



pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Bureau of Safe Drinking Water



Safe Drinking Water Regulatory Update

Society of Women
Environmental Professionals

November 2, 2017

Tom Wolf, Governor

Patrick McDonnell, Secretary

Background

- Proposed rulemaking initially presented to EQB on April 21, 2015.
- Proposal included revisions to:
 - Incorporate federal Revised Total Coliform Rule (RTCR).
 - Set a minimum disinfectant level in the distribution system.
 - Require water systems to address resiliency through auxiliary power, interconnections or storage and require filter plants to incorporate alarm and shut-down capabilities.
 - Incorporate provisions necessary to obtain primacy of other federal rules.

Background

- EQB voted to separate the non-RTCR provisions from the other revisions.
- PA's RTCR was published in the *PA Bulletin* as a final regulation on September 24, 2016.
- The Small Water Systems Technical Assistance Center (TAC) Board voted to further split the proposal to focus on disinfection requirements and primacy revisions.

RTCR Requirements

- Federal RTCR effective April 1, 2016.
- Applies to all public water systems (PWSs) in PA.
- Requires at least monthly coliform monitoring for all PWSs.
- Retained the acute MCL for *E. coli*; replaced the monthly MCL for total coliforms with a treatment technique.

RTCR Requirements

- RTCR Treatment Technique:
 - Conduct an assessment to identify sanitary defects and correct defects on an approved schedule.
 - Requires seasonal systems to complete a start-up procedure and obtain clean coliform sample results each year prior to opening.

Disinfection Requirements Rule

- Several meetings held with stakeholders from May – July, 2015 on these provisions.
- The TAC advisory committee provided recommendations for the proposed Disinfection Requirements Rule (DRR) on July 15, 2015.
- The proposed Disinfection Requirements Rule was approved by EQB on November 17, 2015.

Disinfection Requirements Rule

Key provisions of the proposed DRR:

- Require filter plants to maintain 0.20 mg/L residual at the entry point.
- Require filter plants to calculate Giardia log inactivation at least once/day and report this value to DEP to demonstrate compliance with the *existing* treatment technique.
- Require water systems with disinfection to maintain a minimum 0.2 mg/L disinfectant residual throughout the distribution system.

Disinfection Requirements Rule

- The proposed Disinfection Requirements Rule was published in the *PA Bulletin* on February 20, 2016 with a 60-day comment period.
- 3 public hearings were held (Norristown, Harrisburg & Pittsburgh); 6 people provided testimony.
- 20 commentators and the Independent Regulatory Review Commission submitted comments.

Disinfection Requirements Rule

- Draft-final DRR language presented to TAC advisory committee on July 13, 2017; TAC provided recommendations on Aug 24, 2017.
- Draft-final DRR language is on Small Water Systems Technical Assistance Center website (under Public Participation).
- Changes were made to the draft-final DRR in response to public comments and based on TAC's recommendations.

Disinfection Requirements Rule

- Final DRR rulemaking package will be presented to EQB later this year.
 - The draft-final regulation package will be posted to the EQB website 2 weeks prior to the meeting.
- **IF APPROVED**, the final regulation could be published in early 2018.
- DEP will conduct training events in spring 2018.

▶ *Proposed* General Update and Fees

- Incorporate the remaining general update provisions that were separated from the RTCR and DRR
- Incorporate additional general updates that will:
 - Establish the regulatory basis for issuing general permits
 - Clarify that NCWSs require a permit or approval from DEP prior to construction or operation
 - Address concerns related to gaps in monitoring and tracking of back-up water sources and entry points
- Establish new annual fees & amend existing permit fees

▶ *Proposed* General Update – Part I

- Clarify source water assessment and protection program requirements.
- Revise the permit requirements to clarify the components that must be included in an application for a new source.
- Revise the treatment technique requirements for microbial pathogens.
- Add new requirements for alarms, shutdown capabilities, and system resiliency (i.e., auxiliary power or alternate provisions).

▶ Proposed General Update – Part I

Revise treatment technique (turbidity) requirements for pathogens:

- Clarify requirements for continuous monitoring of combined filter effluent (CFE)
- Establish specific performance requirements for CFE
- Lower individual filter effluent (IFE) “trigger levels” to be consistent with CFE performance levels
- Require continuous IFE monitoring/reporting for all filtration types

▶ Proposed General Update – Part I

- Add new requirements for alarm and shutdown capabilities at filter plants:
 - All filter plants will need to be equipped with alarms; filter plants not staffed continuously will also need shutdown capability.
- Require auxiliary power or an alternate provision for all CWSs:
 - CWSs must have effective options to provide consistent system service during both natural and man-made emergencies

▶ Proposed General Update – Part II

- Establish the regulatory basis for issuing general permits for high volume, low risk modifications to streamline the permitting process.
- Clarify that NCWSs must obtain DEP approval of facilities *prior to* construction and operation.
- Address gaps in monitoring, reporting & tracking of back-up water sources.
 - Revisions will ensure that all sources are monitored at least annually.

Proposed Fees

New Annual Fees and Amended Permit Fees:

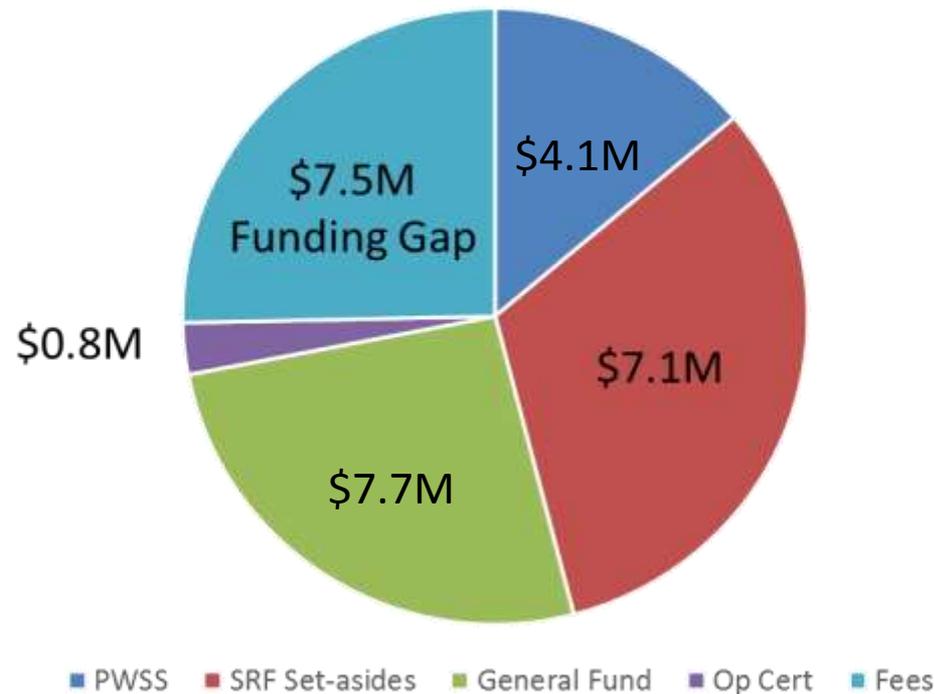
- Fees are necessary to generate adequate funding to carry out minimum program elements.
- Performance is directly tied to the mandated workload and available resources.
- Overall, staffing levels are down by 25% since 2009; SDW staff workload has steadily increased to more than double the national average.

Proposed Fees

- Failure to meet minimum program elements may result in an increased risk to public health.
- Program performance is currently under review by EPA, which noted the SDW workload is excessive and not sustainable.
- DEP's failure to complete sanitary surveys can have serious public health implications as major violations could be going unidentified.

SDW Program Costs and Funding

SDW Program Costs and Funding



Proposed Fees

- Annual fees
 - CWSs: \$250 - \$40,000
 - NCWSs: \$50 - \$1,000
 - BVRBs: \$1,000 - \$2,500
- Per person costs range from \$0.35 to \$10 per year.
- At least 26 states charge annual fees to augment the cost of their Drinking Water Program; annual fees for these 26 states range from \$25 to \$160,000 per water system.

Stakeholder Input

- The proposed rulemaking was presented to the Technical Assistance Center for Small Drinking Water Systems (TAC) on November 14, 2016 and January 5, 2017.
- The proposed rulemaking was also presented through a webinar on December 8, 2016.
- Comments were received from TAC on January 23, 2017. Some comments were incorporated into the proposed rulemaking; other comments were incorporated into the preamble to solicit further public comment.

Public Comments

- The General Update and Fees rulemaking was published as a *proposed* rule in the *PA Bulletin* on August 26, 2017.
- The 30-day public comment period ended on September 25, 2017.
- The Independent Regulatory Review Commission (IRRC) submitted their comments on October 25, 2017.

Regulatory Schedule

- DEP expects to take draft-final regulation language to TAC advisory committee in late 2017.
- DEP anticipates that the final rulemaking package will be presented to EQB in early spring 2018.
- **IF APPROVED**, DEP anticipates the final-form regulation will be published in the PA Bulletin in early summer 2018.

Other Initiatives – PFOA Petition

- On May 8, 2017, the Delaware Riverkeeper Network (DRN) submitted a petition for rulemaking to the Environmental Quality Board (EQB).
- Petition requests EQB set a drinking water MCL for PFOA not to exceed 6 parts per trillion (0.006 $\mu\text{g/L}$ or 6 ng/L).
- Currently, there is no federal or state MCL for PFOA but EPA established a combined lifetime health advisory (HA) for PFOS/ PFOA of 0.07 $\mu\text{g/L}$ (70 ng/L).

Other Initiatives – PFOA Petition

- Under the PA SDWA & Chapter 109 regulations, DEP may require PWSs to take corrective actions if DEP has reason to believe a contaminant is present and it creates a health risk to consumers.
- DEP reviewed the petition, determined it to be complete, and recommended that EQB accept the petition *for further evaluation*.*

**The recommendation does not include or suggest a rulemaking to set an MCL.*

Other Initiatives – Federal Rules

- Federal long-term revisions to LCR not expected until 2018.
- UCMR4 monitoring occurs 2018-2020:
 - 30 contaminants on list: cyanotoxins (if using SW sources), metals, pesticides, disinfection byproducts, alcohols & VOCs
 - All CWS/NTNC system serving > 10,000 people must monitor (at own expense)
 - 800 randomly selected small systems must monitor (at EPA's expense)



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