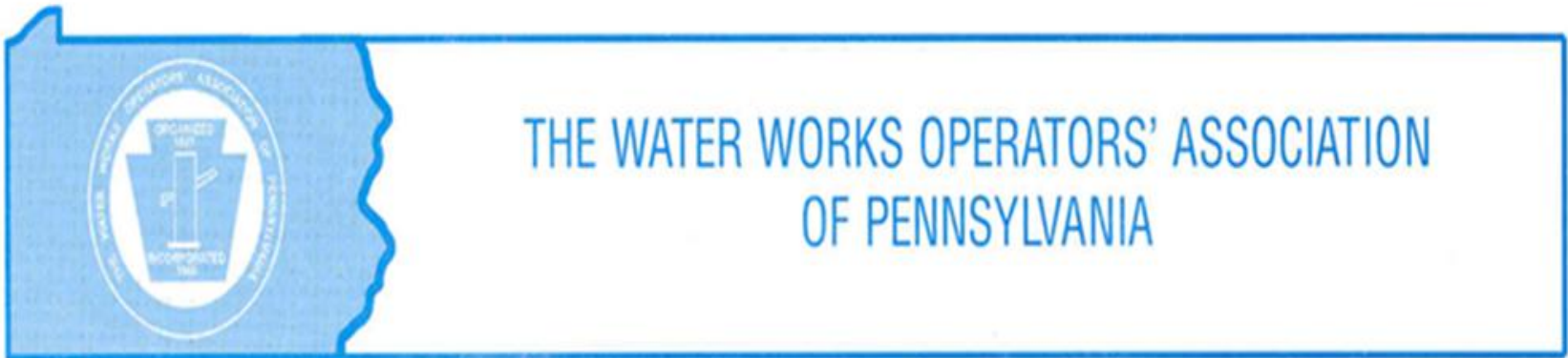


Water Works Operators' Association of Pennsylvania 97th Annual Conference

Legislative / Regulatory Update

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September 22, 2025



Political Update - General

- ▶ 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

▶ The House and Senate session schedule follows:

▶ Senate:

- ❑ Oct 20, 21, 22, 27, 28 & 29
- ❑ Nov 17, 18 & 19
- ❑ Dec 8, 9 & 10

▶ House:

- ❑ Sept 22(NV), 23(NV), 24(NV), 29 & 30
- ❑ Oct 1, 6, 7, 8, 27, 28 & 29
- ❑ Nov 17, 18 & 19
- ❑ Dec 8(NV), 9(NV), 10(NV), 15, 16 & 17

Legislative Update – State Budget

- ▶ The Legislature has a Constitutional deadline (June 30th) to adopt a balanced budget.
- ▶ FY 2024-25 Revenue Collections (Through June)
 - ▶ Fiscal year General Fund collections totaled \$46.4 billion, which was \$321 million, or 0.7 percent above estimate.
- ▶ The Governor’s proposed FY 2025-26 General Fund Budget = \$51.5 billion – nearly \$3.9 billion more than last year. (By comparison – it was **\$30 B in 2020**)

Legislative Update – State Budget

- ▶ The state would be required to use the last of its surplus (\$4.5 B) and take about \$1.6 billion out of its Rainy Day Fund as well as **enact two new taxes** to pay for the proposed budget.
- ▶ The governor said the **legalization of marijuana** for recreational use by adults is projected to bring in **\$536.5** million in revenue in the first fiscal year and a tax levied against 30,000 **skill games and VGTs** would bring **\$368.9** million into the state's general fund during its first year with another \$40 million deposited directly into the lottery fund.

Legislative Update – State Budget

- ▶ Issues being discussed/negotiated
 - ▶ Transit & transportation funding
 - ▶ Education spending including “reform and parental empowerment”
 - ▶ Medicaid
 - ▶ Curbing overall budget costs going forward
- ▶ Negotiations are slow because they are seeking comprehensive solutions – not just one-year spend numbers – on these important and complex issues.

Legislative Update – Issues

▶ Firefighting Foam Management

- ▶ House Bill 1261 (Munroe-D) amends Title 35 (Health and Safety) to regulate the use of Class B firefighting foam containing PFAS and to require manufacturers of personal protective equipment used in firefighting to affix a warning label to the product that specifies if it contains a PFAS chemical.
- **Status:** Passed the House, 202-0, 7/1/2025 – In Senate Veterans Affairs and Emergency Preparedness Committee, 7/15/2025

Legislative Update – Issues

▶ Firefighting Foam Management

- ▶ Beginning **July 1, 2026**, a manufacturer may not manufacture or knowingly sell, offer for sale, or distribute for sale or use Class B firefighting foam containing an intentionally added PFAS chemical.
- ▶ Furthermore, beginning **January 1, 2027**, class B firefighting foam containing PFAS chemicals may not be used in the Commonwealth.
- ▶ The legislation makes an exception for foam for which the inclusion of a PFAS chemical **is required by Federal law** and for exempt facilities, including 14 CFR 139.317 (relating to aircraft rescue and firefighting: equipment and agents).

Legislative Update – Issues

▶ Firefighting Foam Management

- ▶ While state and federal MCLs are important to protect our drinking water, additional protections from the use of firefighting foam, **with or without an intentionally added PFAS chemical**, are critically needed to prevent a water contamination event.
- ▶ Therefore, the Water Utility Council (WUC) has asked the Senate to consider amendments to protect drinking water systems from backflow events.

Legislative Update – Issues

▶ Firefighting Foam Management

▶ Water Utility Council (WUC) Proposed Amendment

- **Prohibits** the use of a class B foam, **with or without an intentionally added PFAS chemical**, unless there is an ASSE International approved backflow prevention device installed on apparatus equipment by the firefighting entity. Such a 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

▶ Firefighting Foam Management

▶ The amendment would also:

- Require the firefighting entity to **annually test** and certify the **backflow prevention device**.
- Require **I-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

▶ Fluoride Choice Act

- ▶ Senate Bill 849 (Keefer-R) amends the Pennsylvania Safe Drinking Water Act, providing for **prohibition on fluoride** in public water systems.
 - A supplier of water in this Commonwealth **may not** add fluoride or any fluoride-containing substance to a public water system.
 - Any supplier of water adding fluoride to a public water system on the effective date of this subsection shall **cease adding fluoride** to the public water system within 30 days of the effective date of this subsection.

Legislative Update – Issues

▶ Fluoride Choice Act

- A county, municipal authority or any other political subdivision **may not** adopt or enforce an ordinance, regulation or policy that requires or permits the adding of fluoride to a public water system.
- **Status:** Senate Environmental Resources & Energy, 6/19/2025
- Historically, decisions about fluoridation in drinking water have always been made by the utility and the respective community it serves.

Legislative Update – Issues

▶ Fluoride Choice Act

□ However, if the bill is considered, I've recommended three amendments:

(1) Providing for an exemption for water suppliers obtaining water that may be fluoridated from a system in another state;

(2) Extending the 30-day ban implementation deadline; and

(3) Align the reporting to DEP of the discontinuance of fluoridation with the compliance date in the modification permit. Additional time is needed to modify permits, phase out fluoridation, and to give utilities time to work with their communities to notify, educate and consider alternatives.

Regulatory Update – Issues

- ▶ **Notification Requirements for Unauthorized Discharges to Waters of the Commonwealth**
 - ▶ The EQB adopted this proposed rulemaking on November 12, 2024, and it was published in *Pennsylvania Bulletin* on April 5, 2025
 - ▶ Its purpose is to provide **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

- ▶ Specifically, this proposed rulemaking would incorporate a Federal list of reportable quantities (40 CFR 117.3 (relating to determination of reportable quantities)) of specific hazardous substances that, **if** discharged in a quantity **greater than or equal to** those reportable quantities, **must be immediately reported** to the Department.

Regulatory Update – Issues

- ▶ If the unauthorized discharge is not required to be reported under the Federal list, this proposed rulemaking would establish **factors that must be evaluated** and documented to determine that an unauthorized discharge does not require immediate DEP notification.
- ▶ However, a responsible person may simply report an unauthorized discharge and avoid the requirement to evaluate and document factors. It does not change which unauthorized discharge incidents require immediate DEP notification.

Regulatory Update – Issues

- ▶ Currently, Section 91.33 requires the person responsible for an unauthorized discharge to immediately notify the DEP if the discharge results in pollution, creates a danger of pollution of the waters, or would damage property.
- ▶ Under this proposed rulemaking, if you are a drinking water system that uses chloramines as a secondary disinfectant, immediate notification to DEP will be required when the drinking water system has a main break or is performing routine flushing (dead ends, etc.).

Regulatory Update – Issues

- ▶ Why? Chloramines have ammonia that **may** exceed the reportable quantity in 40 CFR 117.3 (relating to the determination of reportable quantities); **finished drinking water may be considered a “pollutant” under this proposed rulemaking.**
- ▶ On one hand the Bureau of Safe Drinking Water has required a detectable residual disinfectant throughout the distribution system and the need to install automatic flushing devices, while on the other hand the Bureau of Clean Water may consider finished drinking water using chloramines to be a “pollutant,” requiring notification to the DEP and possibly subject to a “Notice of Violation.”

Regulatory Update – Issues

- ▶ 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."**
- ▶ This begs the question, will the DEP treat chloraminated water as a "pollutant" requiring immediate notification? Moreover, how will the DEP address clear conflicts with the existing *Disinfection Requirements Rule* and which rule will take precedence?

Regulatory Update – Issues

- ▶ **Status:** IRRC issued comments on July 7, 2025
 - ▶ IRRC discussed WUC’s comments asking for clarification on the chloramine issue and others request for an exemption.
 - ▶ IRRC indicated that they will evaluate the EQB’s response in their determination of whether the rulemaking is in the public interest.
 - ▶ DEP must put together a “Comment/Response Document” and come back to the TAC and EQB with a **Final Rulemaking expected in 2nd QTR of 2026.**

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