Staff Operations Item 4

ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

DATE: October 6, 2025

TO: **Jennifer Hibit, Secretary to the Authority**

FROM: **Sabrina A. Figler, Director of Water Quality**

SUBJECT: **NYSAWWA WATER UTILITY COUNCIL FALL 2025 MEETING SYNOPSIS**

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This memo is to be informative of recent regulatory and compliance issues impacting New York State water utilities. Most of the challenges facing utilities are based upon recent EPA regulations and deadlines.

The NYSAWWA Water Utility Council (WUC) Fall Meeting, held September 17, 2025, addressed many of these issues. In attendance from ECWA (remotely) were Jerome Schad, Chair, Board of Commissioners, Ryan McKernan, Analytical Chemist, and me, Sabrina Figler, Director of Water Quality.

Kristine Wheeler, Director of Bureau of Water Supply Protection, NYSDOH, and a representative from NYSDEC discussed state-wide issues including PFAS regulation, LCRI deadlines, and phosphorus issues and concerns.

There are EPA guidance quality concerns due to EPA high staff turnover and inexperienced personnel providing conflicting interpretations. At the NYSDEC, the Commissioner, General Counsel, Executive Deputy Commissioner, Chief of Staff and all three of the Environmental Quality Deputy Commissioners for air, water and remediation spills and mineral resource leadership have all changed over. Most of them have had some connections to the agency or the state, but they're new. There is not currently a new deputy commissioner for water resources; however, there are rumors that this could happen soon.

Regulatory Environment and Compliance Challenges

PFAS Proposed Regulation

Jennifer Ingrao, NYSAWWA Executive Director, helped compose a letter to EPA regarding treatment protocol for PFOA and PFOS specifically, to effectively address other PFAS compounds, to simplify the compliance approach, is not a prudent means to regulate this class of compounds. State data show that almost all PFAS violations in New York, 97%, happen in the smallest water systems, those serving fewer than 3,300 people. Of the 156 systems that have received violations, most are exceedingly small, serving under five hundred people, or small, serving between 500 and 3,300, and they often have limited staff and funding. When the EPA looked at lowering the PFAS limit from ten parts per trillion (ppt) to four ppt, around four hundred systems in New York were identified as being affected—and 83 percent of them were small systems. This shows that the toughest challenges fall on New York's smallest water suppliers, the ones with the least resources to meet these new requirements.

NYSAWWA supports the EPA's recent decision to extend the federal compliance deadline to 2031. Extending the timeline is not about delaying public health protections, it is an acknowledgment of the scientific and technical challenges that remain unresolved. Establishing enforceable standards before proven, scalable treatment exists for all regulated PFAS could divert limited resources to ineffective solutions, place unsustainable financial strain on small utilities and their ratepayers and undermine public confidence if compliance deadlines are impossible to meet. The extension provides the time needed to advance research, and scale proven technologies. The path forward is about ensuring strong standards that truly protect public health, standards that are achievable with proven science, technology, and funding.

Lead and Copper Rule Implementation (LCRI) presents significant operational challenges with 2027 compliance deadline approaching

The NYSDOH acknowledges insufficient readiness for two-year implementation timeline despite rule defense.

Our Monitoring plan accuracy is critical – our service line inventory must match sampling locations to avoid immediate regulatory scrutiny.

Orthophosphate optimization flexibility exists through range-setting capability, allowing consideration of downstream impacts on wastewater treatment.

School and childcare lead testing requirements create complex multi-agency coordination needs. NYSDOH is not able fully invest time in this aspect of the LCRI, as other aspects of the Rule are of priority now. There has been no mention by EPA of NYSDOH achieving primacy over school

and daycare communication, sampling, testing, and reporting. The following points were discussed during the meeting:

- Mapping tool development is underway with Office of Child and Family Services (OCFS) to identify facilities within water system service areas
- Communication challenges anticipated between 5-10 ppb action levels for schools (previously set by NYS) versus 10 ppb LCRI action levels
- Potential regulatory conflict where schools may direct water utilities on sampling locations and frequency (because of current regulations in place for public schools)
- Staffing constraints limit ability to expand existing the public-school program to include private schools and daycares

Technical and Operational Considerations

Corrosion control optimization presents a complex balance between water quality and wastewater treatment impacts. We have simultaneous compliance challenges between drinking water orthophosphate requirements and wastewater nutrient limits. Range-setting flexibility allows consideration of downstream phosphorus discharge limitations. There is an issue about adding orthophosphate that will have to be removed downstream and its impact on SPDES permits for those water providers who did not remove all their lead lines.

NYSDOH is working on re-optimization capability for systems completing lead service line removal programs.

The NYSDOH monitoring of orthophosphate requires lot of implementations in terms of the monitoring requirements for industrial and municipal discharges. The DOH has a proposal now to put into several SPEDES permits, short term monitoring based on DOH priorities or permits, that they're opening and doing a full review on. The monitoring includes provisions to start minimization program if a discharger is at a significant level.

If DOH finalizes this proposal, they would start to apply a phosphorus limitation in some fashion to treated water, depending upon numerous factors that could come in in terms of the discharge, the water body, and the characteristics of the water body. So again, that would be prioritizing.

Areas that look like they have a phosphorus issue would be the first ones the DOH would start applying some type of limitation within a permits. Kristine Wheeler sees this as positive. If you're a water supplier and the DOH is trying to protect your water source, DOH is going to be addressing some of these phosphorus direct dischargers.

Usually when the DOH implements a Total Maximum Discharge Limit (TMDL), when the DOH applies limits within the SPDES permits, in this case, the DOH is going to have the ability to set a schedule of compliance within their SPIES permit. So, this limitation will be proposed and worked

through the permitting process. Then there will be about five years from when the permit is issued to comply with the limit. It’s important to get the standards or the guidance values done because it's still going to take a while to address this. The DOH does have provisions in place. DOH does have funding through WQIP wastewater sector as well as potentially EFC, to fund some of the actions to control these for municipal dischargers.

At the treatment end, DOH recognizes to really remove nutrients, we are often adding something that is a problem for another limit within a SPEDS permit. That is something the DOH says they are used to dealing with. It's not easy, but it is something that frequently comes up in engineering planning and in the SPEDEs process. The DOH thinks the term is simultaneous compliance.

The approach of looking at small water bodies, small watersheds, is great because there's a big benefit to that. The DOH says it's incredibly challenging when you're talking about a watershed within the Great Lakes itself, because it’s a multinational issue.