

**LEGISLATIVE AND REGULATORY UPDATE**

**PA SECTION AWWA SOUTHEAST DISTRICT  
WWOAP EASTERN SECTION**

**FALL JOINT CONFERENCE | OCTOBER 26, 2022**

**SERENA A. DIMAGNO**

**WWOAP LEGISLATIVE & REGULATORY AFFAIRS COMMITTEE CHAIRMAN**



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Engineering, Surveying and Environmental Services

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# LEGISLATIVE UPDATE



# House and Senate Session Schedule

## 2022 HOUSE SESSION SCHEDULE

October 24, 25, 26

November 14, 15, 16

## 2022 SENATE SESSION SCHEDULE

October 24, 25, 26

November 15

**Both the House and Senate reconvened on October 24<sup>th</sup>. The Legislature will adjourn on November 30<sup>th</sup>, 2022.**



# House and Senate – Pre-Election Status

## 2022 HOUSE ELECTION STATUS

All 203 House Seats are up for election on November 8th  
Going into the election Republicans hold 113 seats  
Democrats hold 89 seats with one vacancy

## 2022 SENATE ELECTION STATUS

25 Senate seats are up for election on November 8<sup>th</sup>  
Going into the election Republicans hold 13 of the seats up for election  
Democrats control 11 seats and  
1 Independent



## 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 is 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.
- **NOTE:** In response to this proposed legislation, PA DEP issued Draft Technical Guidance: Notification Requirements for Spills, Discharges and Other Incidents That Threaten To Cause Pollution of the Waters of the Commonwealth. This will be discussed later in the Regulatory presentation.



## LEGISLATIVE UPDATE

# House Bill 2404 – Owlett House Bill 2405 – Pickett House Bill 2406 – Fritz House Bill 2407 – Hamm Creek and Stream Maintenance

- **HB 2404** – Would allow local government organizations and PennDOT to apply for a permit for continuing maintenance for a period of at least ten years for the streams within their jurisdictions.
- **HB 2405** - Would create a program that allows counties to opt in to address hazards within their streams by allowing for emergency permits in consultation with their county conservation district.



## LEGISLATIVE UPDATE

# House Bill 2406

# House Bill 2407

## Creek and Stream Maintenance – cont'd.

- **HB 2406** – Would create a permit specific to smaller maintenance projects for the mitigation of flood-related hazards of less than 250 linear feet. This permit would be reviewed and issued by the local county conservation
- **HB 2407** – Would clarify that the Pennsylvania Fish and Boat Commission has no authority for permitting or enforcement related to stream clearing or maintenance activities. The authority shall belong solely to the Pennsylvania Department of Environmental Protection and the county conservation districts as appropriate.
- **STATUS:** Senate Environmental Resources and Energy Committee approved the bills on 10/18/22, now pending action by the full Senate.





## 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.



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

- **“ 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 – cont'd.

### – 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



## LEGISLATIVE UPDATE

# SB 597 – cont'd.

- **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.



## LEGISLATIVE UPDATE

# SB 597 – cont'd.

- **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 – cont'd.

- **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.



## LEGISLATIVE UPDATE

# SB 597 – cont'd.

- **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 – cont'd.

– **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.



## LEGISLATIVE UPDATE

# SB 597 – cont'd.

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

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

The following organizations provided testimony in opposition to SB 597 before the House Environmental Resources and Energy Committee: The Pennsylvania Municipal Authorities Association, The Pennsylvania Office of Consumer Advocate, The Pennsylvania State Association of Boroughs and The Water Works Operators' Association of Pennsylvania (WWOAP), Previously, The Pennsylvania Rural Water Association (PRWA), The Eastern Pennsylvania Water Pollution Control Operators' Association (EPWPCOA), and the Pennsylvania Water Environmental Association (PWEA) submitted letters to the Legislature in opposition to SB597.



## LEGISLATIVE UPDATE

# SB 597 – cont'd.

**The following organizations provided testimony in support of SB 597 before the House Environmental Resources and Energy Committee: Aqua Pennsylvania, Pennsylvania American Water and The Pennsylvania Chamber of Business and Industry.**



## 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.



## LEGISLATIVE UPDATE

# SB 597 – ISSUES – cont'd.

- 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).
- No current action, but it is anticipated that Legionnaires legislation will be introduced in the next session.





# 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

- On July 14, 2022, PA DEP presented the **DRAFT- Final PFAS RULEMAKING** at the Public Water System Technical Assistance Center (TAC) Board Meeting. The TAC Board recommended approval of the Draft-Final Rulemaking.
- On October 12, 2022, the Environmental Quality Board (EQB) adopted the Final Rulemaking: Safe Drinking Water PFAS MCL Rule (25 Pa. Code Chapter 109 by a 15 to 3 vote.
- The Rulemaking now goes to IRRC and the standing legislative committees.



# Maximum Contaminant Level for PFAS – Cont'd.

- Final rulemaking moves forward with MCLs for PFOA and PFOS.
- Final rulemaking does not propose 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)**
- **PROPOSED PFOS MCL OF 18 parts per trillion (ppt)**
- **The proposed MCLs are within the range and same magnitude as other state standards.**

### Note:

- **On June 15, 2022 EPA released new health advisories for four PFAS substances:**
  - **PFOA – 0.004 ppt**
  - **PFOS – 0.02 ppt**
  - **Gen X – 10 ppt**
  - **PFBS – 2,000 ppt**



## 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



## Water Quality Standard for Manganese

- (#7-533) Administrative Code of 1929, Pennsylvania Clean Streams Law, Federal Clean Water Act 25 Pa Code Chapters 93 and 96.
- Proposes a new human health criterion for manganese of 0.3 mg/l in Chapter 93.8 – Water Quality Criteria for Toxic Substances and would delete the existing 1 mg/l standard because it is not protective of human health.
- Research conducted by PA DEP concluded the effects of manganese on human health is harmful as a nervous system toxin with impacts to early childhood development and that 0.3 mg/l is protective of human health.
- Proposes two alternative points of compliance:
  - All existing or planned surface potable water supply withdrawals **OR**
  - All surface waters at point of discharge



## Water Quality Standard for Manganese – cont'd.

- On September 12<sup>th</sup>, the Independent Regulatory Review Commission (IRRC) disapproved the proposed Final Water Quality Standard for Manganese Regulation by a 4 to 1 vote.  
<http://www.irrc.state.pa.us/docs/3260/IRRC/3260%2010-11-22%20DISAPPROVAL.pdf>
- On October 11, 2022 IRRC submitted its Disapproval Order to the Environmental Quality Board. If PA DEP wishes to proceed with this regulation, they have 40 days from the delivery of IRRC's Disapproval Order to make the changes requested or keep the regulation unchanged and resubmit the regulation to both IRRC and the legislative standing committees.



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

- The Draft Technical Guidance requires 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.
- The TAC Subgroup Workgroup and PA DEP were unable to address the industry issues of concern at the July 14<sup>th</sup> TAC Board Meeting, however, it was decided that additional information regarding ammonia levels in spills and discharges would be collected and presented at the October 27<sup>th</sup> TAC Board Meeting.
- 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)





# Technical Guidance – Pennsylvania’s Public Water System Capability Enhancement Strategy – DEP ID: 391-0400-001

- Provides guidance to all community, nontransient noncommunity, and transient noncommunity drinking water systems, as well as DEP staff on the guidelines and implementation of the Commonwealth’s Public Water System Capability Enhancement Program.
- Purpose of the document is to establish a rational methodology to implement, track and allocate appropriate resources needed to meet the Federal requirements for a State capacity development strategy for all public water systems.
- Substantive revisions are proposed to the guidance to facilitate more effective use of grant funds from the US EPA by incorporating principles for long-term sustainability.



# Drought Watch Remains for 20 Counties Lifted for 16 Counties

- PA DEP after meeting with the Commonwealth Drought Task Force lifted the drought watch for 16 counties on October 23<sup>rd</sup>. The watch remains for 20 counties:

**Drought Watch**: Cameron, Carbon, Centre, Clearfield, Clinton, Columbia, Dauphin, Juniata, Lebanon, Luzerne, Lycoming, Mifflin, Montour, Northampton, Northumberland, Perry, Potter, Schuylkill, Snyder and Union counties.

**Drought Lifted**: Berks, Bradford, Bucks, Delaware, Lackawanna, Lehigh, McKean, Monroe, Montgomery, Philadelphia, Pike, Sullivan, Susquehanna, Tioga, Wayne, and Wyoming counties.



# 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 Thursday, OCTOBER 27, 2022***

***NOTE: VIRTUAL ATTENDANCE IS AVAILABLE – SEE THE TAC BOARD WEBSITE FOR DETAILS.***



# TAC Board Meeting Agenda – October 27, 2022

- PFAS Initial Compliance Monitoring Schedule Change Request Form: Instructions – To assist Community Water Systems and Nontransient Noncommunity Water Systems to comply with EPA's Fifth Unregulated Contaminant Monitoring Rule (UCMR 5) as well as the compliance required under PA's PFAS MCL Rule.
- Informational Session: Business Plan Requirements & Instructions for New Community Water Systems
- Informational Session: Lead Service Line Inventories
- Informational Session: Spill Policy Follow-up – Presentation of Industry Ammonia Data



# QUESTIONS





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PowerPoint Presentation will be available at the following websites:

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[www.paawwa.org](http://www.paawwa.org)

[www.wwoap.org](http://www.wwoap.org)

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