Legislative Forum

LIWC.org

"Dedicated to a Pure and Plentiful Water Supply"

Patrick Halpin

Chairman,

Suffolk County Water Authority

Ty Fuller

Chairman,
Long Island Water Conference

Lead Hydrogeologist & Director of Strategic Initiatives,
Suffolk County Water Authority

Thank You For Your Continued Support

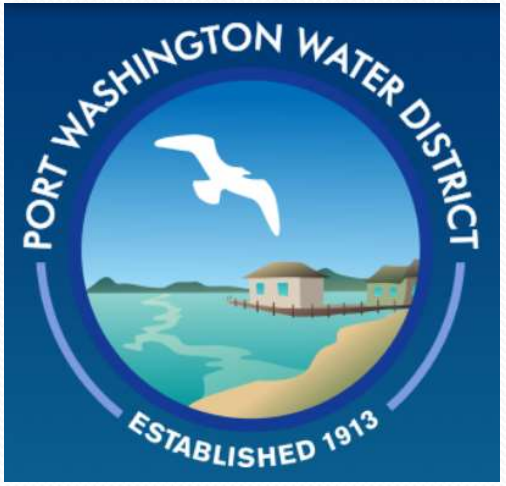
- Thank you to Governor Cuomo and the State Legislature for committing funding to help defray the costs of new water treatment technologies to combat emerging contaminants.

- The LIWC also acknowledges the efforts of the Nassau and Suffolk county legislatures for their continued support of the Long Island Commission for Aquifer Protection (LICAP) and commitment to bi-county cooperation for aquifer protection and management.

Paul Granger

Member,
NYS Drinking Water Quality Council

Superintendent,
Port Washington Water District



NYS Drinking Water Quality Council

- The Drinking Water Quality Council was established by New York State Public Health Law § 1113 to provide recommendations to the New York State Department of Health on emerging contaminants in drinking water.

- Designed to maintain and improve the quality of New York's drinking water supplies and infrastructure, protect public health from threats posed by emerging contaminants, and address some of the most technically challenging aspects of environmental health and drinking water regulation.

NYS Drinking Water Quality Council

- 12 member council: 8 members selected by Governor, 4 selected by the NYS Legislature.
- First meeting held October 2017 at Stony Brook University. Five meetings held to date across NYS.
- Council's first task was to set MCLs for PFOS/PFOA and 1,4-dioxane.
- On Dec 18, 2018, the council recommended MCL of **10 parts per trillion (ppt) for PFOA, 10 ppt for PFOS, and 1 part per billion (ppb) for 1,4-dioxane.**

Regulatory Process & MCL Adoption

- Council recommendations will now be considered by the Commissioner of Health, who has authority to either accept the recommended MCLs or to propose alternate MCLs.

- Publication is followed by a 60-day public comment period.

- The proposed regulation will either be revised or submitted for adoption by the Public Health and Health Planning Council, subject to the approval of the Commissioner of Health.

Regulatory Process & MCL Adoption

- The regulation would go into effect upon publication of a Notice of Adoption in the New York State Register.

- Once adopted, public water systems of all sizes would need to test their water within the specified timeframes in the regulations and comply with the adopted MCLs.

Funding for Emerging Contaminants

- In 2017, NYS passed the Clean Water Infrastructure Act, allocating $2.5 billion in funding to help address water and waste water threats .

- In October 2018, Governor Cuomo announced $200 million in grant funding to help communities address PFOA, PFOS, and 1,4-dioxane.

- Governor directed Departments of Health, Environmental Conservation, and Environmental Facilities Corporation to provide technical assistance to communities to help apply for grant funding.

PFOS /PFOA

- Perfluorooctanesulfonic acid (PFOS) is an anthropogenic fluorosurfactant and global pollutant used in Scotchgard and other stain repellents and fire fighting foams.

- Perfluorooctanoic acid (*PFOA*) is a perfluorinated carboxylic acid produced and used as an industrial surfactant in chemical processes.

- The EPA in 2016 established a health advisory level of 70 parts per trillion for both compounds.

PFOS /PFOA

- PFOS/PFOA are removed from drinking water using Granular Activated Carbon (GAC) treatment.
- All testing results are available online by going to any water supplier's website.
- Capital cost to install GAC vessels is over **$1.2 million**.
- Annual carbon replacement costs are over **$44,000 per unit**.

1,4-dioxane

- 1,4-dioxane is a synthetic chemical used as a solvent and a chlorinated solvent stabilizer for industrial chemicals.
- Apart from its use as a stabilizer, it is used in a variety of applications as a solvent, such as in inks and adhesives, as well as household products including detergents, shampoos and cosmetics.
- Levels of 1,4-dioxane do not appear to be increasing; detections of the compound have been fairly stable, not trending upward.
- 1,4-dioxane *cannot* be removed effectively using GAC.

1,4-dioxane

- In Feb 2018, NYSDOH approved SCWA's Advanced Oxidation Process (AOP) treatment system to be placed in operation full time. AOP destroys 1,4-dioxane molecules to non-detect levels.
- It is currently the only AOP in operation in NYS. SCWA is still evaluating the effectiveness of this technology.
- New York State has assisted with funds to offset the capital and operating expenses if water suppliers are required to build AOP equipment at numerous pump stations.
- However, the cost of doing so could easily run into the **hundreds of millions of dollars**.

Drinking Water Infrastructure Funding for Emerging Contaminants

- The LIWC appreciated the passage of the $2.5 billion Clean Water Infrastructure Act of 2017.

- Even though the funding does not completely address **more than $38 billion in drinking water funding needs**, passage of the act last year is a welcome step in the right direction.

Estimated Treatment Costs

- NYSDOH estimates **89 public water facilities** will require treatment for 1,4-dioxane, the clear **majority located on Long Island.**

- Department of Health statewide estimate (based on a 1 ppb MCL):
  - Capital cost over $317 million
  - Annual operating cost over $13 million.

- However, the planning and implementation for 1,4-dioxane treatment starts at half of the MCL or 0.5 ppb, affecting more than 200 wells island-wide.

- LIWC statewide estimate (based on a 0.5 ppb action level):
  - Capital cost over **$840 million**.
  - Annual operating cost over **$30 million**.

Estimated Treatment Costs

- NYSDOH estimates **645 public water facilities** will require treatment for PFOS/PFOA.
- Department of Health statewide estimate (based on a 10 ppt MCL):
  - Capital cost over $850 million
  - Annual operating cost over $45 million.
- The combined capital cost for removing all three emerging contaminants will be over **$1.5 billion**.
- The total estimated statewide drinking water infrastructure costs exceed **$40 billion** over the next 20 years.

Tim Hopkins

General Counsel,

Suffolk County Water Authority

Proposed New Law

BILL #: S3337 / A05477

TITLE: An act to amend the civil practice law and rules in relation to the statute of limitations for public water suppliers to commence an action for injury to property.

PURPOSE OR GENERAL IDEA OF BILL:

This bill amends the civil practice law and rules by adding a new section 214-g to provide for a three-year statute of limitations for public water suppliers to commence an action for injury to property resulting from the contamination of the public water supplier's source of water supply.

Current Law Construction

- Statute of limitations for public water suppliers is currently governed by CPLR Section 214-c.

- CPLR Section 214-c provides for a three year statute of limitations that begins to run from the date of discovery of the injury or the date the injury should have been discovered.

- CPLR Section 214-c has presented significant legal hurdles for public water suppliers in seeking damages for contamination of water sources.

Recent Case Examples

- Hicksville Water District v. Philips Electronics Corp, et al (2018).
- Bethpage Water District v. Northrop Gruman Corp, et al (2018).
- Suffolk County Water Authority v. Dow Chemical Co., et al (2014).
- In re Methyl Tertiary Butyl Ether Products Liability Litigation (2013).
- Incorporated Village of Garden City v. Genesco, Inc., et al (2009).
- Water Authority of Western Nassau County v. Lockheed Martin Corp (2000).

Proposed Law Change

- Proposed CPLR Section 214-g provides for a three year statute of limitations that runs from the **latest** of the following events:

  1) The detection of a contaminant above a notification level, action level, maximum contaminant level ("MCL"), or maximum contaminant level goal (MCLG);

  2) The last wrongful act of any person whose conduct substantially contributed to the presence of a contaminant in a source of water supply or;

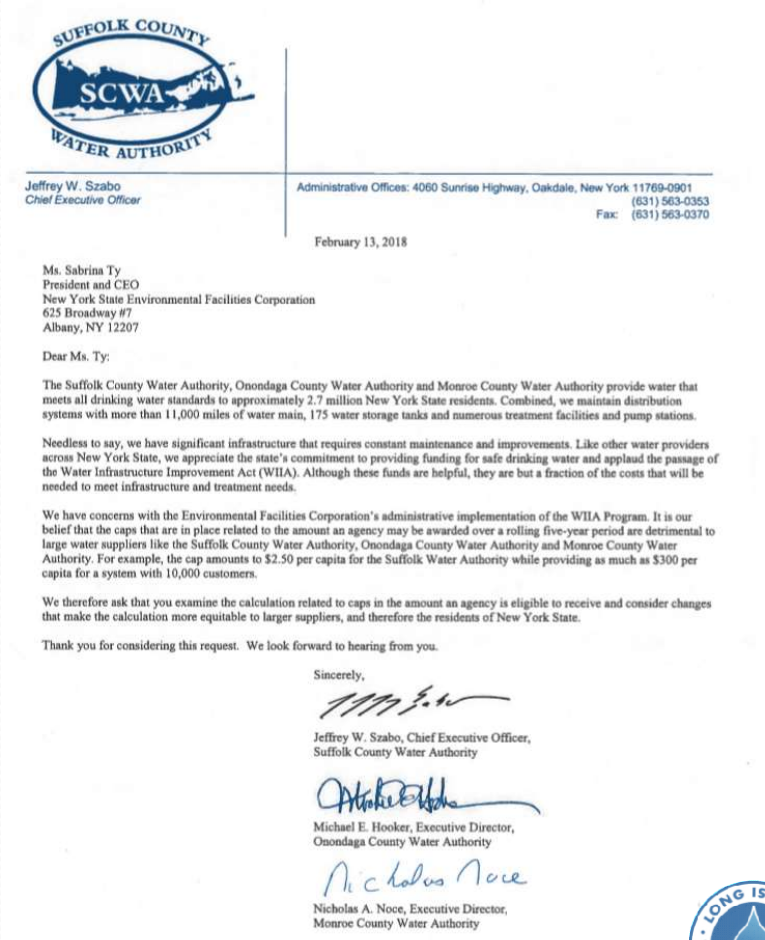
  3) The date the contaminant is last detected in the raw water of each well or plant intake in excess for a notification level, action level, MCL or MCLG.

- Applies to each well or plant intake separately.

- Provides that public water suppliers can maintain an action to abate an imminent threat to its public water supply source.

WIIA Funding Allocations Must Change

- All water provides currently capped at receiving $3 million.
- Cost of adding 1,4 treatment is approximately $3m per well site.
- Vast majority of Long Island water providers will have to treat at multiple sites.
- More significant levels of funding are needed.



SUFFOLK COUNTY WATER AUTHORITY

Jeffrey W. Szabo
Chief Executive Officer

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February 13, 2018

Ms. Sabrina Ty
President and CEO
New York State Environmental Facilities Corporation
625 Broadway #7
Albany, NY 12207

Dear Ms. Ty:

The Suffolk County Water Authority, Onondaga County Water Authority and Monroe County Water Authority provide water that meets all drinking water standards to approximately 2.7 million New York State residents. Combined, we maintain distribution systems with more than 11,000 miles of water main, 175 water storage tanks and numerous treatment facilities and pump stations.

Needless to say, we have significant infrastructure that requires constant maintenance and improvements. Like other water providers across New York State, we appreciate the state's commitment to providing funding for safe drinking water and applaud the passage of the Water Infrastructure Improvement Act (WIIA). Although these funds are helpful, they are but a fraction of the costs that will be needed to meet infrastructure and treatment needs.

We have concerns with the Environmental Facilities Corporation's administrative implementation of the WIIA Program. It is our belief that the caps that are in place related to the amount an agency may be awarded over a rolling five-year period are detrimental to large water suppliers like the Suffolk County Water Authority, Onondaga County Water Authority and Monroe County Water Authority. For example, the cap amounts to $2.50 per capita for the Suffolk Water Authority while providing as much as $300 per capita for a system with 10,000 customers.

We therefore ask that you examine the calculation related to caps in the amount an agency is eligible to receive and consider changes that make the calculation more equitable to larger suppliers, and therefore the residents of New York State.

Thank you for considering this request. We look forward to hearing from you.

Sincerely,

Jeffrey W. Szabo, Chief Executive Officer,
Suffolk County Water Authority

Michael E. Hooker, Executive Director,
Onondaga County Water Authority

Nicholas A. Noce, Executive Director,
Monroe County Water Authority

Revision of the 2011 Tax Cap Law

Allow Public Water Systems to Exclude Capital Expenditures from the Tax Cap Calculation

Revision is needed so critical water supply infrastructure can be upgraded / constructed without the consequences of exceeding the 2% tax cap

With $40 billion in drinking water infrastructure needed over 20 years, proactive capital investments should encouraged and not be impeded

It should be noted that this exclusion currently applies to school districts and not to any other local governments

Thank you for joining us today and being a part of the conversation!