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

Amending Title 66 (Public Utilities) AMENDING TITLE 27
(ENVIRONMENTAL RESOURCES) of the Pennsylvania Consolidated
Statutes, providing for water and wastewater asset management
plans.

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

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

CHAPTER 37 67

WATER AND WASTEWATER ASSET MANAGEMENT PLANS

Sec.

3701 6701. Scope of chapter.

3702 6702. Definitions.

3703 6703. Asset management plans.

3704 6704. Critical valve inspections and fire hydrant
inspections by water system operator.

3705 6705. Water meters.

3706 6706. Development of cybersecurity system.

3707 6707. Annual information to customers.
This chapter relates to water and wastewater asset management plans.

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

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

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

"Critical valve." A valve that is identified as critical by...
a water system operator, including a valve that is:

1. located at a hospital or nursing home;
2. located at an interconnection with a purveyor;
3. a regulator control valve;
4. a backflow valve of any type, protecting against
   either a high or low hazard; or
5. a valve in a facility, such as a treatment plant,
   pump station, storage tank or well, that is needed to isolate
   or operate the facility.

"DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF
THE COMMONWEALTH.

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

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

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

§ 3703 6703. Asset management plans.
(a) Community water system asset management plan.--Beginning
no later than 12 18 months after the effective date of this
section, a water system operator shall annually submit an asset
management plan, pursuant to a schedule established by the
commission DEPARTMENT and every three years thereafter to the
commission DEPARTMENT for review and approval. The asset
management plan shall be designed to inspect, maintain, repair
and renew the water system operator's water infrastructure
consistent with Federal and State laws. The community water
system asset management plan shall include at a minimum:
(1) A water main renewal program designed to achieve a stated replacement cycle determined by a detailed engineering analysis of the asset material of construction, condition and estimated service life remaining of the water mains serving the community water system and the failure or low conveyance capability for fire flow.

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

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

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

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

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

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

(8) The specific criteria used by the water system operator to identify critical valves and their current condition and fire hydrants and a map identifying each one in
accordance with section 3704 6704 (relating to critical valve inspections and fire hydrant inspections by water system operator).

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

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

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

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

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

(1) A wastewater main renewal program designed to achieve a stated replacement or rehabilitation cycle by a detailed engineering analysis of the asset material of...
construction, the condition and type of main-to-service
connection and estimated service life remaining of the
wastewater mains serving the community wastewater system.

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

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

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

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

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

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

(8) A cross-connection control and backflow prevention plan.

(9) Certification of a cybersecurity plan developed in accordance with section 3706 6706.

(c) Schedule.--Plans submitted under this section must
wastewater system operator will achieve goals of the asset management plans.

(D) REVIEW OF PLANS.--A PLAN REQUIRED UNDER THIS SECTION shall be due and updated according to a schedule established by the department and shall be submitted to and reviewed and subject to enforcement by the department.

§ 3704. Critical valve inspections and fire hydrant inspections by water system operator.

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

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

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

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

(c) Fire hydrants.--A water system operator shall annually inspect at least 33% of the fire hydrants in the water system operator's system in a manner that each fire hydrant is inspected over the course of four years in order to determine...
each fire hydrant's working condition. The water system operator shall formulate and implement a plan for flushing fire hydrants and at dead ends of water mains as water quality needs dictate. The plan for flushing may be combined with the required periodic testing of fire hydrants.

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

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

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

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

§ 3705. Water meters.

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

<table>
<thead>
<tr>
<th>Meter size (inches)</th>
<th>Gallons per minute</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8</td>
<td>6</td>
</tr>
<tr>
<td>3/4</td>
<td>10</td>
</tr>
<tr>
<td>1</td>
<td>20</td>
</tr>
<tr>
<td>1 1/2</td>
<td>30</td>
</tr>
</tbody>
</table>

20210SB0597PN1579 - 8 -
(b) Prohibition.

(1) A water system operator furnishing metered water service may not allow a water meter to remain in service without testing the meter for accuracy and readjusting if the meter is found to be incorrect beyond the limits established under subsection (a) for a water meter:
   (i) of one inch or less to remain in service for a period longer than 20 years;
   (ii) of more than one inch to remain in service for a period longer than eight years.

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

<table>
<thead>
<tr>
<th>Meter size (Inches)</th>
<th>Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8</td>
<td>10</td>
</tr>
<tr>
<td>3/4</td>
<td>8</td>
</tr>
<tr>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>More than 1</td>
<td>4</td>
</tr>
</tbody>
</table>

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

(c) (B) Meter test records.--

(1) If a water meter is tested, the original test record shall be kept indicating:
   (i) the information necessary for identifying the
meter;

(ii) the reason for making the test;

(iii) the reading of the meter before being

  disturbed; and

(iv) the accuracy of the meter together with data
  taken at the time of the test.

(2) The record shall be sufficiently complete to permit

  the convenient checking of the methods employed and the
  calculations made.

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

  (i) the date of meter purchase;

  (ii) the name of the manufacturer;

  (iii) the meter's size, identification, various
  places of installation with dates of installation and
  removal; and

  (iv) the dates and general results of each test.

(C) Installation and removal of meters.--

(1) Within 60 days of installation, a water meter shall

  be inspected by the water system operator for mechanical
  condition and suitability of location. For a new meter or a
  meter reconditioned by a manufacturer, the test results of
  the manufacturer may be accepted as the installation test if
  the water system operator has verified the manufacturer's
  reported test results by testing the greater of 10% or 10
  meters of a shipment of meters. For an emergency, a meter not
  meeting the requirements of this section may be installed
  temporarily.

(2) A water meter that is removed from service with the

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

§ 3706. Development of cybersecurity system.
A water system and a wastewater system operator WITH CYBER
INFRASTRUCTURE shall develop a cybersecurity program that:

(1) is developed by an accredited cybersecurity
professional;

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

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

§ 3707. Annual information to customers.
A water system operator shall annually inform the operator's
customers of compliance with this chapter in a manner
established by the commission DEPARTMENT.

§ 3708. Regulations.
(a) Temporary. The commission shall promulgate temporary
regulations as necessary to implement this chapter. The
temporary regulations shall not be subject to the following:

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

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

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

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

§ 3709 6708. Contingency for public funding.

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

§ 3710 6709. Enforcement.

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

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

(2) THE ACT OF JANUARY 24, 1966 (1965 P.L.1535, NO.537),
KNOWN AS THE PENNSYLVANIA SEWAGE FACILITIES ACT.
§ 3711. Commission DEPARTMENT costs.

The program costs for commission DEPARTMENT implementation and enforcement of this chapter shall be included in the commission's DEPARTMENT'S proposed budget and shall be assessed upon a community water system operator or owner and a community wastewater system operator or owner in accordance with section 510 (relating to assessment for regulatory expenses upon public utilities). For purposes of section 510, the definition of "public utility" shall include a community water system operator or owner or community wastewater system operator or owner required to file under this section and not subject to section 510 assessments. For the purposes of section 510 assessments, community water systems and community wastewater systems may be grouped with other public utilities furnishing the same kind of service. A community water system operator or owner and a community wastewater system operator or owner shall report annually to the commission DEPARTMENT the gross intrastate operating revenues for the preceding calendar year.

§ 6711. REGULATIONS.

THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT AND ADMINISTER THIS CHAPTER.

Section 2. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

   (i) This section.

The remainder of this act shall take effect in six months.