

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 597 Session of 2021

INTRODUCED BY STEFANO, MENSCH, SCAVELLO AND VOGEL, APRIL 21, 2021

AS AMENDED ON THIRD CONSIDERATION, APRIL 11, 2022

AN ACT

1 ~~Amending Title 66 (Public Utilities)~~ AMENDING TITLE 27 <--
2 (ENVIRONMENTAL RESOURCES) of the Pennsylvania Consolidated
3 Statutes, providing for water and wastewater asset management
4 plans.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title ~~66~~ 27 of the Pennsylvania Consolidated <--
8 Statutes is amended by adding a chapter to read:

9 CHAPTER ~~37~~ 67 <--

10 WATER AND WASTEWATER ASSET MANAGEMENT PLANS

11 Sec.

12 ~~3701~~ 6701. Scope of chapter. <--

13 ~~3702~~ 6702. Definitions. <--

14 ~~3703~~ 6703. Asset management plans. <--

15 ~~3704~~ 6704. Critical valve inspections and fire hydrant
16 inspections by water system operator. <--

17 ~~3705~~ 6705. Water meters. <--

18 ~~3706~~ 6706. Development of cybersecurity system. <--

19 ~~3707~~ 6707. Annual information to customers. <--

1 ~~3708.~~ Regulations. <--

2 ~~3709~~ 6708. Contingency for public funding. <--

3 ~~3710~~ 6709. Enforcement. <--

4 ~~3711.~~ Commission 6710. DEPARTMENT costs. <--

5 6711. REGULATIONS. <--

6 ~~§ 3701~~ 6701. Scope of chapter. <--

7 This chapter relates to water and wastewater asset management
8 plans.

9 ~~§ 3702~~ 6702. Definitions. <--

10 The following words and phrases when used in this chapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Community wastewater system." A publicly or privately owned
14 community sewage system which serves at least 501 service
15 connections used by year-round residents that uses a method of
16 sewage collection, conveyance treatment or disposal other than
17 renovation in a soil absorption area or retention in a retaining
18 tank. The term does not include a municipally owned and operated
19 sewage system that owns and operates a water system which has
20 applied to the ~~commission~~ PENNSYLVANIA PUBLIC UTILITY COMMISSION <--
21 for a voluntary change in rates under ~~section~~ 66 PA.C.S. § <--
22 1308(d) (relating to voluntary changes in rates), within five
23 years of the effective date of this section.

24 "Community water system." A public water system which serves
25 at least 501 service connections used by year-round residents.
26 The term does not include an entity which has applied to the
27 ~~commission~~ PENNSYLVANIA PUBLIC UTILITY COMMISSION for a <--
28 voluntary change in rates under ~~section~~ 66 PA.C.S. § 1308(d), <--
29 within five years of the effective date of this section.

30 "Critical valve." A valve that is identified as critical by

1 a water system operator, including a valve that is:

2 (1) located at a hospital or nursing home;

3 (2) located at an interconnection with a purveyor;

4 (3) a regulator control valve;

5 (4) a backflow valve of any type, protecting against
6 either a high or low hazard; or

7 (5) a valve in a facility, such as a treatment plant,
8 pump station, storage tank or well, that is needed to isolate
9 or operate the facility.

10 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF <--
11 THE COMMONWEALTH.

12 "Lead service line." A water service pipe made of lead that
13 connects a water main to a building inlet and a lead pigtail,
14 gooseneck or other fitting that is connected to the water
15 service pipe.

16 "Wastewater system operator." A person or entity that owns
17 or operates a community wastewater system.

18 "Water system operator." A person or entity that owns or
19 operates a community water system.

20 § 3703 6703. Asset management plans. <--

21 (a) Community water system asset management plan.--Beginning
22 no later than 12 18 months after the effective date of this <--

23 section, a water system operator shall annually submit an asset
24 management plan, pursuant to a schedule established by the
25 ~~commission~~ DEPARTMENT and every three years thereafter to the <--

26 ~~commission~~ DEPARTMENT for review and approval. The asset <--
27 management plan shall be designed to inspect, maintain, repair

28 and renew the water system operator's water infrastructure
29 consistent with Federal and State laws. The community water
30 system asset management plan shall include at a minimum:

1 (1) A water main renewal program designed to achieve a
2 stated replacement cycle determined by a detailed engineering
3 analysis of the asset material of construction, condition and
4 estimated service life remaining of the water mains serving
5 the community water system and the failure or low conveyance
6 capability for fire flow.

7 (2) A water supply and treatment program designed to
8 inspect, maintain, repair, renew and upgrade wells, intakes,
9 pumps and treatment facilities.

10 (3) An initial schedule for the planned repair and
11 replacement of water system infrastructure over a specified
12 time period.

13 (4) A general description of the location of the water
14 system infrastructure, including a map.

15 (5) A reasonable estimate of the quantity of water
16 system infrastructure to be improved in the coming year and a
17 description of the water system infrastructure repaired,
18 improved or replaced and the associated costs for the
19 immediately preceding 12-month period.

20 (6) Projected annual expenditures to implement the plan,
21 the amount of money dedicated on an annual basis to address
22 the highest priority projects and measures taken to ensure
23 that the plan is cost effective.

24 (7) The setting of rates that are sufficient to sustain
25 the current operation of the community water system and the
26 financing for all planned and reasonably anticipated
27 infrastructure improvements.

28 (8) The specific criteria used by the water system
29 operator to identify critical valves and their current
30 condition and fire hydrants and a map identifying each one in

1 accordance with section 3704 6704 (relating to critical valve <--
2 inspections and fire hydrant inspections by water system
3 operator).

4 (9) A report of water meter testing in accordance with
5 section 3705 6705 (relating to water meters). <--

6 (10) A lead service line removal and replacement plan
7 which includes the removal and replacement of customer-owned
8 and water system operator-owned lines, within or connected to
9 the operator's community water system-, IN ACCORDANCE WITH <--
10 THE ENVIRONMENTAL PROTECTION AGENCY'S LEAD AND COPPER RULE,
11 THE DEPARTMENT AND THE PENNSYLVANIA PUBLIC UTILITY
12 COMMISSION, AS APPROPRIATE.

13 (11) A cross-connection control and backflow prevention
14 plan.

15 (12) Certification of a cybersecurity plan developed in
16 accordance with section 3706 6706 (relating to development of <--
17 cybersecurity system).

18 (b) Community wastewater system asset management plan.--
19 Beginning no later than ~~12~~ 18 months after the effective date of <--
20 this section, a wastewater system operator shall submit an asset
21 management plan pursuant to a schedule established by the
22 ~~commission~~ DEPARTMENT, and every three years thereafter, to the <--
23 ~~commission~~ DEPARTMENT for review and approval. The asset <--
24 management plan shall be designed to inspect, maintain, repair
25 and renew its wastewater infrastructure consistent with Federal
26 and State laws. The community wastewater system asset management
27 plan shall include at a minimum:

28 (1) A wastewater main renewal program designed to
29 achieve a stated replacement or rehabilitation cycle by a
30 detailed engineering analysis of the asset material of

1 construction, the condition and type of main-to-service
2 connection and estimated service life remaining of the
3 wastewater mains serving the community wastewater system.

4 (2) A sewer inspection program designed to perform an
5 assessment of the collection system to establish the
6 collections system's condition.

7 (3) An initial schedule for the planned repair and
8 replacement of wastewater infrastructure over a specified
9 time period.

10 (4) A general description of the location of the
11 wastewater infrastructure, including a map.

12 (5) A reasonable estimate of the quantity of wastewater
13 infrastructure to be improved in the coming year and a
14 description of the wastewater infrastructure repaired,
15 improved or replaced and the associated costs for the
16 immediately preceding 12 month period.

17 (6) Projected annual expenditures to implement the plan,
18 the amount of money dedicated on an annual basis to address
19 the highest priority projects and measures taken to ensure
20 that the plan is cost effective.

21 (7) The setting of rates that are sufficient to sustain
22 the current operation of the community wastewater system and
23 the financing for each planned and reasonably anticipated
24 infrastructure improvement.

25 ~~(8) A cross connection control and backflow prevention~~ <--
26 ~~plan.~~

27 ~~(9) (8) Certification of a cybersecurity plan developed~~ <--
28 ~~in accordance with section 3706 6706.~~ <--

29 (c) Schedule.--Plans submitted under this section must
30 include a schedule under which the water system operator or

1 wastewater system operator will achieve goals of the asset
2 management plans.

3 (D) REVIEW OF PLANS.--A PLAN REQUIRED UNDER THIS SECTION <--
4 SHALL BE DUE AND UPDATED ACCORDING TO A SCHEDULE ESTABLISHED BY
5 THE DEPARTMENT AND SHALL BE SUBMITTED TO AND REVIEWED AND
6 SUBJECT TO ENFORCEMENT BY THE DEPARTMENT.

7 § 3704 6704. Critical valve inspections and fire hydrant <--
8 inspections by water system operator.

9 (a) Critical valve inspections.--A water system operator
10 shall inspect each critical valve in the water system operator's
11 community water system to determine the accessibility of each
12 critical valve for operational purposes and the critical valve's
13 operating condition. A water system operator shall inspect each
14 critical valve consistent with its asset management plan, no
15 less than every three years and at any time the water system
16 operator installs, repairs or relocates a critical valve. At a
17 minimum, a critical valve inspection must:

18 (1) follow the recommendation of the valve manufacturer
19 to constitute a credible test or the number of turns which
20 constitutes 15% of the total number of turns necessary to
21 completely open or completely close the valve; and

22 (2) comply with any other criteria required under rules
23 and regulations.

24 (b) Remedy.--A water system operator shall remedy a critical
25 valve found to be nonoperational and include the remediation in
26 its ~~assessment~~ ASSET management plan. <--

27 (c) Fire hydrants.--A water system operator shall annually
28 inspect at least 33% of the fire hydrants in the water system
29 operator's system in a manner that each fire hydrant is
30 inspected over the course of four years in order to determine

1 each fire hydrant's working condition. The water system operator
2 shall formulate and implement a plan for flushing fire hydrants
3 and at dead ends of water mains as water quality needs dictate.
4 The plan for flushing may be combined with the required periodic
5 testing of fire hydrants.

6 (d) Recordkeeping and marking of fire hydrants.--

7 (1) A water system operator shall keep a record of each
8 inspection, test and flushing conducted under this section
9 for a period of at least six years.

10 (2) A water system operator that owns, solely or
11 jointly, a fire hydrant shall clearly mark easily
12 identifiable ownership information, including a number by
13 which the location of the hydrant may be determine, on the
14 water system operator's records.

15 (e) GPS identification.--A water system operator shall
16 identify the geographic location of each fire hydrant in the
17 water system operator's public water system using a global
18 positioning system based on satellite or other location
19 technology.

20 § 3705 6705. Water meters. <--

21 ~~(a) Allowable error. A water meter that has an error in~~ <--
22 ~~registration of more than 2% may not be placed in service and a~~
23 ~~water meter that has an error in registration of more than 4%~~
24 ~~may not remain in service, if water is passing through the meter~~
25 ~~at approximately the following rates of flow:~~

<u>Meter size (inches)</u>	<u>Gallons per minute</u>
<u>5/8</u>	<u>6</u>
<u>3/4</u>	<u>10</u>
<u>1</u>	<u>20</u>
<u>1 1/2</u>	<u>30</u>

1	<u>2</u>	<u>50</u>
2	<u>3</u>	<u>90</u>
3	<u>4</u>	<u>180</u>
4	<u>6</u>	<u>300</u>

5 ~~(b) Prohibition.~~

6 ~~(1) A water system operator furnishing metered water~~
7 ~~service may not allow a water meter to remain in service~~
8 ~~without testing the meter for accuracy and readjusting if the~~
9 ~~meter is found to be incorrect beyond the limits established~~
10 ~~under subsection (a) for a water meter:~~

11 ~~(i) of one inch or less to remain in service for a~~
12 ~~period longer than 20 years;~~

13 ~~(ii) of more than one inch to remain in service for~~
14 ~~a period longer than eight years.~~

15 ~~(2) At a customer's request, the water system operator~~
16 ~~shall perform a meter test without charge if a meter has been~~
17 ~~in service and has not been tested for a period greater than~~
18 ~~that specified as follows:~~

19	<u>Meter size (Inches)</u>	<u>Years</u>
20	<u>5/8</u>	<u>10</u>
21	<u>3/4</u>	<u>8</u>
22	<u>1</u>	<u>6</u>
23	<u>More than 1</u>	<u>4</u>

24 ~~(A) ALLOWABLE ERROR.--A WATER PROVIDER MUST SET AN ALLOWABLE <--~~
25 ~~ERROR RATE AND DEVELOP A TESTING PROTOCOL AS PART OF AN ASSET~~
26 ~~MANAGEMENT PLAN.~~

27 ~~(c) (B) Meter test records.-- <--~~

28 ~~(1) If a water meter is tested, the original test record~~
29 ~~shall be kept indicating:~~

30 ~~(i) the information necessary for identifying the~~

1 meter;
2 (ii) the reason for making the test;
3 (iii) the reading of the meter before being
4 disturbed; and
5 (iv) the accuracy of the meter together with data
6 taken at the time of the test.

7 (2) The record shall be sufficiently complete to permit
8 the convenient checking of the methods employed and the
9 calculations made.

10 (3) In addition to the records under paragraph (1), a
11 record shall be kept, indicating:

12 (i) the date of meter purchase;
13 (ii) the name of the manufacturer;
14 (iii) the meter's size, identification, various
15 places of installation with dates of installation and
16 removal; and
17 (iv) the dates and general results of each test.

18 ~~(d)~~ (C) Installation and removal of meters.--

<--

19 (1) Within 60 days of installation, a water meter shall
20 be inspected by the water system operator for mechanical
21 condition and suitability of location. For a new meter or a
22 meter reconditioned by a manufacturer, the test results of
23 the manufacturer may be accepted as the installation test if
24 the water system operator has verified the manufacturer's
25 reported test results by testing the greater of 10% or 10
26 meters of a shipment of meters. For an emergency, a meter not
27 meeting the requirements of this section may be installed
28 temporarily.

29 (2) A water meter that is removed from service with the
30 intent for the water meter to return to service shall be

1 tested within 30 days for accuracy to complete the meter's
2 test history. When a water meter is temporarily removed from
3 service, the water meter shall be properly sealed to secure
4 registers and measuring devices until the water meter can be
5 properly tested for accuracy.

6 § 3706 6706. Development of cybersecurity system. <--

7 A water system and a wastewater system operator WITH CYBER <--
8 INFRASTRUCTURE shall develop a cybersecurity program that:

9 (1) is developed by an accredited cybersecurity
10 professional;

11 (2) implements organizational accountability and
12 responsibilities for cyber risk management activities, <--
13 INCLUDING ANY DATA ON A NETWORK; and

14 (3) establishes policies, plans, processes and
15 procedures for identifying, reporting and mitigating cyber
16 risk to the water system's and wastewater system operator's
17 community water system or community wastewater system.

18 § 3707 6707. Annual information to customers. <--

19 A water system operator shall annually inform the operator's
20 customers of compliance with this chapter in a manner
21 established by the commission DEPARTMENT. <--

22 § 3708. Regulations. <--

23 (a) Temporary. The commission shall promulgate temporary
24 regulations as necessary to implement this chapter. The
25 temporary regulations shall not be subject to the following:

26 (1) Sections 201, 202, 203, 204 and 205 of the act of
27 July 31, 1968 (P.L.769, No.240), referred to as the
28 Commonwealth Documents Law.

29 (2) Sections 204(b) and 301(10) of the act of October
30 15, 1980 (P.L.950, No.164), known as the Commonwealth

1 Attorneys Act.

2 ~~(3) The act of June 25, 1982 (P.L.633, No.181), known as~~
3 ~~the Regulatory Review Act.~~

4 ~~(b) Expiration. The temporary regulations promulgated under~~
5 ~~subsection (a) shall expire upon the promulgation of final form~~
6 ~~regulations or two years following the effective date of this~~
7 ~~section, whichever is earlier.~~

8 ~~§ 3709~~ 6708. Contingency for public funding. <--

9 Before a water or wastewater system operator may receive a
10 subsidized loan or other financial assistance from the
11 Commonwealth, the water or wastewater system operator must
12 demonstrate that the operator has developed or is in the process
13 of developing an asset management program required under this
14 chapter.

15 ~~§ 3710~~ 6709. Enforcement. <--

16 ~~A water system operator or waste water system operator that~~ <--
17 ~~fails to file an asset management plan or comply with a~~
18 ~~commission approved plan shall, notwithstanding any other~~
19 ~~provision of law, be deemed a public utility and regulated as a~~
20 ~~public utility. FOR A WATER SYSTEM OPERATOR OR WASTEWATER SYSTEM~~ <--
21 ~~OPERATOR SPECIFIED UNDER SECTION 6703(D) (RELATING TO ASSET~~
22 ~~MANAGEMENT PLANS), THE DEPARTMENT SHALL ISSUE AN ORDER, ENTER~~
23 ~~INTO A CONSENT ORDER, ASSESS A CIVIL PENALTY OR TAKE ANY OTHER~~
24 ~~ACTION NECESSARY TO ENFORCE COMPLIANCE WITH THIS CHAPTER THAT~~
25 ~~THE DEPARTMENT IS AUTHORIZED TO TAKE FOR VIOLATIONS UNDER ANY OF~~
26 ~~THE FOLLOWING:~~

27 ~~(1) THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN~~
28 ~~AS THE CLEAN STREAMS LAW.~~

29 ~~(2) THE ACT OF JANUARY 24, 1966 (1965 P.L.1535, NO.537),~~
30 ~~KNOWN AS THE PENNSYLVANIA SEWAGE FACILITIES ACT.~~

1 (2) The remainder of this act shall take effect in six
2 months.