regulatory packages, including Operator Certification and Environmental Laboratory Accreditation; and (4) clarify several other existing requirements in order to improve compliance.

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

**Obtain and/or maintain primacy:** Under Section 5 of the PA Safe Drinking Water Act (SDWA), the Department is required to adopt and implement a public water supply program which includes those program elements necessary to obtain and/or maintain State primacy under the Federal Act. According to the findings of the SDWA, the PA General Assembly recognized that an adequate supply of safe drinking water is essential to the public health, safety and welfare and that such a supply is an important natural resource in the economic development of the Commonwealth. The General Assembly also declared that it is in the public interest for the Commonwealth to assume primacy under the Federal Act. As such, the Department must amend Chapter 109 as follows:

- EPA promulgated the Phase II Rule on January 30, 1991, the Phase IIB Rule on July 1, 1991, the Phase V Rule on July 17, 1992, and the Arsenic Rule on January 22, 2001. These rules established the monitoring requirements for inorganic chemicals (IOC), synthetic organic chemicals (SOC) and volatile synthetic organic chemicals (VOC) for all community and nontransient noncommunity water systems. The Department's IOC/SOC/VOC monitoring and waiver requirements (109.301) are not consistent with the federal rules and are being amended to obtain primacy for the Phase II/IIB/V and Arsenic Rules. The Department must also obtain EPA-approval of its Monitoring Waiver Program guidance.
- EPA promulgated the FBRR on June 8, 2001. The FBRR established additional requirements for surface water systems that recycle spent filter backwash. The Department promulgated final regulations on April 3, 2004. As a condition of primacy, the Department must make minor revisions to the public notification requirements in order to maintain primacy for the FBRR.
- Lead and copper reporting requirements for community and nontransient noncommunity water systems (109.1107) are being amended to maintain primacy for the Lead and Copper Rule.

- Monitoring requirements for bottled, vended, retail and bulk water hauling systems (BVRBs) are being clarified (for those BVRBs that meet the definition of a community or nontransient noncommunity water system) to obtain primacy for the Radionuclides Rule.

**Improve data quality:**

- Quality assurance and quality control requirements for continuous monitoring equipment associated with surface water systems are being amended to clarify the requirements for calibration.
- Amendments to require mandatory electronic reporting will improve data quality, reduce reporting violations, and streamline the reporting process.

Electronic reporting will be accomplished using the Department’s existing secure web application, the Drinking Water Electronic Lab Reporting (DWELR) system. DWELR has been available to water suppliers and labs since 2003. Currently, the Department receives about 80 - 85% of its data voluntarily through DWELR. Users can upload data, or enter data using screen entry forms. The DWELR system includes an error detection program that produces error reports. Errors can be corrected immediately or recalled for correction later. This allows users to correct data entry and other errors, thus preventing erroneous MCL or monitoring/reporting violations. Water systems can register for access to view the data that’s submitted for them by submitting entities. This allows water suppliers to monitor the data, so they can notify their lab if data appears to be incorrect or missing. DWELR works within the DEP Greenport environment.

**Coordinate efforts with other regulatory packages:** Several associated regulatory packages are in various stages of promulgation. In order to coordinate efforts, the following revisions will be necessary.

- Operator Certification requirements.
- Environmental Laboratory Accreditation (Chapter 252) reporting requirements.

**Other clarifications:**

- Currently, language that describes how the Department determines compliance with the MCLs is incorporated by reference. These amendments will specify in Chapter 109 how compliance is determined in order to better inform the regulated community and improve compliance.
- Information describing new sources under § 109.503(a)(1)(iii) is being amended to clarify the requirements for new source sampling.
- Requirements under § 109.505(2)(ii) for noncommunity water systems to file a brief description of the system are being amended to clarify that the information shall be filed prior to construction.

### **Advisory Committee Review:**

The final-form amendments were submitted for review to the Small Water Systems Technical Assistance Center Advisory Board (TAC) for review and discussion on June 24, 2008. Comments were received from the TAC on July 15, 2008. All comments were addressed, where appropriate. Please see attached comments.

### **Adoption Deadline:**

The Department recommends that the Board incorporate the final-form amendments into the Pa. Safe Drinking Water Regulations (25 Pa. Code Chapter 109) in order to obtain and/or maintain primacy, improve data quality, coordinate efforts with other drinking water regulations, and clarify existing requirements in order to improve compliance. Failure of the Board to adopt these regulations may result in Pennsylvania losing primacy for the drinking water program.

### **History of Proposed Rulemaking:**

The proposed regulation was adopted by the EQB at its meeting of June 19, 2007. The proposed regulation was published in the *Pennsylvania Bulletin* (Vol. 37, No. 35, p. 4762) on September 1, 2007 with a 30-day public comment period. No public meetings or hearings were held.

Comments were received from 6 commentators. In general, the commentators supported the revisions needed to obtain and/or maintain primacy. Additional changes were made between proposed and final to be consistent with the Federal regulations. There was some concern with the increased costs associated with mandatory electronic reporting. These concerns were addressed between proposed and final by providing more options for reporting data to the Department.