

# Legislative / Regulatory Update

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**Erik A. Ross**

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**WWOAP Central Section / PA-  
AWWA NC-SC Section  
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# Political Update - General

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- ▶ Pennsylvania General Assembly
  - ▶ The 203-member state House is currently comprised of:
    - 102 Democrats
    - 101 Republicans
  - ▶ The 50-member state Senate is currently controlled by the Republicans 27 to 23 Democrats.
- ▶ Governor Josh Shapiro is a Democrat.

# Legislative Update – Session Schedule

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- ▶ The Senate and House session schedule follows:
  
- ▶ Senate:
  - ❑ May 5, 6, 7, 12 & 13
  - ❑ June 2, 3, 4, 9, 10, 11, 23, 24, 25, 26, 27, 28, 29 & 30
  
- ▶ House:
  - ❑ April 22, 23 & 24
  - ❑ May 5, 6, 7, 12, 13 & 14
  - ❑ June 2, 3, 4, 9, 10, 11, 16, 17, 18, 23, 24, 25, 26, 27 & 30

# Legislative Update – State Budget

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- ▶ The Legislature has a Constitutional deadline (June 30<sup>th</sup>) to adopt a balanced budget.
- ▶ FY 2024-25 Revenue Collections (Through Mar)
  - ▶ Fiscal year General Fund collections totaled \$33.2 billion, which was **\$34.3 million, or 0.1 percent below estimate.**
- ▶ The Governor’s proposed FY 2025-26 General Fund Budget = \$51.5 billion – nearly \$3.9 billion more than last year.

# Legislative Update – State Budget

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- ▶ If adopted, the state would be required to use the last of its surplus and take about \$1.6 billion out of its Rainy Day Fund as well as enact two new taxes:
  - ▶ The Governor has proposed the **legalization of marijuana for recreational use** by adults and he projects it to bring in \$536.5 million in its first year.
  - ▶ The Governor has also proposed a tax levied against 30,000 **skill games and VGTs** and he projects that to bring in \$368.9 million to the state's General Fund during its first year with another \$40 million deposited directly into the lottery fund.

We are expecting this to be a difficult budget season.

# Regulatory Update – Issues

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- ▶ **Notification Requirements for Unauthorized Discharges to Waters of the Commonwealth**
  - ▶ DEP intends this rulemaking to provide the public, the regulated community, and DEP staff with **increased clarity** and a basis for consistency as to which unauthorized discharges require DEP notification, and which do not.
  - ▶ **For unauthorized discharges**, the way it is ascertained if a discharge constitutes pollution is **by the responsible party notifying DEP** of the discharge, **then** DEP investigating and assessing the incident to determine if the discharge did or did not constitute pollution.

# Regulatory Update – Issues

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## ▶ Spill Reporting Cont.

### ▶ Proposed Rulemaking

- ▶ § 91.33. Incidents causing or threatening pollution.

- It proposes to amend § 91.33 (a) regarding immediate notification to DEP of a spill with qualifying language:

- ▶ **If the risk** of pollution to waters of the Commonwealth, property damage or endangering downstream users **is unknown or uncertain**, it is the responsibility of the person at the time in charge of the substance or owning or in possession of the premises, facility, vehicle or vessel from or on which the substance is discharged or placed **to immediately notify the Department.**
- ▶ When deciding under the above whether an incident would endanger downstream users, result in pollution or create a danger of pollution, or would damage property, **a person shall consider the following factors:**

# Regulatory Update – Issues

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- ▶ **Spill Reporting Cont.**

- ▶ **Proposed Rulemaking**

- ▶ The properties of the substance or substances involved, including but not limited to:
  - ▶ The effects on protected water uses of each substance individually and any synergistic or cumulative effects of multiple substances, including toxicity to humans and aquatic life.
  - ▶ Persistence in the environment, including the substance's ability to be transformed or degraded by biological, chemical or physical processes.
  - ▶ The mobility of the substance in soil and water.
  - ▶ **The concentration and quantity of the substance.**
  - ▶ An activity or incident described above involving a **quantity of substance greater than** the reportable quantity listed in 40 CFR 117.3 (relating to determination of reportable quantities) **must be immediately reported to the Department.**



# Regulatory Update – Issues

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## ▶ Spill Reporting Cont.

### ▶ Proposed Rulemaking

- ▶ An activity or incident described above involving a quantity of substance less than the reportable quantity listed in 40 CFR 117.3 or a substance not listed in 40 CFR 117.3 must be comprehensively evaluated using the factors described in paragraph (2) to determine if the properties of the substance could endanger downstream users of the waters of the Commonwealth or would otherwise result in pollution or create a danger of pollution of the waters of the Commonwealth.
- ▶ The location or locations involved, including but not limited to:
  - ▶ Proximity to nearby waters of the Commonwealth, including groundwater and surface waters.

# Regulatory Update – Issues

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## ▶ Spill Reporting Cont.

### ▶ Proposed Rulemaking

- ▶ Characteristics of nearby waters of the Commonwealth, including but not limited to:
  - ▶ The protected uses of the waters.
  - ▶ The flow of the waters.
- ▶ Land use, soils and geology.
- ▶ The presence and qualities of relevant infrastructure, such as spill containment systems.

# Regulatory Update – Issues

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## ▶ Spill Reporting Cont.

### ▶ Proposed Rulemaking

- ▶ The weather conditions before, during and after the incident.
  - ▶ The presence and implementation of adequate response plans, procedures or protocols.
  - ▶ The duration of the discharge.
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- ▶ If requested by the Department, a person who claims that the Department need not have been notified of an incident under this section shall explain in a signed statement, under penalty of law, why the incident would not endanger downstream users, result in pollution or create a danger of pollution, or damage property, based on the factors listed above.

# Regulatory Update – Issues

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## ▶ Spill Reporting Cont.

### ▶ Proposed Rulemaking

- ▶ Concern: If you are a system that uses chloramines, immediate notification to DEP will be required when you have a main break or flushing (dead ends etc.). Chloramines have ammonia that may exceed the reportable quantity in 40 CFR 117.3 (relating to the determination of reportable quantities).
- ▶ The Public Water System Technical Assistance Center (TAC) Board made the case that it would take a massive spill (over 500,000 gallons) for ammonia levels in chloraminated water to be harmful. Finished drinking water shouldn't be considered a "pollutant."
- ▶ **Status:** Adopted by EQB, November 12, 2024
  - Published in *Pennsylvania Bulletin* on April 5<sup>th</sup> starting a 60-day comment period ending on June 4, 2025. The Water Utility Council (WUC) will issue comments.

# Regulatory Update – Issues

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- ▶ **Chapter 109 Pre-Draft Rulemaking: Revised PFAS MCL & CCR Rule**
- ▶ On April 26, 2024, EPA adopted a National Primary Drinking Water Regulation (NPDWR) for PFAS, setting standards for a total of 6 PFAS.
- ▶ DEP must adopt standards that are at least as stringent as the EPA's to maintain primacy.

# Regulatory Update – Issues

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- ▶ **Chapter 109 Pre-Draft Rulemaking: Revised PFAS MCL & CCR Rule**
- ▶ On February 20, 2025, the Public Water System Technical Assistance Center (TAC) Board adopted the following Motion:
  - ▶ Should the federal court vacate the PFAS rule, the TAC encourages the DEP to not move forward with this new federal PFAS rule (i.e., the MCL (4 ppt), trigger level (1/2 MCL) or hazard index (1.0)) and maintain the state MCL rule for PFOA (14 ppt) and PFOS (18 ppt).

# Regulatory Update – Issues

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- ▶ **Chapter 109 Pre-Draft Rulemaking: Revised PFAS MCL & CCR Rule**
  - ▶ Materials on the pre-draft are on the PWS-TAC Board website ([Public Water System Technical Assistance Center Board \(pa.gov\)](http://www.pawater.org))
  - ▶ Status: DEP will need to bring a “proposed” rulemaking to the Environmental Quality Board (EQB) – waiting....

# Legislative Update – Issues

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## ▶ Firefighting Foam Management

### ▶ **House Bill \_\_\_ (Munroe-D-Bucks)**

□ **Status:** Co-sponsor Memo, 4/9/2025

- ▶ Prohibits the manufacture, sale, distribution, and use of foam containing PFAS beginning in 2026 except in specific circumstances.
- ▶ Allow fire companies to utilize their state grant funding to mitigate the small cost of disposal of PFAS-laden foam and direct the Office of the State Fire Commissioner to work with the Department of Environmental Protection to ensure the safe handling and disposal of the prohibited foam.
- ▶ Violations of the prohibition would result in fines to benefit firefighter training.



# Legislative Update – Issues

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## ▶ Firefighting Foam Management

### ▶ Water Utility Council (WUC) Proposed Amendment

- **Prohibits** the use of a class B foam containing PFAS **without** using an ASSE International approved **backflow prevention device** installed on “apparatus equipment” by the firefighting entity. The device is inexpensive - \$150.
  
- The purpose of the amendment is to prevent a water contamination event like in McKeesport, PA, where the foam was hooked up to a hydrant and a backflow event caused the foam to enter the distribution system resulting in a “Do Not Consume” order.

# Legislative Update – Issues

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## ▶ Firefighting Foam Management

▶ The amendment would also:

- **Prohibit** a firefighting entity from **accepting** class B foam containing PFAS from an airport, individual, manufacturer, government entity, or another firefighting entity.
  
- Require the firefighting entity to **annually test** and certify the **backflow prevention device**.
  
- Require **1-hour notice** to DEP and the public water supplier when a class B foam containing PFAS is used in emergency firefighting or fire suppression operations.

# Legislative Update – Issues

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## ▶ Firefighting Foam Management

- ▶ However, Clean Water Action had **opposed** our amendment and wanted a total ban on PFAS. Last session, the committee amended the bill to phase in the ban, but the Senate did not agree to it.
- Discussion with House staff has led us to believe a floor amendment to Rep. Munroe’s bill to include the WUC language will be necessary – **stay tuned**.

# Legislative Update – Issues

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## ▶ Licensure of Plumbers

- ▶ **Senate Bill 395** (Farry-R) is an Act providing for plumber and plumbing contractors licensure; establishing the State Board of Plumbing Contractors and providing for its powers and duties.

□ **Status:** Senate Consumer Protection & Professional Licensure, 3/20/2025

# Legislative Update – Issues

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## ▶ Licensure of Plumbers

- ▶ Specifically, it provides for the powers and duties of the board to include regulating the **licensing of individuals engaged in providing plumbing services...**
- ▶ **Concern:** The definition of “plumbing services” and who may provide plumbing services.

# Legislative Update – Issues

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## ▶ Licensure of Plumbers

- ▶ **“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.**

# Legislative Update – Issues

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## ▶ Licensure of Plumbers

- ▶ 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.

# Legislative Update – Issues

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## ▶ Licensure of Plumbers

- ▶ In addition, under this legislation, “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.**”



# Legislative Update – Issues

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## ▶ Licensure of Plumbers

- ▶ Finally, under this legislation, 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.”

# Legislative Update – Issues

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## ▶ Licensure of Plumbers

- ▶ Water and wastewater systems usually don't employ any “licensed” plumbers.
- ▶ However, their trained employees or utility contractors often work on sanitary sewer and public water facilities within the ‘property line.’ It is common for a system’s curb boxes to be located within the property line, and not in a public right of way.

# Legislative Update – Issues

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## ▶ Licensure of Plumbers

- ▶ While there may or may not be an easement for those facilities, Senate Bill 395 does not exclude facilities on property that has an easement for the water or wastewater system.
- ▶ Similarly, working inside the property line would suggest our employees or utility contractors would have to be licensed plumbers to exchange domestic water meters, commercial water meters, backflow devices, advanced metering infrastructure (AMI) facilities, etc.

# Legislative Update – Issues

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## ▶ Licensure of Plumbers

- ▶ **OUTLOOK:**The WUC has been able to prevent this legislation from becoming law for many years.
- ▶ Its venue shopped between the House & Senate every 2 to 4 years.
- ▶ The WUC has sent a letter to the Senate Committee in opposition.

# Legislative Update – Issues

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- ▶ Low Income Household Water Assistance Program (LIHWAP)
  - ▶ Senator Boscola (D-Lehigh/Northampton) and Rep. Davidson (D-Dauphin) have introduced companion bills - **Senate Bill 363** (Boscola-D) and **House Bill 921** (Davidson-D).
  - ▶ **Status:**
    - SB 363 - Senate Consumer Protection & Professional Licensure, 3/3/2025
    - HB 921 – House Consumer Protection, Technology & Utilities, 3/17/2025
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# Legislative Update – Issues

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- ▶ **Low Income Household Water Assistance Program (LIHWAP)**
  - ▶ The bills create a permanent LIHWAP in Pennsylvania, building from the success of the federal LIHWAP, which provided critical relief for low-income households during the COVID-19 recovery.

# Legislative Update – Issues

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- ▶ **Low Income Household Water Assistance Program (LIHWAP)**
  - ▶ The purpose of the program is to assist eligible individuals who are water or wastewater system customers, or both, in this Commonwealth, with overdue water or wastewater system bills.

# Legislative Update – Issues

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- ▶ **Low Income Household Water Assistance Program (LIHWAP)**
  - ▶ While funding for LIHEAP (Low Income Heating and Energy Assistance Program) has been in place for more than 50 years, funding for LIHWAP (water and wastewater) was temporary and quickly exhausted with remaining needs.
  - ▶ Unfortunately, though understandably, the same customers who struggle paying heating and cooling bills also struggle paying water and wastewater bills.



# Legislative Update – Issues

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- ▶ **Low Income Household Water Assistance Program (LIHWAP)**
  - ▶ Coupled with water or wastewater system's customer assistance programs (CAP), a state LIHWAP program will help prevent utility shut offs for water and wastewater system customers.
  - ▶ **OUTLOOK:** A state appropriation in the budget will be necessary to make this a reality. The House Committee is looking to consider the bill.

# Questions?

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**Pennsylvania AWWA**

American Water Works Association

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**Erik A. Ross**

**Erik@millirongoodman.com**

**Milliron & Goodman Government Relations**

**717-232-5322**

