

Legislative and Regulatory Updates Impacting the Water Industry



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We are in July, which means heat and humidity, when the need for drinking water is higher than ever. Be sure to drink plenty of water and encourage others to drink the tap water that our members have a hand in delivering to our customers.

It's also hurricane season, so please be sure to update those safety and emergency plans. In addition, if you see an operator, distribution technician, or any other utility worker, remember to say "thanks!"

We're all impacted by laws, regulations, and rules perpetuated by federal, state, and local governments. The Water Utility Council represents FSAWWA in coordinating with our utility members, partner associations, advocates, lawmakers, and regulators. Working collaboratively, we help utilities in executing their missions through public comment that

includes regulatory clarifications and ensuring that rules make sense, and information on funding to benefit our customers. At their core, water laws and regulations are enacted to protect public health and the environment without causing an unreasonable financial burden, as water is a vital resource in all its forms.

As such, I want to provide you with some state and federal regulatory highlights, as well as some from the latest legislative session. To learn full details and to keep up to date on potential legislation and proposed rules that may impact you, as well as many other member benefits, please consider joining the Water Utility Council. Information is available at www.fsaawa.org/page/WaterUtilityCouncil.

State Regulatory News

Here's an update on some Florida regulations.

Florida Department of Environmental Protection Potable Reuse Rulemaking

The Florida Department of Environmental Protection (FDEP) Phase II rulemaking effort regarding potable reuse includes revisions to Chapters 62-600, 62-610, 62-625, 60-550, and 60-555, Florida Administrative Code (F.A.C.). The FDEP initially embarked on this effort in

December 2020 and since then only two public workshops have been held: the first on Jan. 14, 2021, and the second on June 2, 2021.

Because the latest and last draft rule language published in May 2021 was dramatically different from the recommendations presented in the Potable Reuse Commission (PRC) report, FDEP has received many comments from the Florida Water Environmental Association Utility Council (FWEAUC) and other water-related organizations. These comments reiterated the need to develop and amend the drinking water rules simultaneously with the reclaimed water rules. Since then, FDEP has postponed many rulemaking workshops, including the workshop previously scheduled for May 25, 2023.

The latest buzz on the street, confirmed by FDEP on Jan. 31, 2023, and in the Notice of Rule Development for Chapter 62-565, F.A.C., is that FDEP is now taking the PRC's first recommendation listed previously and is creating a new Chapter 62-565, F.A.C., Permitting, Construction, Operation, and Maintenance of Advance Treatment Water Facilities and Associated Systems. The leadership from the utility councils is currently working with FDEP on this huge undertaking, and we hope there will be draft language and a workshop scheduled soon.

Stay tuned for further developments!

To stay abreast of any future activities, I recommend you bookmark these FDEP webpages:

- ◆ Water Reuse News and Rulemaking Information (www.floridadep.gov/water/domestic-wastewater/content/water-reuse-news-rulemaking-information)
- ◆ Water Resource Management Rules in Development (www.floridadep.gov/water/water/content/water-resource-management-rules-development)

Florida Department of Environmental Protection State Revolving Fund

The State Revolving Fund (SRF) is providing exceptions for certain SRF rules for Bipartisan Infrastructure Law funding for emerging contaminants, such as per- and polyfluoroalkyl substances (PFAS) and lead service line replacement (including for

inventory implementation). As recently as May 25, 2023, FDEP emailed the availability of the lead pipe replacement and inventory funds. It requested that interested eligible entities complete a request for inclusion by June 30, 2023, to be considered. Hopefully you were able to take part in that funding opportunity.

State Legislative News

Here's an update on some Florida legislation.

Senate and House Bills

• Florida Senate Bill 162, Water and Wastewater Facility Operators, amends the Florida Statutes for reciprocity for water and wastewater operators. There is a critical need for additional water and wastewater treatment operators in Florida, and this bill is one step to help attract operators from other states. In order to maintain the high level of quality of our state's operators, this bill was amended to note that the operators requesting reciprocity must be in good standing in their state and pass a licensure examination, and we will work with FDEP to help craft the requirements.

Another key portion of this bill is that it now explicitly states: "Water and wastewater facility personnel are essential first responders." We see this as a huge win and recognition of the importance of this aspect of our utility staff.

• House Bill 1379, Environmental Protection, has been signed into law and is effective July 1, 2023. This bill contains many amendments to the law on issues such as advanced waste treatment, onsite sewage and disposal systems, Indian River Lagoon, sanitary sewer services, basin management action plans (BMAPs), and a wastewater grant program.

• House Bill 1405, Biosolids, establishes a biosolids grant program and defines eligible projects.

• House Bill 7027, Ratification of Rule of the Department of Environmental Protection, ratifies F.A.C. rules relating to domestic wastewater facilities, which are amended to:

- Require a pipe assessment, repair, and replacement plan and an annual report.
- Include statutory requirements for a power outage contingency plan.
- Include statutory requirements for an annual report on utilities' expenditures on pollution mitigation efforts.
- Require certain domestic wastewater facilities' emergency response plans to address cybersecurity.

Federal Regulatory News

There's been a lot of activity at the federal level, too.

The U.S. Environmental Protection Agency (EPA) was in a "spring fever" of activity as we headed into summer 2023.

The agency has accomplished the following:

- Released Fiscal Year 2023 Allotments for the Drinking Water State Revolving Fund based on the Seventh Drinking Water Infrastructure Needs Survey and Assessment. These allotments directly affect FDEP's SRF activities. Interestingly, Florida ranked first in the country for lead pipes in the assessment as reported by several news outlets, which provided a larger share of the SRF allotment from EPA.
- FSAWWA and utility members know that Florida should not be ranked first in the country for lead service lines, and likely not even ranked in the top 30. Most of Florida's drinking water infrastructure was installed after lead service lines were no longer allowed, and many utilities installed galvanized steel or copper lines, even when lead service lines were permitted.
- Released the long-awaited proposed PFAS National Primary Drinking Water Regulation for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) at 4 parts per trillion, but also released an unexpected hazard index for four other PFAS compounds.
 - The Water Utility Council is currently encouraging utilities to determine what technologies, costs, and timelines are needed to meet the new regulations by December 2026 (expected compliance date).
 - The Water Utility Council, in close coordination with AWWA's Government Affairs Office in Washington, D.C., developed comments and submitted them to EPA by the due date of May 30, 2023, for the federal docket.
- Issued an Advance Notice of Proposed Rulemaking (ANPRM) for input regarding potential future hazardous substance designations of seven PFAS compounds

beyond the proposed rule for PFOS and PFOA under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund.

- The Water Utility Council submitted a comment letter to the EPA federal docket similar to a November 2022 comment letter submitted for the proposed PFOA and PFOS CERCLA rule.

• Proposed Consumer Confidence Report Rule revisions, with comments due on May 22, 2023, at the federal docket. The Water Utility Council submitted comments after working closely with AWWA's Government Affairs Office. The EPA expects to release the final rule by March 2024 and compliance begins in 2025. (We recommend you educate yourself on the proposed changes to be ready for this fast turnaround time.)

• Mandated that state agencies use their sanitary survey or propose an alternate process to address public water systems' cybersecurity systems and released a guidance document.

- Three states subsequently sued EPA over the "rule" and AWWA supported this action and recently joined the lawsuit.

Stay tuned for more updates.

In congressional news, a CERCLA PFAS exemption bill now exists. Sen. Cynthia Lummis (R-WY) is sponsoring S.1430 - Water Systems PFAS Liability Protection Act with several cosponsors. The water sector, along with the National League of Cities, National Association of Counties, and United States Conference of Mayors, has advocated for an exemption for EPA's proposed designation of PFOA and PFOS as hazardous under CERCLA for the last few years and this is a hopeful start for the 118th Congress.

The Water Utility Council will be coordinating a communication plan to reach our Florida congressional delegation as this evolves.

Lead Issues

A recently published article summarizing an EPA report stated that Florida has the most

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