

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 109 ]

### Safe Drinking Water; Public Notification Revisions

The Environmental Quality Board (Board) proposes to amend Chapter 109 (relating to safe drinking water). The proposed rulemaking will strengthen the public notice requirements for imminent threat violations and situations (also known as Tier 1). The proposed rulemaking will enhance the planning requirements of both the Operation and Maintenance Plan and the Emergency Response Plan sections that relate to public notification. The proposed rulemaking amends the delivery requirements for community water systems, as appropriate to the type and size of the water system. Finally, this proposed rulemaking provides a few more examples of situations that need to be reported to the Department of Environmental Protection (Department) within 1 hour of discovery.

This proposed rulemaking was adopted by the Board at its meeting on May 16, 2007.

#### A. Effective Date

This proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

#### B. Contact Persons

For further information, contact Lisa Daniels, Division of Operations Monitoring and Training, P. O. Box 8467, Rachel Carson State Office Building, Harrisburg, PA 17105-8467, (717) 772-2189; or Marylou Barton, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposed rulemaking appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). The proposed rulemaking is available on the Department's website: [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

#### C. Statutory Authority

The proposed rulemaking is being made under the authority of section 4 of the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.4), which grants the Board the authority to adopt rules and regulations governing the provision of drinking water to the public, and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

#### D. Background and Purpose

The purpose of the proposed rulemaking is to strengthen the public notice requirements for imminent threat violations and situations (also known as Tier 1). The proposed rulemaking will enhance the planning requirements of both the Operation and Maintenance Plan and the Emergency Response Plan sections that relate to public notification. The proposed rulemaking amends the delivery requirements for community water systems, as appropriate to the type and size of the water system. Finally, this proposed rulemaking provides a few more examples of situations that need to be reported to the Department within 1 hour of discovery.

#### *Operation and Maintenance Plan*

The Department will require water suppliers to maintain contaminant fact sheets as a resource to respond to questions from the consumers and media about health effects and available treatment options.

#### *Emergency Response Plan*

The Department specified the information that must be included in an emergency response plan.

The Department expanded the list of people suppliers need to communicate and coordinate with during an emergency to include: local emergency management agencies, government agencies and sensitive subpopulations.

The Department included a requirement for procedures for providing an approved alternative water source during an emergency situation.

#### *Delivery methods for Tier 1 public notices*

Currently, the public notification regulation allows water suppliers to choose one or more of the following types of delivery for a Tier 1 notice: broadcast media, posting in conspicuous locations throughout the area served, hand delivery to persons served or another delivery method approved by the Department.

The proposed rulemaking specifies the type of delivery method that must be used based on the system's population size and the type of consumers who are being contacted. To contact bill paying customers, the Department will require water suppliers to provide direct delivery of the Tier 1 public notice by hand delivery, e-mail or automatic telephone dialing systems. To reach people who are transient and nontransient users, the proposed rulemaking also requires suppliers to use broadcast media such as radio or TV.

#### *"Problem corrected" notice*

The proposed rulemaking requires water suppliers to issue a "problem corrected" notice that a Tier 1 violation or situation has been corrected.

#### *Content of abbreviated public notices*

The Department is defining the minimum content elements that must be included in a Tier 1 notice that is delivered by automatic telephone dialing systems, TV scrollers, bullhorn announcements or radio station news flashes.

It is impossible to record the entire Tier 1 public notice on an automatic telephone dialer or expect broadcast media to read the entire message. Furthermore, consumers would become quite annoyed at the length of the message.

Consequently, the Department is specifying the immediate and essential elements that need to be included and requiring suppliers to provide a telephone number, or a website where consumers can hear or read the entire notice if they wish.

#### *One-hour reporting*

The Department is including a few more examples of situations that require 1-hour reporting to the Department. These situations include: an overfeed of a drinking water treatment chemical; a situation that causes negative pressure in the distribution system; and a lack of resources that affect operations, such as staff shortages,

notification by the power utility of planned lengthy power outages or imminent depletion of treatment chemical inventories.

In summary, the Board proposes to incorporate these amendments into Chapter 109 to strengthen the public notice requirements for imminent threat violations and situations (also known as Tier 1).

The draft proposed rulemaking was submitted for review to the Small Water Systems Technical Assistance Center Advisory Board (TAC) for review and discussion on May 18, 2006, July 12, 2006, and November 16, 2006. Comments were received from the TAC on November 21, 2006.

#### E. Summary of Regulatory Requirements

The proposed rulemaking is more stringent than the current Federal requirements under 40 CFR Part 141, Subpart Q (relating to public notification of drinking water violations).

Section 109.407(a)(6) (relating to general public notification requirements), regarding violation categories and other situations requiring a public notice, is amended to replace "waterborne" with "probable emergency situation" to be consistent with the text under §§ 109.408(a)(7), 109.701(a)(3)(iii) and 109.707(a)(2) (relating to Tier 1 public notice—form, manner and frequency; reporting and recordkeeping; and emergency response plan). The waterborne disease outbreak citation in § 109.1 (relating to definitions) was added for clarity.

Section 109.407(c)(4), regarding additional recipients, is amended to expand the group of individuals notified of a Tier 1 situation from "key public officials" to "additional recipients." The additional recipients include a water system's sensitive subpopulations, such as hospitals, schools, daycare facilities, nursing homes, industrial and commercial users.

Section 109.407(d), regarding additional requirements, is amended to tell water systems that additional planning requirements are under § 109.702 (relating to operation and maintenance plan) and § 109.707.

The heading of § 109.408 is amended to change "form, manner, and frequency" to "categories, timing and delivery" to accurately reflect the true content of the subsections. This heading change occurs in §§ 109.409 and 109.410 (relating to Tier 2 public notice—form, manner and frequency of notice; and Tier 3 public notice—form, manner and frequency of notice) to maintain consistency within Chapter 109.

Section 109.408(a)(7), regarding probable emergency situation, is amended to include the 1-hour reporting cross-reference to § 109.701(a)(3)(iii). A phrase was added to qualify that the "probable emergency situation" also had to have a significant potential to have serious adverse effects on human health as a result of short-term exposure. The examples were deleted because of the reference to § 109.701(a)(3)(iii).

Section 109.408(b)(5), regarding "problem corrected" notice, is amended to require water suppliers to issue a "problem corrected" public notification for Tier 1 violations or situations.

Section 109.408(c), regarding delivery of a Tier 1 public notice, is amended to:

Specify the forms of direct delivery a water supplier must use for contacting each service connection.

For community water systems that also serve transient and nontransient service connections, require systems to use appropriate broadcast media such as radio or television.

For community water systems that deliver an abbreviated notice, require that the entire public notice be posted on a website or recorded on a dedicated telephone line.

The Department is seeking comment about whether the population size of 3,301 and more people is the appropriate population level to eliminate hand delivery as a direct delivery option. Is it physically possible for systems serving more than 3,301 people to hand deliver and e-mail public notices within the 24-hour time frame?

Section 109.411(b) (relating to content of a public notice), regarding minimum content elements of an abbreviated notice, is amended to specify the minimum content elements that must be included on an abbreviated public notice that is delivered by automatic dialing systems, TV scrollers, bullhorn announcements or radio station news flashes.

The heading of § 109.701(a)(3), regarding compliance report, is changed to "1-hour reporting requirements" to be descriptive of the requirements of this paragraph.

Section 109.701(a)(3)(iii), regarding 1-hour reporting examples, is amended to add "a probable emergency situation" to cross-reference this requirement to the emergency response section. Additionally, the Department included three more examples of situations that require 1-hour reporting which are as follows: an overfeed of a drinking water treatment chemical; a situation that causes negative water pressure in a portion of the distribution system; and a lack of resources that affect operations, such as staff shortages, notification by the power utility of planned lengthy power outages or imminent depletion of treatment chemical inventories.

The Department will be developing guidance to provide additional information about situations that require 1-hour reporting.

Section 109.702(a)(6), regarding operation and maintenance plan public notification elements, is amended to require water suppliers to store additional elements such as United States Environmental Protection Agency contaminant fact sheets and an explanation of their methods of delivery of public notice within their operation and maintenance plan.

Section 109.702(c), regarding operation and maintenance plan update and storage, is amended to clarify that the water supplier must update the operation and maintenance plan, place it in a secure location and make it available upon request to the Department.

Section 109.707(a) is amended to specify the information that must be included in an emergency response plan.

For each probable emergency situation, require water suppliers to list contact person names and phone numbers for local emergency management agencies, government agencies, sensitive subpopulations, media and equipment and chemical suppliers.

The subsection also requires water suppliers to develop procedures for providing an approved alternative water supply during an emergency.

Section 109.707(b) and (c), regarding emergency response plan implementation and storage, is amended to require a water supplier to implement the emergency

response plan when necessary, store the plan in a secure location and make it available upon request to the Department.

*F. Benefits, Costs and Compliance*

*Benefits*

The strengthened public notice requirements for imminent threat violations and situations (also known as Tier 1) will provide greater health protection for the public. Specifically, the amendments requiring direct delivery of Tier 1 notices and requiring systems that have transient and nontransient users to use broadcast media should improve the delivery notification rate during an imminent threat situation. In other words, more people will know what actions they need to take to avoid adverse health effects.

By requiring water suppliers to keep public notice templates and fact sheets onsite, they will be better prepared to handle an emergency situation when it occurs.

By providing more examples of “probable emergency situations” that require 1-hour reporting to the Department, the Department expects to consult more often with water suppliers at the beginning of an emergency situation. This consultation should provide greater assistance to both the water industry and the public.

*Compliance costs*

Compliance costs to implement the direct delivery requirements for Tier 1 notices will increase for many of the community water systems, except those very small systems who are currently hand delivering Tier 1 public notices. The greatest increase in cost will be incurred by systems serving more than 3,300 people and will be associated with costs for contracting services for or purchasing an automatic telephone dialing system. These costs will vary based on system size and the number of telephone lines the system has available.

The costs for community water systems serving less than 3,300 people will be based on the number of hours it takes to pay employees their hourly wage to hand deliver public notices to each service connection. For some very small community water systems (serving less than 500 people), the cost to implement the new delivery requirements may be negligible because these systems are currently delivering Tier 1 notices by hand. However, for a community system serving 3,300 people, the cost to deliver a Tier 1 public notice by hand delivery was estimated to be approximately \$1,100 for a single Tier 1 event.

The following cost estimates are based on the following assumptions:

*Hand delivery using employees*

For community water systems serving 3,300 or fewer people, the cost to deliver a Tier 1 public notice by hand delivery was calculated based on the following estimates made by the program:

- Deliver one notice to each service connection.
- 3,300 people = 1,650 service connections (2 people/connection).
- One person can deliver 1 notice every 2 minutes, so 30 notices can be delivered each hour.
- Average employee wage = \$10/hour.
- Delivery time for 1,650 connections = 55 hours (1,650 connections/30 notices per hour).

- Delivery cost = \$550 per public notice delivery event (55 hours × \$10/hour).

- Total cost to deliver initial notice and “problem corrected” notices = \$1,100.

To gather cost estimates for purchasing automatic dialing systems or service contracts with automatic dialing system providers, the Department surveyed 11 vendors and the cost ranges reported as follows represent the survey results that the Department received from 7 of the vendors.

The following cost estimates for purchasing or contracting an automatic dialing system are based on the following assumptions:

- Costs are based on one 60-second call (Tier 1 notice) and one 30-second call (problem corrected) per year.
- Costs do not include employee time to learn, maintain and administer the system or costs for additional phone lines.
- Water suppliers can negotiate different rates with individual vendors.

*Purchasing an automatic dialing system (onsite system)—two vendor quotes*

<i>Water System Population Size</i>	<i>1st Year Costs (Purchase, installation and training)</i>	<i>Annual Costs (Maintenance)</i>
3,301—10,000	\$18,500—32,500	\$3,700—4,350
More than 10,000 population	Not feasible to meet the 24-hour delivery time frame if using only one phone line.	

The first year cost estimate range was \$18,500—\$32,500 with an annual cost range of \$3,000—4,350 for systems serving between 3,300 and 10,000 people. To meet the 24-hour delivery time frame, water systems may have to install additional phone lines.

Water systems serving more than 10,000 people could not purchase and use an onsite automatic dialing system because they could not meet the 24-hour delivery time frame for such a large population. For example, a system serving 20,000 people (10,000 service connections) would need 10,000 minutes to notify each service connection if using only 1 telephone line. Assuming that calls aren't placed between 12 a.m. and 6 a.m., the water supplier really only has 18 hours of time (1,080 minutes) to place the calls. In this example only 1,080 calls could be made of the 10,000 calls that are needed unless multiple phones lines are used.

*Contracted service with an automatic dialing system provider—five vendor quotes*

<i>Water System Population Size</i>	<i>1st Year Costs (Purchase, installation and training)</i>	<i>Annual Costs (Maintenance, per call cost, database administration)</i>
3,301—10,000	\$4,000—29,000	\$2,300—16,500
10,001—30,000	\$4,000—29,000	\$4,500—20,000
30,001—50,000	\$4,000—29,000	\$6,500—25,000
50,001—100,000	\$4,000—29,000	\$13,250—37,500
More than 100,000	\$4,000—29,000	\$26,000—187,500+

The cost range for all population sizes for the first year cost of using a contracted service provider was \$4,000—\$29,000. The annual costs varied based on population size.

*Compliance Assistance Plan*

The proposed rulemaking addresses additional planning and delivery requirements. As a result, financial assistance should not be necessary.

*Paperwork Requirements*

The proposed rulemaking addresses additional planning and delivery requirements. As a result, some changes to forms, reports and other paperwork are expected.

*G. Pollution Prevention*

This proposed rulemaking contains no pollution prevention provisions.

*H. Sunset Review*

The regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

*I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 11, 2007, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

*J. Public Comments*

*Written comments.* Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by November 21, 2007. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by November 21, 2007. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

*Electronic comments.* Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by November 21, 2007. A subject heading of the proposal and a return name and address must be included in each transmission.

KATHLEEN A. MCGINTY,  
*Chairperson*

**Fiscal Note:** 7-407. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION  
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE II. WATER RESOURCES**

**CHAPTER 109. SAFE DRINKING WATER**

**Subchapter D. PUBLIC NOTIFICATION**

**§ 109.407. General public notification requirements.**

(a) *Violation categories and other situations requiring a public notice.* A public water supplier shall give public notice for the following circumstances:

\* \* \* \* \*

(6) Occurrence of a waterborne disease outbreak, as defined in § 109.1 (relating to definitions), or other [waterborne] probable emergency situation as defined in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping) that adversely affects the quality or quantity of finished water and has a significant potential to have serious adverse effects on human health as a result of short-term exposure.

\* \* \* \* \*

(c) *Public notice recipients.*

\* \* \* \* \*

(4) If a community water system has a Tier 1 violation, the water supplier shall also notify [key public officials] additional recipients as designated in the community water system's emergency response plan under § 109.707(a) (relating to emergency response plan).

\* \* \* \* \*

(d) *Additional requirements.* Community water systems shall comply with the planning requirements specified under § 109.702(a)(6) (relating to operation and maintenance plan) and § 109.707.

§ 109.408. Tier 1 public notice—[form, manner and frequency] categories, timing and delivery of notice.

(a) *General violation categories and other situations requiring a Tier 1 public notice.* A public water supplier shall provide Tier 1 public notice for the following circumstances:

\* \* \* \* \*

(7) Occurrence of a waterborne disease outbreak, as defined in § 109.1 (relating to definitions), or other [waterborne] probable emergency situation as defined in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping) that adversely affects the quality or quantity of the finished water [including, but not limited to, the following:] and has a significant potential to have serious adverse effects on human health as a result of short-term exposure.

(i) Failure or significant interruption in key water treatment processes.

(ii) A natural disaster that disrupts the water supply or distribution system.

(iii) A chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination. ]

\* \* \* \* \*

(b) *Timing for a Tier 1 public notice.* A public water supplier shall do the following:

\* \* \* \* \*

(5) Provide a public notice, as soon as possible, but no later than 24 hours after the notice is approved by the Department, that the Tier 1 violation or situation has been corrected.

(c) [ *Form and manner* ] *Delivery of a Tier 1 public notice.* The [ *form and manner* ] delivery methods used by a public water supplier shall fit the specific situation and shall be reasonably designed to reach residential, transient and nontransient users of the water system. To reach all persons served, a water supplier shall use, [ *at a minimum, one or more of* ] as appropriate to the type and size of the water system, the following forms of delivery:

(1) [ *Appropriate broadcast media, such as radio or television.* ] *Community water systems.*

(i) Systems serving 3,300 or fewer persons shall provide public notice to each service connection using one or more of the following forms of direct delivery:

- (A) Hand delivery.
- (B) Electronic mail.

(C) Another form of direct delivery approved in writing by the Department.

(ii) Systems serving 3,301 or more persons shall provide public notice to each service connection using one or more of the following forms of direct delivery:

- (A) Automatic telephone dialing systems or other best available technology.
- (B) Electronic mail.

(C) Another form of direct delivery approved in writing by the Department.

(iii) In addition to providing public notice to each service connection under subparagraph (i) or (ii), public water systems that also serve transient and nontransient service connections shall provide notice using appropriate broadcast media, such as radio and television.

(iv) If a public water supplier delivers an abbreviated notice in accordance with § 109.411(b)(relating to content of a public notice), the public water supplier shall also provide the entire public notice under this section in one of the following ways:

- (A) Posted on a website.
- (B) Recorded on a dedicated phone line.
- (C) Another method approved in writing by the Department.

(2) [ *Posting of the notice in conspicuous locations throughout the area served by the water system.* ] *Noncommunity water systems.* Noncommunity water systems shall provide notice to tran-

sient and nontransient consumers using one or more of the following forms of delivery:

(i) Posting the notice in conspicuous locations throughout the area served by the water system.

(ii) Another form of delivery approved in writing by the Department.

[ (3) Hand delivery of the notice to persons served by the water system.

(4) Another delivery method approved in writing by the Department. ]

§ 109.409. Tier 2 public notice—[ *form, manner and frequency* ] categories, timing and delivery of notice.

\* \* \* \* \*

(c) [ *Form and manner* ] *Delivery of a Tier 2 public notice.* A public water supplier shall provide the initial public notice and any repeat notices in a form and manner that is reasonably designed to reach all persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but the public water supplier shall at a minimum meet the following requirements:

\* \* \* \* \*

§ 109.410. Tier 3 public notice—[ *form, manner and frequency* ] categories, timing and delivery of notice.

\* \* \* \* \*

(c) [ *Form and manner* ] *Delivery of a Tier 3 public notice.* A public water supplier shall provide the initial notice and any repeat notices in a form and manner that is reasonably designed to reach all persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but the public water supplier shall, at a minimum, meet the following requirements:

\* \* \* \* \*

§ 109.411. Content of a public notice.

(a) *Elements of a public notice.* When a public water system is required to give public notice under this subchapter, each public notice [ **shall** ] **must** include the following elements:

\* \* \* \* \*

(3) Any potential adverse health effects from the violation or situation, including the standard language under subsection [ (d) ] (e)(1) or (2), whichever is applicable.

\* \* \* \* \*

(10) A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under subsection [ (d) ](e)(3), [ **where** ] **when** applicable.

(b) *Abbreviated notice.* If automatic telephone dialing systems, TV scrollers, bullhorn announcements or radio station news flashes are used to deliver an abbreviated notice in accordance with § 109.408(c)(1) (ii) or (iii) (relating to tier 1 public notice—categories, timing and delivery of notice), the abbreviated notice must include, at a minimum, the following elements:

(1) A description of the violation or situation, including the contaminants of concern, and (as applicable) the contaminant levels.

(2) Whether alternative water supplies should be used.

(3) What actions consumer should take, including when they should seek medical help, if known.

(4) A telephone number or website address, or both, where consumers can obtain the entire notice.

[ (b) ] (c) \* \* \* \* \*

[ (c) ] (d) \* \* \* \* \*

[ (d) ] (e) \* \* \* \* \*

Subchapter G. SYSTEM MANAGEMENT RESPONSIBILITIES

§ 109.701. Reporting and recordkeeping.

(a) Reporting requirements for public water systems. Public water systems shall comply with the following requirements:

\* \* \* \* \*

(3) [ Compliance report ] One-hour reporting requirements. A public water supplier shall report the circumstances to the Department within 1 hour of discovery for the following violations or situations:

\* \* \* \* \*

(iii) [ Circumstances exist ] A probable emergency situation which may adversely affect the quality or quantity of drinking water including, but not limited to [ , the ]:

(A) The occurrence of a waterborne disease outbreak [ , a ].

(B) A failure or significant interruption in key water treatment processes [ , a ].

(C) A natural disaster that disrupts the water supply or distribution system [ , or a ].

(D) A chemical spill [ or ].

(E) An unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination.

(F) An overfeed of a drinking water treatment chemical.

(G) A situation that causes a negative water pressure in any portion of the distribution system.

(H) A lack of resources that affect operations, such as staff shortages, notification by the power utility of planned lengthy power outages or imminent depletion of treatment chemical inventories.

\* \* \* \* \*

§ 109.702. Operation and maintenance plan.

(a) A community water supplier shall develop an operation and maintenance plan for the community water system. The operation and maintenance plan [ shall ] must generally conform to the guidelines contained in

the Department's Public Water Supply Manual and [ shall ] contain at least the following information:

\* \* \* \* \*

(6) [ A public ] Public notification [ program including appropriate advance preparations, such as public ] elements in accordance with Subchapter D (relating to public notification) that include:

(i) Public notice templates [ , an ].

(ii) EPA contaminant fact sheets, when available.

(iii) An explanation of appropriate methods of delivery [ and a designation of public notice recipients for each tier type ] of public notice in accordance with Subchapter D).

\* \* \* \* \*

(13) Date of last update.

\* \* \* \* \*

(c) The community water supplier shall review and update the operation and maintenance plan [ shall be reviewed and updated ] as necessary to reflect changes in the operation or maintenance of the water system. The plan shall be [ bound and placed ]:

(1) Placed in secure locations which are readily accessible to the water system's personnel [ , and shall be presented ].

(2) Presented upon request to the Department.

\* \* \* \* \*

§ 109.707. Emergency response plan.

(a) A community water supplier shall develop a plan for the provision of safe and adequate drinking water under emergency circumstances [ , and submit the plan to the Department for approval by December 8, 1985 ]. The emergency response plan [ shall ] must generally conform to the guidelines contained in the Department's Public Water Supply Manual, as applicable, and [ shall ] contain at least the following [ information ]:

(1) [ Identification of probable emergency situations, including, but not limited to, those specified in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping), and alternative solutions to respond to situations including how the system will maintain its ability to provide service in the event of contamination or an outage of one or more of its sources of supply. Consideration shall be given to providing reserve capacity according to § 109.609 (relating to reserve capacity and finished water storage). ] Organization table. An organization table that includes a prioritized list of names and contact numbers of persons in charge of the water system during an emergency.

(2) [ Procedures for communications and coordination with the local emergency management organization. ] Communication procedures and contact information. For each probable emergency situation, including, but not limited to, those specified in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping), a list contact persons and phone numbers for the following groups of people:

(i) Local emergency management agencies within a water system's jurisdiction.

(ii) Government agencies including, but not limited to the Department, Public Utility Commission, Department of Health, Department of Energy, Department of Public Welfare and Pennsylvania Department of Agriculture.

(iii) Sensitive subpopulations including, but not limited to hospitals, schools, day-care facilities, nursing homes, industrial and commercial users.

(iv) Media.

(v) Equipment and chemical suppliers.

(3) *Means of communication.* A list containing the following:

(i) Types of communication equipment.

(ii) Types of communication for public notification.

(4) *Summary description of the system.* A list containing the following:

(i) Location of pertinent operational information.

(ii) Source information.

(iii) Treatment information.

(iv) Finished water storage.

(5) *Assessment of available resources.* A list containing the following:

(i) Mutual aid agreements.

(ii) Emergency water supply equipment that includes procedures for providing reserve capacity according to § 109.609 (relating to reserved capacity and finished water storage) or an approved alternative water supply.

(iii) Power supply equipment.

(iv) Repair equipment.

(v) Vehicles and construction equipment.

(vi) Spare equipment.

(6) *Corrective actions for probable emergency situations.* A list containing the following:

(i) Probable emergency situations including, but not limited to, those specified in § 109.701(a)(3)(iii).

(ii) Corrective actions for each probable emergency situation.

(b) The [ plan shall be kept on file in a readily accessible location by the public water supplier ] community water supplier shall implement the emergency response plan when necessary.

(c) The community water supplier shall review and update the plan [ shall be reviewed and updated ] at least annually. The plan must be:

(1) Placed in secure locations which are readily accessible to the water system's personnel.

(2) Presented upon request to the Department.

[Pa.B. Doc. No. 07-1754. Filed for public inspection September 21, 2007, 9:00 a.m.]

## GAME COMMISSION

[ 58 PA. CODE CH. 133 ]

### Wildlife Classification

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 26, 2007 meeting, proposed to amend § 133.41 (relating to classification of mammals).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the June 26, 2007, meeting of the Commission. Comments can be sent to, until September 28, 2007, the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

To effectively protect and manage the wildlife resources of this Commonwealth, section 2167 of the code (relating to endangered or threatened species) empowers the Commission to make changes to the Pennsylvania list of native endangered and threatened species. Chapter 133 (relating to wildlife classifications) lists native birds and mammals determined by the Commission to be endangered or threatened. This chapter was last amended in October 2005. Commission staff has met with and received recommendations from the scientific technical committees of the Pennsylvania Biological Survey on species classification changes. Classifications were not proposed for birds. However, the Mammal Technical Committee recommended one change to the list of threatened and endangered mammals. The Commission is proposing to amend § 133.41 to add the northern flying squirrel to the endangered species list.

The northern flying squirrel is not a game species, and it is the larger and rarest of the two flying squirrel species in this Commonwealth. Surveys by both Game Commission personnel and independent researchers demonstrate population declines in this species. Historical records indicate this species once was distributed across northern Pennsylvania; however, recent surveys suggest it is now found only in small island populations in the northeast Pocono region and at one site in Warren County. The primary cause for the decline of this species is the loss and fragmentation of older-growth coniferous forests in this Commonwealth.

Section 322(c)(8) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Add to or change the classification of any wild bird or wild animal." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat...in this Commonwealth." The amendment to § 133.41 was proposed under this authority.

#### 2. Regulatory Requirements

The proposed rulemaking will amend § 133.40 to update Pennsylvania's list of native endangered and threatened species with current recommendations provided by scientific technical committees of the Pennsylvania Biological Survey.

3. *Persons Affected*

Persons wishing to hunt, trap or otherwise affect certain wildlife (or their habitat) within this Commonwealth will be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in additional cost or paperwork.

5. *Effective Date*

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding the proposed rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** 48-255. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 133. WILDLIFE CLASSIFICATION**

**Subchapter C. MAMMALS**

**§ 133.41. Classification of mammals.**

The following mammals are classified:

(1) *Endangered.*

\* \* \* \* \*

**(iv) Northern flying squirrel (*Glaucomys sabrinus macrotis*)**

\* \* \* \* \*

[Pa.B. Doc. No. 07-1755. Filed for public inspection September 21, 2007, 9:00 a.m.]

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