

# LEGISLATIVE AND REGULATORY UPDATE

BERKS COUNTY WATER AND SEWER ASSOCIATION  
ANNUAL CONFERENCE | JULY 27, 2022  
ALBRIGHT COLLEGE

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Engineering, Surveying and Environmental Services

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# LEGISLATIVE UPDATE



# LEGISLATION SIGNED INTO LAW BY GOVERNOR WOLF



## LEGISLATIVE UPDATE

# 2022-2023 Budget Bill Signed July 8, 2022 by Governor Wolf

## **\$45 Billion Budget**

## **\$2 Billion in Federal Aid for Water and Sewer Projects**

- Budget includes \$45 Million for the Department of Community and Economic Development to Counties that apply by August 22, 2022.
- Also, signed on July 8<sup>th</sup> - \$220M Pennsylvania Clean Streams Fund – Senators Martin, Laughlin and Yaw “ This is a momentous investment in our rivers and streams to improve water quality for all Pennsylvanians”. We will be able to reduce pollutants....while reducing water treatment costs. ...at no additional expense to taxpayers.”



## LEGISLATIVE UPDATE

# Senate Bill 251 Signed July 12, 2022 by Governor Wolf

## Fertilizer Responsible Use Bill – Sponsored by Senator Yaw

- Mandates responsible use of fertilizer through updated application standards.
- Requires proper testing and labeling of fertilizer products.
- Requires the Department of Agriculture to establish a new agricultural and homeowner education program to inform the public about the best practices for fertilizer application.
- Nutrients in fertilizer promote plant growth on land, but when the excess nitrogen and phosphorus enters surface water, it promotes the growth of harmful algae and increases the treatment costs for drinking water.



# LEGISLATION



# House and Senate Session Schedule

## 2022 HOUSE SESSION SCHEDULE

September 12, 13, 14, 19, 20, 21  
October 24, 25, 26  
November 14, 15, 16

## 2022 SENATE SESSION SCHEDULE

September 19, 20, 21  
October 17, 18, 19, 24, 25, 26  
November 15

**The House will reconvene on September 12<sup>th</sup> at 12:00 PM and the Senate will reconvene on September 19<sup>th</sup> at 1:00 PM unless either session is recalled by the Speaker.**



## LEGISLATIVE UPDATE

# House Bill 527 – Cox

- Amends Title 53 (Municipalities Generally) providing for public notice and public meeting requirements.
- Proposes that prior to entering into an agreement to sell or lease a water or sewer system owned or operated by a municipal corporation or municipal authority that would require dissolution by the municipal corporation:
- The municipal corporation shall:
  - Hold at least one advertised public meeting, not more than 60 days nor fewer than seven days prior to entering into the agreement.
  - Provides for public notice of the meeting in all municipalities served by the water or sewer system, and that the potential purchaser or lessee shall be in attendance.
- Adds a new section that an acquisition may not be deemed in the public interest by the Pennsylvania Public Utility Commission without the unanimous consent of the governing body.
- On the House Calendar awaiting final passage.





## LEGISLATIVE UPDATE

# House Bill 591 – Zimmerman

- Reintroduced (prior HB 534 – 19/20 Session) – Amends the Clean Streams Law
- Proposes to allow construction sites that result in a land disturbance of more than one but less than five acres to apply for a waiver of an otherwise required National Pollutant Discharge Elimination System (NPDES) Permit, in accordance with Title 40, CFR 122.26(b)(15)(i).
- States surrounding Pennsylvania comply with the NPDES waiver program that already exists on the federal level.
- This bill would bring Pennsylvania's NPDES program into the same standards as the federal and surrounding state programs.
- Voted out of the House Environmental Resources & Energy Committee – 6/15/2021, Recommitted to House Rules Committee, 6/15/2021



## LEGISLATIVE UPDATE

# House Bill 1842 – Zimmerman

# Senate Bill 545 - Yaw

# Clean Streams Law – Spill Reporting

- Amends the Clean Streams Law, in other pollutions and potential pollution, providing for notice of discharge endangering public health or environment.
- **Notice of Discharge Endangering Public Health or Environment** – a person who spills, discharges or releases a substance into the waters of this Commonwealth, or on a location from which the substance is likely to enter the waters of this Commonwealth, taking into account any control and remedial measures, shall notify the department if the spill, discharge or release if not authorized by a permit from the department and is likely to render the receiving waters harmful to public health or environment as determined by reportable quantities or other readily ascertainable standards adopted by regulation.
  - Requires the Environmental Quality Board (EQB), no later than 60 days after the effective date of the new section, to publish for public comment proposed regulations establishing reportable quantities or other readily ascertainable standards by which a person may determine whether a spill, discharge or release is likely to render receiving waters harmful to public health or environment.
  - Further requires the Board, no later than 180 days after the effective date, to publish final regulations.



## LEGISLATIVE UPDATE

# House Bill 1842, Senate Bill 545 – Clean Streams Law – Spill Reporting – Cont'd:

- **NOTE:** Opposition to the bill concerns the elimination of critical safeguards in the Clean Streams Law that protect waterways from spills. The major concern is that this bill will allow polluters to decide whether their spill should be reported to PA DEP.
- PA DEP is opposed to this bill.
- **STATUS:** Senate Bill 545 Voted out of the Senate Environmental Resources and Energy Committee – 6/15/2021.



## LEGISLATIVE UPDATE

# House Bill 2450 – Fritz – Delaware River Basin Compact – Voting Power

- Amends the Delaware River Basin Compact, in organization and area, further providing for voting power.
- Reapportions the voting rights within the Delaware River Basin Commission (DRBC) based on the amount of the basin territory within each state.
- Pennsylvania will have six votes. New Jersey will have three votes, New York will have two votes and Delaware will have one vote. The Federal Government will have one vote.
- Some provisions are effective upon publication of the notice and the remainder of this act is effective immediately.
- STATUS: Reported out of the House Environmental Resources and Energy Committee – 3/28/22.



## LEGISLATIVE UPDATE

# House Bill 2450 – Fritz – Delaware River Basin Compact – Regulations and Enforcement

- Amends the Delaware River Basin Compact, in general provisions, further providing for regulations and enforcement.
- The Delaware River Basin Commission (DRBC) can make and enforce reasonable rules and regulations for the effectuation, application, and enforcement of the Compact provided that the rules and regulations do not impede or interfere with the operation or control of projects, structure, or facilities constructed or used in connection with hydraulic fracturing, or fracking.
- Section one of this act is effective upon publication of the notice required by section two of this act. The remainder of this act is effective immediately.
- STATUS: Reported out of the House Environmental Resources and Energy Committee – 3/28/22.



## LEGISLATIVE UPDATE

# SB 597 - Stephano – Water and Wastewater Asset Management Plans

- **NOTE:** Recent, substantive changes are presented in red.
- Amends Title 66 (Public Utilities) providing for water and wastewater asset management plans. **The bill was amended on 3<sup>rd</sup> Consideration, 4/11/22 and moved to Title 27 (Environmental Resources).**

### Key Definitions

- **“Community water system”.** A public water system which serves at least **751** service connections used by year-round residents. **The term does not include:**
  - An entity which has applied to the PUC for a voluntary change in rates within 5 years of the effective dates of this section (6 months).
  - A community water system owned by a planned community.
- **“Community wastewater system”:** A publicly or privately owned community sewage system which serves at least **751** service connections used by year-round residents that uses a method of sewage collection, conveyance treatment or disposal other than renovation in a soil absorption area or retention in a retaining tank. **The term does not include:**
  - A municipally owned and operated sewage system that owns and operates a wastewater system which has applied to the PUC for a voluntary change in rates within 5 years of the effective date of this section (6 months)
  - A community sewage system owned by a planned community.



## SB 597 - Stephano – Water and Wastewater Asset Management Plans – cont'd.

- **Community water and wastewater system asset management plan:**
  - No later than 12 months after the effective date, a water or wastewater system operator shall annually submit an asset management plan every **3 years to the PA DEP for review and approval.**
  - The plan shall be designed to inspect, maintain, repair and renew the water or wastewater system operator's infrastructure consistent with federal and state laws.
  - The plan must include a schedule under which the water system operator or the wastewater system operator will achieve the plan goals
  
- **Critical valve inspections:**
  - A water system operator shall inspect each critical valve in its system (in the asset management plan), no less than every three years and at any time the water system operator installs, repairs or relocates a critical valve.



## LEGISLATIVE UPDATE

# SB 597 – Continued

### – Fire hydrants

- A water system operator shall annually inspect at least 33% of the fire hydrants in the system in a manner that each fire hydrant is exercised over the course of four years to determine each fire hydrant's working condition.
- The water system operator shall formulate and implement a plan for flushing fire hydrants and at dead ends of water mains as water quality needs dictate.
- The water system operator shall keep a record of each inspection, test and flushing for six years.
- The water system operator shall identify the geographic location of each fire hydrant using a global positioning system based on satellite or other location technology.

### – Water meters:

- A water provider must:
  - Set an allowable error rate and develop a testing protocol as part of the asset management plan
  - Allow for replacement of a water meter entirely





## SB 597 – Continued

- **Water meters – continued:**
- **Meter test records**
  - If a water meter is tested, the original test record shall be kept including:
    - The meter identification information
    - The reason for testing
    - The reading of the meter before being disturbed and
    - The accuracy of the meter together with data taken at the time of the test
  - The record shall be sufficiently complete to permit the convenient checking of the methods used and the calculations made.
  - In addition to the above records, a record shall be kept indicating:
    - The date of the meter purchase
    - The name of the manufacturer
    - The meter's size, identification, various places of installation and removal; and
    - The dates and general results of each test.



## SB 597 – Continued

- **Water meters – continued:**
- **Installation and removal of meters**
  - Within 60 days of installation, a water meter shall be inspected by the water system operator for mechanical condition and suitability of location.
  - For a new meter or a meter reconditioned by a manufacturer, the test results of the manufacturer may be accepted as the installation test if the water system operator has verified the manufacturer's reported test results by testing the greater of 10% or 10 meters of a shipment of meters.
  - In an emergency, a meter not meeting these requirements may be installed temporarily.
  - A water meter that is removed from service with the intent for the water meter to return to service shall be tested within 30 days for accuracy to complete the meter's test history.
  - When a meter is temporarily removed from service, the water meter shall be properly sealed to secure registers and measuring devices until the water meter can be properly tested for accuracy.



## SB 597 – Continued

- **Development of cybersecurity system**
  - A water and wastewater system operator shall develop a cybersecurity program that:
    - Is developed by an accredited cybersecurity professional
    - Implements organizational accountability and responsibilities for cyber risk management activities; and
    - Establishes policies, plans, processes and procedures for identifying, reporting, and mitigating cyber risk to the system
  
- **Contingency for public funding**
  - Before a water or wastewater system operator may receive a subsidized loan or other financial assistance from the Commonwealth, the system must demonstrate that the operator has developed or is in the process of developing an asset management program.



## SB 597 – Continued

- **Annual information to customers**
  - A water system operator shall annually inform the operator's customers of compliance with this chapter in a manner established by PA DEP
  
- **Enforcement**
  - For a water or wastewater system operator required to submit an asset management plan, the PA DEP **shall** issue an order, enter into a consent order, assess a civil penalty to take any other action necessary to enforce compliance (Water and Wastewater Asset Management Plans) that the PA DEP is authorized to take for violations under any of the following:
    - The Clean Streams Law
    - The Pennsylvania Sewage Facilities Act
    - The Pennsylvania Safe Drinking Water Act
    - Chapter 31 (relating to Water Resources Planning)



## SB 597 – Continued

- **Lead service lines:**
  - Within one year of the effective date, a water system operator shall submit a plan to remove and replace all lead service lines within or connected to the operator’s public water system.
  
- **PA DEP costs:**
  - The program costs for PA DEP implementation and enforcement of this chapter shall be included in the PA DEP’s proposed budget and **shall be assessed** upon the community water system operator or owner and a community water system operator or owner.
  - The community water system operator or owner and the community wastewater system operator or owner shall report annually to the PA DEP the gross intrastate operating revenues for the preceding calendar year.
  
- **Regulations:**
  - The PA DEP shall promulgate regulations to implement and administer this chapter.



## SB 597 – Continued

**STATUS:** SB 597 passed the Senate on Tuesday, June 7, 2022 on a vote of 27 to 23. The bill will now go to the House Environmental Resources and Energy Committee for consideration.

**NOTE:** On Tuesday, August 2, 2022 – The House Environmental Resources and Energy Committee will hold an informational meeting on SB 597 at 10:00 a.m., in Room G-50, Irvis Office Building.

**Note:** The Water Works Operators' Association of Pennsylvania (WWOAP), The Pennsylvania Rural Water Association (PRWA), The Eastern Pennsylvania Water Pollution Control Operators' Association (EPWPCOA), the Pennsylvania Water Environmental Association (PWEA) have all submitted letters to the Legislature in Opposition to SB 597.



## LEGISLATIVE UPDATE

# SB 597 – ISSUES WITH SB 597

- Asset Management Plan – requiring community water systems to publish asset management reports on publicly accessible Internet websites is in direct violation of security protocols that have been in place since 9/11. Providing descriptions and locations of vulnerable water system infrastructure in a public format is inviting potential security breaches to critical water supply systems and risking public health and welfare.
- Critical valve inspections – Community water systems currently follow best management practices recommended by the valve manufacturers and the American Water Works Association (AWWA).
- Water Meters - meter maintenance is dictated by the manufacturers' recommendations. The additional testing mandated in SB 597 would require considerable additional costs to water systems. The proposed requirements need to have a value vs. cost analysis completed to assess the benefit provided to water system customers/consumers to justify the requirements.
- Development of Cybersecurity System – Both PA DEP and the Department of Homeland Security have provided self-assessment tools for water systems to evaluate system and cybersecurity vulnerabilities. Further, the America's Water Infrastructure Act (AWIA) strengthened the requirements for systems to self-assess asset and cyber vulnerabilities. The information is specifically **NOT TO BE SHARED** with EPA or other regulatory entities, but is certified by the system to have been completed. All certified system operators are also required to complete security training. **NO STANDARD CERTIFICATION EXISTS FOR CYBERSECURITY PROFESSIONALS** as is required under SB 597.



## LEGISLATIVE UPDATE

# SB 597 – ISSUES – cont'd.

- Annual Information to Customers – water systems already complete and provide to all customers a Consumer Confidence Report (CCR) annually under Chapter 109, Safe Drinking Water Regulations. Moreover, the Public Notification Rule requires one-hour notice to PA DEP and notice to the customers. EPA is revising the CCR requirements to require bi-annual reports be submitted to customers.
- Contingency for Public Funding – All Commonwealth funding sources currently require that water systems be in compliance with the Safe Drinking Water Regulations and/or require engineering, feasibility studies and financial analysis for the majority of projects under funding consideration.
- Enforcement – PA DEP already has enforcement authorization under the Clean Streams Law, The Sewage Facilities Act, and The Safe Drinking Water Act. Enforcement under Chapter 31 relating to Water Resources Planning is regulatory over-reach and should not be included in an Asset Management Plan Bill.





## SB 597 – ISSUES – cont'd.

- PA DEP Costs – the costs for the requirements of this chapter will be assessed upon the water and wastewater systems, potentially based on the system's operating revenues for the prior year. Systems already pay fees to PA DEP annually as well as for all permits required by the systems.
- PA DEP anticipates that 16 additional staff will be required in the Safe Drinking Water Program, totaling \$2 million in anticipated costs. Approximately 535 community water systems would be subject to the provisions of SB 597, resulting in an annual fee of \$3,738 for each system subject to the provisions of the bill.
- PA DEP anticipates that 16 additional staff will be required in the Clean Water Program, totaling \$2 million in anticipated costs. Approximately 1,068 sewage facilities would be subject to the provisions of SB 597, resulting in an annual fee of \$1,872 for each system subject to the provisions of the bill.



## LEGISLATIVE UPDATE

# Bipartisan Legislation – Legionnaires’ Disease – Senate Bill 1125 – Senator Fontana – (D) and Senator Pittman (R)

- Would direct both public drinking water providers and certain building owners to assess their respective water systems for risk and adopt simple mitigation measures:
  - Flushing clean water through the system
  - Keeping hot and cold water at appropriate temperatures
  - Monitoring the system regularly
- Would codify the seven-step industry standard, ASHRAE-188 (currently the standard is only voluntary and not widely adopted).



# REGULATORY UPDATE



# New or Revised Federal Drinking Water Regulations

## SCHEDULE: Note-Dates May Change

- 4/22 - Part 142 - Final Rule: Cybersecurity in Public Water Systems
- ?/22 - Part 141 - Proposed Rule: Water System Restructuring Assessment Rule (WSRAR)
- 9/22 - Part 141 - Proposed Rule: PFAS Regulation
- 3/23 - Part 141 - Proposed Rule: CCR Revisions
- ?/23 - Part 141 - Proposed Rule: LCRI
- 9/23 - Part 141 - Final Rule: PFAS Regulation
- 3/24 - Part 141 - Final Rule: CCR Revisions
- 7/24 - Part 141 - Proposed Rule: MDBPs per 2020 Settlement with Waterkeepers Alliance
- 10/24 - Part 141 - Final Rule: LCRI
- 9/27 - Part 141 - Final Rule: MDBPs per 2020 Settlement with Waterkeepers Alliance



## Maximum Contaminant Level for PFAS

- PA DEP completed statewide PFAS Sampling. Full results are available at: [www.dep.pa.gov/pfas](http://www.dep.pa.gov/pfas)
- Summary of PA DEP's Report:
  - Based on Drexel University's Toxicological Study and PA DEP's Sampling Plan Data, PA DEP concluded that additional measures were needed to protect public health.
  - PA DEP agreed with the Delaware Riverkeeper Network (DRN) that PA DEP should move forward with a proposed rulemaking to set an MCL for PFOA, but PA DEP did not believe DRN's proposed MCL of six (6) parts per trillion was developed appropriately.
- On July 14, 2022, PA DEP presented the **DRAFT- Final PFAS RULEMAKING for PFAS** at the Public Water System Technical Assistance Center (TAC) Board Meeting. **Note:** This is the new name for what was previously the Small Water System's Technical Assistance Center (TAC) Board and the Board now represents all public water systems regardless of size. The TAC Board recommended approval of the Draft-Final Rulemaking.



## Maximum Contaminant Level for PFAS – Cont'd.

- PA DEP is proposing to move forward with MCLs for PFOA and PFOS.
- PA DEP is not moving forward with an MCL for other PFAS chemicals at this time:
  - Lack of occurrence data > MCLG
  - Incomplete cost/benefit data and analysis
  - Reference dose was not derived due to lack of evidence on its toxicity
  - Lack of treatability data
- **PROPOSED PFOA MCL of 14 parts per trillion (ppt) (current EPA Health Effects Limit = 70 ppt)**
- **PROPOSED PFOS MCL OF 18 parts per trillion (ppt) (current EPA Health Effects Limit = 70 ppt)**
- The Proposed MCLs are within the range of other Federal Standards where the MCL does not equal the MCLG.
- The Proposed MCLs are within the range and same magnitude as other state standards.



## Maximum Contaminant Level for PFAS – Cont'd.

- The following documents are available at:  
<https://www.dep.pa.gov/PublicParticipation/AdvisoryCommittees/WaterAdvisory/TAC/Pages/2022-Meetings.aspx>
  - PFAS RULE PRESENTATION
  - DRAFT-FINAL ANNEX A, PFAS RULE



# Technical Guidance – Notification Requirements for Spills, Discharges and Other Incidents That Threaten To Cause Pollution of the Waters of the Commonwealth

- An issue of concern that arose in the Draft Technical Guidance is the requirement for chloraminated systems to address ammonia in discharges.
- On April 21<sup>st</sup>, at the TAC Board Meeting, a TAC Subgroup Workgroup was formed to work with the PA DEP, both Clean Water and the Bureau of Safe Drinking Water to address the issues related to chloraminated discharges.
- Unfortunately, The TAC Subgroup Workgroup was unable to have the PA DEP address the issues of concern. The Workgroup is going to continue to develop additional information for the Department to consider.
- The Technical Guidance information can be found at:  
[https://files.dep.state.pa.us/PublicParticipation/Advisory%20Committees/AdvCommPortalFiles/TAC/2022/BCW\\_Presentation\\_TGD1.pdf](https://files.dep.state.pa.us/PublicParticipation/Advisory%20Committees/AdvCommPortalFiles/TAC/2022/BCW_Presentation_TGD1.pdf)





# TAC Board Meetings

- TAC now represents Public Water Systems (all sizes)
- The Agenda, previous Meeting Minutes and all of the documents and information for discussion can be viewed on the TAC Board website:  
<https://www.dep.pa.gov/PublicParticipation/AdvisoryCommittees/WaterAdvisory/TAC/Pages/default.aspx>

***NEXT TAC BOARD MEETING IS OCTOBER 27, 2022***



# QUESTIONS





**Thanks for joining us!**  
Download the slides at [ssmgroup.com](https://ssmgroup.com)

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