

LEGISLATIVE AND REGULATORY UPDATE

**PA SECTION AWWA SOUTHEAST DISTRICT AND WWOAP EASTERN
SECTION - SPRING JOINT MEETING – MARCH 15, 2018**

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LEGISLATIVE UPDATE

2018 Legislative Session Schedule

SENATE:

- March 19, 20, 21, 26, 27, & 28
- April 16, 17, 18, 23, 24, 25, & 30
- May 1, 2, 21, 22, & 23
- June 4, 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, 27, 28, & 29

HOUSE:

- March 12, 13, & 14
- April 9, 10, 11, 16, 17, 18, & 30
- May 1, 2, 22, & 23
- June 4, 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, 27, 28, 29, & 30

Note: Budget Hearings: March 1, 5, 6, 7, & 8

House Bill 2075 (Charlton-R)

- Amends Title 66 (Public Utilities), in rates and distribution systems.
- Provides for the valuation of and return on the property of a public utility by adding that the value of the property of a public utility providing water or wastewater service shall include the original cost incurred by the public utility for the replacement of customer-owned lead water service lines and the replacement or rehabilitation of damaged customer-owned sewer laterals, even though the customer will hold legal title to the replacement water service line or sewer lateral.
- The PUC may allocate the cost associated with the replacement among each customer, classes of customers and types of service.
- The public utility must obtain prior approval of the PUC for replacement.
- Referred to the House Consumer Affairs Committee, 2/16/18.

House Bill 104 (Godshall-R)

- Amends Title 53 (Municipalities Generally)
- Requires authorities to file an annual report of its fiscal affairs for the preceding fiscal year within 180 days following the fiscal year. The report shall also be posted to the authority's website.
- Prevents authorities from acquiring through consolidation, merger, purchase or lease a facility constituting a project, unless the authority has discussed the acquisition at a public meeting and the written minutes of the meeting contain details relating to the anticipated or projected public benefit from the acquisition.
- Prevents an authority from selling or transferring title to all or a portion of the water or sewer infrastructure of the authority, unless the authority has discussed the acquisition at a public meeting and the written minutes of the meeting contain details relating to the anticipated or projected public benefit that will be realized by the sale or transfer.

House Bill 104 (Godshall-R) - Continued

- Public benefit – may include rate reduction, improved service quality, rate stabilization, improved service reliability, action resulting from an agreement with a Federal or State regulatory agency or other clearly defined benefit to a ratepayer of the authority.
- Passed the House 191-0; Reported from the Senate Local Government Committee 1/30/18; 1st Consideration, 1/30/18.

Senate Resolution 33 (Yudichak-D)

- Establishes a task force on lead exposure and the hazards of lead poisoning.
- The Senate Task Force members are Senators Gene Yaw (R-Lycoming), John Yudichak (D-Luzerne), Lisa Baker (R-Luzerne), Judith Schwank (D-Berks), Thomas McGarrigle (R-Delaware) and Wayne Fontana (D-Allegheny).
- The Joint State Government Commission established an Advisory Committee to the Task Force which includes representatives of the water industry.

Senate Resolution 33 (Yudichak-D) - Continued

- The Commission working with the Advisory Committee is required to conduct a comprehensive review and analysis of laws, regulations, policies and procedures in PA and an assessment of lead exposure as a public health concern.
- The Advisory Committee is currently doing research on universal screenings, lead service line replacement, private wells and the cost of lead testing. The assessment is also to include PA's approach to lead testing, abatement and remediation and how it compare to other states.
- The Commission is required to issue a report of the Task Force's findings and recommendations to the Senate within 18 months.

Study of a Pennsylvania Water Use Fee

- Joint Legislative Budget and Finance Committee Study to evaluate assessing fees for the consumptive use and the use-and-return of Commonwealth waters.
- Study Objectives: (Expected to be completed in March, 2018)
 - Examine consumptive use and use-and-return fees assessed by other states, including any impact on the economies of those states.
 - Analyze any legislation introduced in the General Assembly that would impose a consumptive use or use-and-return fee or other vehicle to provide dedicated funding for water quality innovation and improvement.
 - Examine the practicality of a fixed-fee system or sliding scale system, based on per gallon withdrawal, per-gallon use, or other methodologies, for calculating a consumptive use or use-and-return fee on water.
 - Project the potential of various fees assessments and methodologies to generate annual revenue options of \$500, \$300, and \$100 million.

Municipal Water and Sewer Authority Reform

- Senator Ward and Senator Stefano are introducing legislation to amend Chapter 56 of the Municipality Authorities Act (Title 53). Their memorandum seeking co-sponsorship released March 2nd included the following provisions:
- Set a two-term limit on appointments to local authority boards with board members serving until their successor has been appointed.
- Prohibit local municipal officials and municipal employees from serving on the board of any authority which serves the municipality.
- Prohibit authority board members from being employed by their own authority or an authority's management company. Also prohibit employment by an authority of any elected municipal official from within its service area.

Municipal Water and Sewer Authority Reform – Cont'd.

- Prohibit an authority's management company from employing certain family members of authority board members or the authority's management-level employees. Ban employment by the management company of certain family members of elected municipal officials from within the service area of the authority. Also restrict an authority from hiring certain family members of its management company's owners and employees.
- Require every authority to maintain a website that includes at a minimum: rate information; customer service information; board member names and terms; public meeting minutes; annual audits and reports; annual budget information; management company information; and current contracts and vendors of both the authority as well as any contracts for government functions executed by a management company hired by the authority.

Municipal Water and Sewer Authority Reform – Cont'd.

- Establish penalties for failure to submit the annual report and audit to DCED.
- Subject expenditures by a management company performing government functions on behalf of an authority to disclosure on the annual audit and report the authority is currently required to submit to DCED.
- Subject management employees contracted by a local authority to the State Ethics Law. Require the State Ethics forms of all authority board members to be made available for viewing on the authority's website.
- Place authorities who extend beyond their corporate limits to purchasing water or sewer utilities outside of their current boundaries under the Public Utility Commission.

House Bills to Remove Permit Reviews from DEP, etc.

- The House State Government Committee met March 13th to consider bills taking Permit Reviews from DEP and other state agencies; creating an Office of the Repealer and authorizing the repeal of any regulation by a House/Senate Resolution:
- House Bill 1959 (Rothman-R) – establishes the PA Permit Act which requires agencies to create and develop a navigable online permit tracking system; gives permit review to third-party reviewers.
- House Bill 209 (Phillips-Hill-R) –establishes the Independent Office of the Repealer to undertake an ongoing review of existing regulations; make recommendations to the General Assembly, Governor, and executive agencies for repeal.
- House Bill 1792 (Bennington-R) – gives the General Assembly the ability to initiate the repeal of any state regulation in effect by a concurrent resolution.

House Bills - Continued

- House Bill 1237 (Keefer-R) – allows the General Assembly to kill an economically significant final regulation from any agency by doing nothing.
- House Bill 1960 (Ellis-R) – requires each agency to appoint a Regulatory Compliance Officer with the authority to waive fines and penalties if a permit holder attempts to comply.

REGULATORY UPDATE

Chapter 109 General Update/Fees - Status

- The Independent Regulatory Review Commission (IRRC) submitted its comments, recommendations and objections on October 25, 2017.
- DEP discussed the Draft Final-Form Rule at the December 7, 2017 TAC Board Meeting.
- DEP is expected to come back to the Environmental Quality Board (EQB) with the Final-Form Rule at the April, 2018 EQB Meeting.
- DEP had previously indicated an anticipated mid-2018 effective date for the Regulation. Fees would become effective shortly thereafter.
- Small systems should take note: It is expected that the fees would begin with small systems.

Chapter 109 General Update/Fees - Provisions

- Amends existing permit fees and adds new annual fees to supplement DEP's costs and fill the funding gap of \$7.5 million.
- Revises treatment technique requirements for pathogens.
- Clarifies permitting requirements.
- Provides for new requirements for the following:
 - Treatment plant alarms
 - Treatment plant shut-down capabilities
 - Auxiliary power requirements

Draft Final Form Rule:

http://files.dep.state.pa.us/PublicParticipation/Advisory%20Committees/AdvCommPortalFiles/TAC/Gen%20Update%26Fees%20Annex_DRAFT%20Final-Form_track%20changes%20for%20TAC.pdf

Disinfection Requirements Rule - Status

- EQB adopted the Final Rulemaking at the December 12, 2017 EQB Meeting.
- IRRC unanimously approved the Final-Form Rulemaking on February 22, 2018.
- The Final-Form Rulemaking takes effect upon publication in the PA Bulletin.
- Publication is expected in March or April, 2018.
- Implementation dates are deferred by 6 months for monitoring plans.
- Implementation dates are deferred by 1 year for distribution system disinfectant residual requirements.

Disinfection Requirements Rule - Provisions

- Requires disinfectant residuals:
- Entry Point = 0.20 mg/l
 - Continuously monitor and record residual disinfectant at the Entry Point;
 - Record lowest value for each day; and
 - The number of periods each day less than 0.20 mg/l.
- Distribution System = 0.2 mg/l (Note: 0.15 mg/l = compliance) measured as Free Chlorine/Total Chlorine
 - Monitor residual at the same time and from the same location that a Total Coliform sample is collected
 - Compliance is determined as follows:
 - (1) For public water systems serving 33,000 or fewer persons **and uses only groundwater or purchased groundwater sources**, if no more than 1 sample collected per month is less than the minimum level specified for 2 consecutive months, the system is in compliance with treatment technique.

Disinfection Requirements Rule - Provisions

(2) For public water systems serving more than 33,000 persons or that uses surface water, GUDI, purchased surface water, or purchased GUDI sources, if no more than 5% of the sample collected per month are less than the minimum level specified for 2 consecutive months, the system is in compliance with treatment technique.

(3) A public water system that has a treatment technique violation shall notify the Department within 1 hour of discovery of the violation and issue a Tier 2 Public Notice.

(4) In addition to the requirements in (1) through (3), a public water system that fails to meet the minimum level specified at any sample location for 2 consecutive months or more shall conduct an investigation to determine the cause and appropriate corrective actions and shall submit a written report to the Department within 60 days.

Disinfection Requirements Rule - Provisions

Additional disinfectant residual requirements:

- Beyond the 1 year deferred implementation deadline, the DEP may approve in writing an alternative compliance schedule if the water supplier submits a written request with supporting documentation by the 1 year date after the effective date of the Final-Form Regulation.
- Public water systems must calculate the log inactivation of Giardia at least once per day during the **EXPECTED** peak hourly flow.
- Tier 1 Public Notification is required when the Entry Point residual drops below the minimum for 4 hours **AND** the minimum log inactivation of Giardia cysts is not met or is not calculated.
- If a system drops below the minimum for 4 hours but is still meeting the minimum log inactivation, there is **NO** violation.

Manganese Standard - Status

- DEP published an Advance Notice of Proposed Rulemaking in the January 28, 2018 PA Bulletin with public comments due by February 26, 2018.
- The public comments submitted can be found on the DEP website's eComment system.
- DEP will use the Advance Notice of Proposed Rulemaking information and comments to evaluate the existing Manganese water quality criterion when the point of compliance is moved to the location of an existing or planned surface water PWS withdrawal as directed in the Administrative Code bill (Act 40 of 2017).
- The 1 mg/l manganese standard is 20 times the level allowed in public water supplies.
- The proposed revision shifts the burden for reducing manganese from the coal industry to drinking water suppliers to meet the 0.05 mg/l EPA secondary standard for drinking water.

TAC Board Meeting – March 29, 2018

- Agenda - Review of Technical Guidance Documents:
- ***Pre-Draft SDW Field-Related Compliance Strategy***
- ***Pre-Draft Key Requirements for Transient Noncommunity Water Systems***
- ***Revisions to the Public Water Supply Manual, Part IV- Noncommunity System Design Standards***
- ***Pre-Draft Lead & Copper Rule Working Guide***
- ***Pre-Draft Water Quality Parameter Reporting Instructions for Lead & Copper Rule***

TAC Board Meeting - Continued

- The Referenced Draft Technical Guidance Documents can be found on the TAC website:
- <http://www.dep.pa.gov/PublicParticipation/AdvisoryCommittees/WaterAdvisory/TAC/Pages/default.aspx#.VmGtsfMo69K>
- The Board Meeting Agenda and other handouts are also available on the website.

QUESTIONS

Speaker Contact Information

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