

LEGISLATIVE AND REGULATORY UPDATE

PA AWWA SOUTHEAST DISTRICT & WWOAP EASTERN SECTION MEETING

PENN STATE UNIVERSITY GREAT VALLEY CAMPUS

OCTOBER 24, 2023

SERENA A. DIMAGNO

WWOAP LEGISLATIVE/REGULATORY AFFAIRS CHAIR



SPOTTS | STEVENS | MCCOY

Engineering, Surveying and Environmental Services

ssmgroup.com

LEGISLATIVE UPDATE



FEDERAL LEGISLATIVE UPDATE



Bipartisan Legislation Draft PFAS Senate Bill – Senator Tom Carper – (D-Delaware) and Senator Shelly Moore Caputo – (R- West Virginia)

- Introduced June 22, 2023
- Would increase liability for Wastewater Treatment Plants, biosolids processors, land appliers and distributors.
- Public comment period closed July 3, 2023
 - Information available:
<https://www.epa.senate.gov/public/index.cfm/2023/6/stakeholder-comments-on-draft-pfas-legislation>
 - Link to Draft Bill
 - Link to Public Comments – Hundreds of comments were received.



Bipartisan Legislation Draft PFAS Senate Bill – *Continued*

Issues:

- Too narrow a definition of PFAS chemicals: defined in the Bill as chemicals with “at least two fluorinated carbon atom” instead of with “one fluorinated carbon atom”.
- Many states currently use the “one fully fluorinated carbon atom” definition
- Relies on voluntary programs for the chemical industry to regulate itself.
- Does not regulate PFAS chemicals as a class, allowing chemical companies to develop similar chemicals that are potentially more toxic, similar to the development of Gen X which was a DuPont replacement for PFOA
- The Bill is still awaiting full Senate consideration.



PENNSYLVANIA LEGISLATIVE UPDATE



House and Senate Session Schedules

2023 House Session Schedule

October 30, 31

November 1, 13, 14, 15

December 11, 12, 13

2023 Senate Session Schedule

October 24, 25

November 13, 14, 15

December 11, 12, 13



House and Senate Majority Status

2023 Special House Election – Status

Democrats will retain a one-vote majority in the House following the special election held Tuesday, September 19th in Pittsburgh which elected Lindsay Powell, a former Congressional aide.

Democrats now have a 102-101 majority in the House.

2023 Senate Status

Republicans have a 28-22 majority in the Senate.



House Bill 390 – Rep. Galloway

Plumber and Plumbing Contractors Licensure

- Establishes the State Board of Plumbing Contractors and provides for its powers and duties and conferring powers on the Department of State.
- **Not the purely licensure bill (who can call themselves “plumber”) that was introduced in 2017 by former Representative Christiana (HB 442).**
- **This bill may require water systems to use licensed plumbers for routine system work, including lead service line replacements.**
 - **“ Plumbing services”** The installation, maintenance, extension, erection, repair or alteration of piping, plumbing fixtures, plumbing appliances and plumbing apparatus in connection with sanitary drainage, storm piping and facilities and building sewers to the facility’s or sewer’s final connection to an approved point of disposal, venting systems, public and private water supply systems of a premises or building within the property line and to the final connection with an approved supply system. The term also includes the installation, maintenance, extension, erection, repair or alteration of piping, plumbing fixtures and plumbing apparatus used for storm piping and facilities and building sewers, liquid waste or sewage.



House Bill 390 – Rep. Galloway

Plumber and Plumbing Contractors Licensure - *Continued*

- An individual may not provide **plumbing services**, offer himself or herself for employment as an individual who may provide **plumbing services** or hold himself or herself out as an individual authorized to perform **plumbing services** unless licensed under this act.
- **An individual, corporation, partnership, firm or other entity shall not:**
 - Employ an individual to provide **plumbing services** or direct an individual to provide **plumbing services** unless the individual is licensed under this act.
 - Use the term “licensed plumbing contractor” in connection with the individual, corporation, partnership, firm or other entity unless at least one full-time employee or owner of the entity is licensed as a master plumber under this act.
- **The act establishes:**
 - Qualifications and outlines the requirements for each license.
 - Fees, fines and civil penalties for violations of any provisions of the act.
 - Criminal and civil penalties for the board to levy the civil penalty.
 - Continuing education and its requirements.
 - Licenses under this act are sufficient to be used in municipalities without additional licensing.



House Bill 390 – Rep. Galloway

Plumber and Plumbing Contractors Licensure - *Continued*

- **Civil Penalty – In addition to any other civil remedy or criminal penalty under this act, the board, by majority vote, may levy a civil penalty up to \$10,000 for any of the following:**
 - Licensee who violates a provision of the act.
 - An individual **who performs plumbing services** in violation of the act without being properly licensed under the act.
- Pennsylvania is only 1 of 6 states that does not have state-level licensing for plumbers.
- **Status:** House Professional Licensure Committee, 3/14/2023.
- On June 8, 2023, The PA Section AWWA Water Utility Council sent a letter in opposition to HB 390. On June 12, 2023 the House Professional Licensure Committee held an informational meeting.



House Bill 627 – Rep. Lawrence (R)

Senate Bill 866 – Sen. Kane (D)

Repeal of Act 12 of 2016

- HB 627 – Repeal of Act 12 of 2016 and require a ratepayer referendum prior to the sale of a municipal water or wastewater system.
 - **Status:** House Consumer Protection, Technology and Utilities Committee, 8/30/23
- SB 866 – amends Title 66 (Public Utilities) in rates and distribution systems, repealing provisions relating to the valuation of acquired water and wastewater systems.
 - **Status:** Senate Consumer Protection and Professional Licensure Committee, 7/17/23



Senate Bill 820 – Sen. Mastriano (R)

Public Hearings Prior to Acquisition

- SB 820 – Amends Title 53 (Municipalities Generally), in public improvements, utilities, and services, providing for public notices, public meetings and content.
 - **Status:** Senate Local Government Committee, 6/15/2023
 - **“Public Notice”** Notice published once each week for two successive weeks in a newspaper of general circulation and on the municipal corporation’s website, if the municipal corporation has a publicly accessible Internet website.
 - In addition to the provisions relating to public meetings, prior to entering into an agreement to sell or lease a water or sewer system currently owned or operated by a 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 with the potential purchaser or lessee, and shall provide public notice of the meeting in all municipalities served by the water or sewer system. The potential purchaser or lessee shall attend the meeting.



House Bill 626 – Rep. Lawrence (R)

Ratepayer Referendum Prior to Sale of a Public Utility

- HB 1205 – Amends Title 66 (Public Utilities), in rates and distribution systems, further providing for valuation of acquired water and wastewater systems; and providing for water ratepayer bill of rights.
 - **Status:** House Consumer Protection, Technology and Utilities, 8/30/2023.
 - Under this proposal, a ratepayer referendum shall be conducted by a selling utility with a fair market value of \$1,000,000 or more.
 - The PUC shall issue an order approving or disapproving the application for acquisition. Unless the results of the ratepayer referendum show a majority of ratepayers approve of the proposed acquisition, the proposed acquisition shall be considered contrary to the public interest and the PUC shall not approve the application for acquisition.



Senate Resolution 141 – Sen. Brooks (R) Legislative Budget and Finance Committee Study on the Effects of Act 12 of 2016 and Rate Increases

- Directs the Joint State Government Commission (JSGC) to conduct a study on the public water and wastewater system acquisitions that have taken place since Act 12 of 2016 took effect and the rate increases for the water and wastewater systems.
- The study is to include, using the most recent data available, regarding every water or wastewater system acquisition that has taken place in PA since Act 12 took effect:
 - The rate paid by ratepayers for services for five years prior to the acquisition'
 - The number of rate increase requests, approvals and amounts, within 5 years prior to the acquisition of the system, the amount of the request, the amount approved and for what the money from the rate increase was used.
 - Analysis of how other states allow water and wastewater systems to be sold
- **The JSGC shall issue a report of its findings, along with any statutory or regulatory recommendations, to the General Assembly within 12 months of the adoption of this resolution. Status: Senate Consumer Protection & Professional Licensure Committee, 6/30/2023**



House Bill 299 – Rep. Harkins

Public Employee OSHA Protection

HB 299 – The Jake Schwab Worker Safety Bill. Jake Schwab was a mechanic with the Erie Metropolitan Transit Authority and fatally injured at work in 2014. This legislation would extend OSHA protections to public sector employees in PA.

This is a re-introduction of HB 1976 of 2021.

On Tuesday, September 19, 2023 the Senate Intergovernmental Operations Committee held an information meeting on HB 299.

- Provides that the Secretary of Labor and Industry shall enforce provisions related to occupational safety and health standards under the Public Employees Occupational Safety and Health Act. The provisions shall apply to public employees not covered by federal occupational safety or health standards.
- Requires the Commonwealth to develop standards with respect to public employers and employees.
- Provides for record keeping, compliance orders, enforcement procedures, penalties, and education programs.



Senate Bill 286 – Sen. Yaw (R)

House Bill 551 – Rep. Zimmerman (R)

Spill Reporting

- SB 286 - amends the Clean Stream Law adding a new section providing for notice of discharge endangering public health or environment.
- **Status: Senate Environmental Resources & Energy Committee, 1/21/2023, Reported, 5/21/2023, 1st Consideration, 6/21/2023**
- 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 is not authorized by permit from the department and is likely to render the receiving waters harmful to public health or the environment as determined by reportable quantities or other readily ascertainable standards adopted by regulation.
- HB 551 - requires the Environmental Quality Board, to publish for public comment proposed regulations establishing reportable quantities or other readily accessible standards by which a person can determine whether a spill, discharge or release is likely to render receiving waters harmful to public health or environment



Senate Bill 286 – Sen. Yaw (R) House Bill 551 – Rep. Zimmerman (R) Spill Reporting - *Continued*

- HB 551 – Note: There is opposition to this bill due to the elimination of critical safeguards in the Clean Streams Law that protect waterways from spills. This bill would allow polluters to decide whether a spill should be reported to PA DEP. **PA DEP is opposed to this bill.**
- America's Water Infrastructure Act (AWIA) also amended the *Emergency Planning and Community Right-to-Know Act* (EPCRA).
The EPCRA revisions require that community water systems:
 - **Receive prompt notification of any release of a hazardous substance that potentially affects their source water**
 - **have access to hazardous chemical inventory data**

EPCRA requirements went into effect immediately upon signing of the law.



Technical Guidance –

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

DEP ID
383-4200-003

- PA DEP's response to the proposed Spill Notification Bills was to Draft Technical Guidance:
- Provides guidance on the immediate notification requirements for spills, discharges, and other incidents of a substance causing or threatening pollution to waters of the Commonwealth.
- NOTE: Requires chloraminated systems to address ammonia in discharges. The TAC Board on October 27, 2022 provided sample data on ammonia levels after a main break which were provided by a chloraminated water system that determined it would require a massive spill in excess of 500,000 gallons for the ammonia levels to be harmful to a stream.



**Continued -
Technical
Guidance –**

**Notification
Requirements for
Spills, Discharges
and Other
Incidents That
Threaten To
Cause Pollution of
the Waters of the
Commonwealth**

**DEP ID
383-4200-003**

- Additionally, the sample data factored in ammonia levels as the finished water leaves the water treatment plant and did not account for the dissipation through the distribution system or the spill event such that the data provided was a conservative estimate of the ammonia levels.
- PA DEP Clean Water Staff agreed that they would look at the sample data for further analysis and internal discussion.
- Regardless of this guidance document, notice is required under existing regulations whenever main breaks or flushing occurs, so that PA DEP is aware that your system is following mitigation plans or if a spill results in a fish kill.
- **PA DEP's has now moved to a Draft Proposed Rulemaking - Notification Requirements for Unauthorized Discharges to Waters of the Commonwealth.**



Senate Bill 144 – Sen. Yaw (R)

Fire Fighting Foam Management Act

- **This is a re-introduction of Senate Bill 302 from last session.**
- Amends Title 35 (Health and Safety) – establishes statewide uniform requirements restricting the use of Class B firefighting foams containing PFAS chemicals for training, restricting their use in testing while also allowing for continued sale and use against emergency, real-world fires.
- **STATUS:** Passed Senate, 36-14, 3/7/2023. Referred to Senate Veterans Affairs and Emergency Preparedness Committee, 3/8/2023.
- **Note:** The **House** Veterans Affairs and Emergency Preparedness Committee intends to hold an Informational Meeting on the occupational diseases of firefighting in late October or November 2023 and this bill will be part of the discussion.
- On October 10, 2023, the PA AWWA Section Water Utility Council sent a letter to the House Veterans Affairs & Emergency Preparedness Committee with proposed amendments to Senate Bill 144.



Senate Bill 144 – Sen. Yaw (R)

Fire Fighting Foam Management Act - *Continued*

The Proposed Water Utility Council Amendments:

- Prohibit a firefighting entity from accepting Class B foam containing PFAS from an airport, individual, manufacturer, government entity, or another firefighting entity.
- Prohibits the use of Class B foam containing PFAS without using an ASSE International approved backflow prevention device installed on apparatus equipment by the firefighting entity. (These devices are inexpensive \$150).
 - Title 35 defines “Apparatus equipment”- Elevated equipment, pumpers, tankers, ladder trucks, utility or special service vehicles, ambulances, rescue vehicles or other large equipment used for firefighting and emergency services.



Senate Bill 144 – Sen. Yaw (R)

Fire Fighting Foam Management Act - *Continued*

- Requires the firefighting entity to annually test and certify the backflow prevention device.
- Requires 1-hour notice to PA DEP and the public water supplier when a Class B foam containing PFAS is used in emergency firefighting or fire suppression operations.
- **The WUC Letter also notified the Committee that the U.S. Federal Aviation Administration (FAA) has notified airports of the availability of Fluorine-Free Foam (F3) that meets Military Specification and has been added to the Navy's Qualified Products List (QPL). The FAA is not requiring airports to use the new F3 products.**



Senate Bill 767 – Sen. Boscola (D) LIHWAP Funding

- Amends the Human Services Code, in general powers and duties of the Department of Public Welfare, providing for Low-Income Household Water Assistance Program.
- **Status:** Senate Consumer Protection & Professional Licensure Committee, 6/14/2023.
- LIHAP funding for heating and cooling has been in place for more than 50 years; funding for water and wastewater was temporary and exhausted quickly. Needs continue to remain. The \$43.2 million in Federal Government Funding was gone by October, 2022 [Covid funding], with over 40,000 Pennsylvanians receiving relief.
- A Coalition, including NAWC & PMAA requested the PA General Assembly appropriate \$60 million to LIHWAP in the FY 2023-2024 budget. The letter was sent to the General Assembly and the Governor on 6/14/2023.



**Senate Bill 767 –
Sen. Boscola (D)
LIHWAP Funding
- *Continued***

- On October 10, 2023, the PA AWWA Section Water Utility Council sent a letter to the Senate Consumer Protection & Professional Licensure Committee supporting Senate Bill 867.
- The Water Utility Council estimates to the Committee that there is a \$60 million need for LIHWAP assistance in PA and strongly supports an assistance program that will help prevent utility shutoffs for water and wastewater system customers.



Senate Bill 571 – Sen. Aument (R)

Legionnaires Disease Risk Management

- Amends Title 27 (Environmental Resources) and Title 35 (Health and Safety) providing for Legionnaires' disease risk management in public water systems and the adoption of mandatory water management plans for public water systems.
- **Status:** Senate Environmental Resources and Energy Committee, 5/17/2023.
- Provides that the Environmental Quality Board, with the PA DEP, address the safety of public water systems across PA as they relate to the Legionella pneumophila bacteria.
- Provides for regulations, owner and operator liability; and penalties, prosecutions, and fines for owners and operators of covered buildings and their water management plans.



Senate Democratic Policy Committee

Public hearing with Senators Muth, Collett, and Lindsey Williams on water, sewer, and stormwater infrastructure.

- Wednesday, October 25, 2023
- Hearing at: 1:30 pm
- Room SE-B, East Wing
- The hearing will be live streamed:
[Senate Democratic Policy Committee](#) (PUBLICHEARING)
WEDNESDAY - 10/25/23 1:30 p.m., Room 8E-B, East Wing
- [Live Stream](#)



PENNSYLVANIA REGULATORY UPDATE



Pennsylvania DEP
Safe Drinking
Water PFAS
MCL Rule
(25 Pa. Code
Chapter 109)

- **Final Rule** published in the *PA Bulletin* on Jan. 14, 2023.
Note: a correction was published in the *PA Bulletin* on February 18, 2023 regarding monitoring requirements.
- **MCL – PFOA of 14 parts per trillion (ppt);
MCLG of 8 nanograms per litre (ng/L)**
- **MCL – PFOS OF 18 parts per trillion (ppt);
MCLG of 14 nanograms per litre (ng/L)**
- **The final regulation applies to all community, nontransient noncommunity, bottle, vended, retail and bulk hauling systems with **initial monitoring beginning January 1, 2024.****



Pennsylvania DEP
Safe Drinking
Water PFAS
MCL Rule
(25 Pa. Code
Chapter 109)

Continued

- MCL Compliance is based on a running annual average (RAA) for each entry point (EP). If any quarterly result causes the RAA to exceed the MCL, a violation is generated for that quarter.
- Initial monitoring is quarterly at each Entry Point.
- **The MCLs were effective upon publication in the PA Bulletin (January 14, 2023), but routine compliance does not begin until 2024 or 2025.**
- **Any Public Water System that is doing monitoring (whether voluntary or under UCMR 5 or as specified in a permit) that exceeds either MCL value is required to contact PA DEP within 1 hour of discovery.**



Pennsylvania DEP
**Safe Drinking
Water PFAS
MCL Rule
(25 Pa. Code
Chapter 109)**

Continued

- The PFAS MCL Rule also includes the following requirements:
 - **Monitoring**
 - **Reporting**
 - **Public Notification**
 - **Consumer Confidence Reports**
 - **Use of Best Available Technologies**
 - **Analytical Requirements**



Pennsylvania DEP

Plans to Ramp Up PFAS Monitoring

- On September 19, 2023, PA DEP following a joint United States Geological Survey (USGS) and PA DEP study (2019) revealing PFAS in surface water across PA, announced that the Department would be ramping up efforts to monitor water resources, as well as developing standards for surface water.
- The study summarized results from 161 streams across PA and found 76% of the 161 streams contained at least one type of PFAS.
- Based on the study, PA DEP updated its surface water monitoring strategy for PFAS and is currently taking more frequent samples in areas of concern. Targeted areas include locations where elevated PFAS concentrations were found in 2019, as well as locations further upstream within the same watersheds. This information will allow PA DEP to limit PFAS discharges to surface waters through industrial discharge permits. .
- **PA DEP is also planning a monitoring program that would require some wastewater treatment plants to monitor for PFAS discharges.**



LCRR - Risk Mitigation Measures – Required

- Risk Mitigation Measures (RMM) are required as part of the Federal Lead and Copper Rule Revisions (LCRR).
- Under existing DEP regulations (§109.4(4)) RMMs are required when replacing lead service lines:
 - “ Public water suppliers shall take whatever investigative or **corrective action** is necessary to assure that safe and potable water is continuously supplied to the users.
- RMMs are required for all lead service line replacements, whether or not the replacement is voluntary, that is, not a result of compliance with LCRR. Service line replacement includes lead or galvanized service lines as well as lead pigtail, gooseneck or connector.
- **RMMs are in effect now!**



Risk Mitigation Measures – *Continued*

- There are three (3) RMMs:
 1. Provide notice to owner/non-owner residence(s) of affected service line **before the service line is returned to service.**
 2. Provide consumers with pitcher filter/ POU (Point of Use) and replacement cartridges
 3. Offer to collect follow-up samples
- **Detailed Information is available in the DEP Fact Sheet: Risk Mitigation Measures for Water Systems Conducting Lead Service Line Replacement (390-FS-DEP5528)**



Risk Mitigation Measures – *Continued*

1. Provide notice to the residence (owner and non-owner) served by the affected service line **before the service line is returned to service:**
 - Include mandatory health effects language
 - Explain the potential for a temporary increase in lead levels
 - Include information about removing and cleaning aerators, flushing lines, and re-installing cleaned aerators
 - Include information in Spanish and appropriate non-Spanish languages

Template Available for Public Water Supply Systems to use: ***Lead Service Line Replacement Customer Notification (3930-FM-BSDW0089)***



Risk Mitigation Measures – *Continued*

2. Provide consumers with the following **before affected service line is returned to service:**
 - Pitcher filter or POU device that is NSF/ANSI 53 certified to remove lead
 - Six months of replacement cartridges
 - Instructions for the use of the filter and replacement cartridges
 - If more than one residence is served by the affected service line, the listed items must be provided to every residence.



Risk Mitigation Measures – *Continued*

3. Offer to collect one set of follow-up **first draw and 5th liter tap samples** that must be taken between three months and six months after completion of the full lead service line replacement (LSLR).
 - If either sample exceeds 15 µg/L, provide results of both samples to residents ASAP, but no later than 3 calendar days after receiving results.
 - If neither sample exceeds 15 µg/L, provide results within 30 days.
 - Along with the results, include explanation of health effects, steps consumers can take to reduce exposure, contact information for water system and MCLG/AL (Maximum Contaminant Level Goal/Action Level) for lead.



Risk Mitigation Measures – *Continued*

RESOURCES:

- <https://www.dep.pa.gov/Business/Water/BureauSafeDrinkingWater/DrinkingWaterMgmt/Regulations/Pages/Lead-and-Copper-Rule.aspx>
- AWWA Standard C810: *Replacement and Flushing of Lead Service Lines*
 - *Section 4.3, 4.4 & 4.5 provide additional information on RMMs*
- AWWA Guide: *Lead Communications Guide and Toolkit - Free at:*
www.2022AWWA-LeadCommunicationsGuideandToolkit.pdf



Risk Mitigation Measures – *Continued*

ADDITIONAL RESOURCES:

- *Risk Mitigation Measures Certification Form (3930-FM-BSDW0066)*
 - For water systems to certify that RMMs have been completed as required
 - Submittal is annual
- *Lead Service Line Replacement Sample Results Notification Form (3930-FM-BSDW0067)*
 - For use by water systems when providing follow-up lead sampling results to customers (to ensure all required information is included).



TAC Board Meetings

- The Public Water Systems Technical Advisory Committee (TAC Board) is the PA DEP advisory committee for public water system regulations, policy and guidance document review.
- TAC represents Public Water Systems (all sizes); formerly the Board was directed to Small Water Systems.
- 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>
- All meetings are open to the public and can be attended virtually.

NEXT TAC BOARD MEETING IS OCTOBER 26,2023



TAC Board Meeting - *Agenda Items*

- **Safe Drinking Water Regulatory Update** – Lisa Daniels, Bureau of Safe Drinking Water.
- **Safe Drinking Water Informational Section** – Staff, Bureau of Safe Drinking Water
 - LCRR Service Line Inventory Examples
 - Cybersecurity Tips
 - HJA Update
- **Draft Proposed Rulemaking – Notification Requirements for Unauthorized Discharges to Waters of the Commonwealth** – Presentation & Discussion, Victor Landis and Drew Hall, Bureau of Clean Water
- **NOTE: The Draft Proposed Regulation is included in the October 26th documents on the TAC Board website.**



QUESTIONS



**LINK to
PRESENTATIONS
ssmgroup.com**



ssmgroup.com



Download the slides at
wwwoap.org or ssmgroup.com

SERENA A. DIMAGNO

Senior Environmental Consultant

Direct: 717-610-621-2000 | Cell: 717-379-0084

Serena.DiMugno@ssmgroup.com

SPOTTS | STEVENS | MCCOY

Engineering, Surveying, Environmental Services

www.ssmgroup.com