
WUC

Water Utility Council of the
PA-Section, American Water
Works Association (PA-AWWA)



GOVERNMENT RELATIONS UPDATE

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*PA- Section, American Water Works Association
National Association of Water Companies
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EPA Partners With States to Reduce Nutrient Pollution

By Joel Beauvais, Deputy Assistant Administrator for the Office of Water

Nutrient pollution remains one of America's most widespread and costly environmental and public health challenges, threatening the prosperity and quality of life of communities across the nation. Over the last 50 years, the amount of excess nitrogen and phosphorus in our waterways has steadily increased, impacting water quality, feeding harmful algal blooms, and affecting drinking water sources. From the Lake Erie algae blooms to the Gulf of Mexico dead zone, nutrient pollution is impacting every corner of our country and economy.

In 2011, EPA urged a renewed emphasis on partnering with the states and key stakeholders to accelerate the reduction of nitrogen and phosphorus pollution. Many states and communities have stepped up and taken action, supported with EPA financial and technical assistance. States have worked with partners to reduce excess nutrients and achieve state water quality standards in over 60 waterways, leaving nearly 80,000 acres of lakes and ponds and more than 900 miles of rivers and

streams cleaner and healthier. We've made good progress but this growing challenge demands all hands on deck nationwide. Recent events such as the algae bloom in the St. Lucie Estuary in Florida and high nitrate levels in drinking water in Ohio and Wisconsin tell us we need to do more and do it now.

Read [more](#).

Source: EPA Water Headlines, 9/28/2016

EPA Study Shows Long-term Benefits of Green Infrastructure and Low-Impact Development for Groundwater Recharge

EPA encourages green infrastructure and low-impact development for urban areas because of their benefits to water quality and stream channel protection. Groundwater recharge is a co-benefit of reducing excess stormwater runoff volume associated with impervious areas.

EPA conducted a new study to estimate the groundwater recharge benefits from application of small storm retention practices on new development

and redevelopment nationwide. The study focuses on areas in the U.S. where groundwater is a significant contributor to urban and agricultural uses and where water shortages may occur in the future under different climate change scenarios. The results show that, over time, the use of green infrastructure can save hundreds of millions of dollars in groundwater resources, while just applying the practices to new development and redevelopment only. If retrofitting or increased retention were to occur, the groundwater benefits would be even more significant.

Learn [more](#).

Source: EPA Water Headlines, 9/28/2016

EPA to Host WIFIA Information Sessions Starting in October

EPA will be hosting a series of information sessions about the WIFIA program. The sessions are targeted at potential WIFIA applicants including municipal entities, corporations, partnerships, State Revolving Fund programs and non-governmental organizations.

EPA will provide information about the WIFIA program basics including the eligibility and statutory requirements, application and selection process, and credit eligibility.

In addition, EPA will share examples of how WIFIA funding can be used and the potential cost savings.

Scheduled dates are: October 14 in Chicago, IL; October 20 in Orlando, FL; November 7 in New York, NY; November 14 in San Francisco, CA; November 15 in Los Angeles, CA; and November 18 in Dallas, TX.

Learn [more](#).

Source: EPA Water Headlines, 9/28/2016

EPA Tool Helps Communities across the Country Prepare for Climate Change

As part of the Obama Administration's commitment to strengthen America's climate resilience, the U.S. Environmental Protection Agency (EPA) has released an updated online climate change risk assessment tool that assists users in designing adaptation plans based on the types of threats confronting their communities. [EPA's Climate Resilience Evaluation and Awareness Tool](#) (CREAT) is designed for water utilities.

"Water utilities operate on the front lines of climate change and face the challenges of increased drought, flooding and sea level rise. EPA is working to strengthen America's communities by providing climate preparedness tools like CREAT that local leaders can use to make smart decisions," said Joel Beauvais, deputy assistant administrator for EPA's Office of Water.

In its updated version, CREAT presents information in a series of intuitive modules, provides climate change projection data, and presents monetized risk results. CREAT's climate projection map illustrates future climate scenarios including precipitation intensity for a 100-year storm or the number of days per year with temperatures above 100°F. With this powerful information, utility owners and operators can better prepare for the impacts of climate change.

CREAT was built and updated in consultation with drinking water and wastewater utilities, water sector associations, climate science and risk assessment experts, and multiple federal partners. The tool has been used by a number of communities in their adaptation planning efforts. For example, Manchester-by-the-Sea, Mass. used CREAT to better understand the vulnerability of its wastewater infrastructure and operations while the city of Houston, Texas used the tool to better understand the vulnerability of its surface water supplies.

Click the following links to see videos that show how CREAT has benefitted utilities such as [Camden, N.J.](#) and [Faribault, Minn.](#)

To access CREAT or to learn more about water sector climate readiness, visit [EPA's Climate Ready Water Utilities initiative](#).

Source: EPA Press Release, 9/29/2016

Committee passes bill to prohibit use of drones over certain facilities in PA

The Senate Judiciary Committee unanimously approved a measure that would penalize unmanned aerial vehicle (UAV) operators for flying their aircraft over certain facilities in Pennsylvania, according to bill sponsor Senator David G. Argall (R-Schuylkill/Berks).

[Senate Bill 1323](#), which was amended to include provisions making it a felony to drop illegal contraband over federal, state and county prisons, would place penalties on UAV operators who fly drones over "critical facilities" without the property owner's consent.

"As this technology becomes more readily available at a price point most consumers can afford, we need to make sure that no one is using these machines in a way that would jeopardize the life and safety of Pennsylvanians," Argall said. "This commonsense approach mirrors efforts in other states in order to safeguard citizens."

The legislation defines critical facilities as corrections facilities, power generation facilities, public safety or emergency operations facilities, military installations, hospitals, government-owned property, airports and heliports, refineries, chemical plants and nuclear power plants. The committee added natural gas facilities, oil or gas drilling and production facilities, as well as natural gas storage facilities.

Drone operators caught flying their aircraft over these facilities for the first time would be subject to a second degree misdemeanor charge and a fine up

to \$5,000. Each subsequent offense would subject the operator to a first degree misdemeanor charge and a fine up to \$10,000.

During a Senate Majority Policy Committee [public hearing](#) earlier this year, the Department of Corrections pointed to [examples](#) in other states where UAV operators dropped illegal contraband over prison yards.

The legislation was the result of testimony presented in March on the issue. In addition to the Department of Corrections, other testifiers included the National Conference of State Legislatures, Joint State Government Commission, Pennsylvania Chemical Industry Council, Pennsylvania State Police, Department of Transportation and the Electronic Privacy Information Center.

You can listen to Senator Argall's remarks from the committee meeting [here](#).

NOTE: SB 1323 is currently on the Senate Calendar for consideration. In addition, the definition of "critical facilities" includes a water or wastewater treatment facility and water distribution or conveyance system.

Source: Senator Argall Press Release, 9/26/2016

Senate Passes Senator Mensch's Budget Reform Legislation

The Pennsylvania Senate passed [Senate Bill 1341](#), sponsored by Senator Bob Mensch (R-24), which would help eliminate wasteful government spending in Pennsylvania.

SB 1341, also known as Performance Based Budgeting, seeks to streamline and justify discretionary and state government spending by requiring departments and agencies to justify their budget requests for all existing, as well as proposed programs, for each fiscal year. This would allow the legislature and the Governor to properly budget for Pennsylvania state agencies. Specifically, the bill would create a performance-based budget board to review the performance-based budget plans of

Pennsylvania agencies and make recommendations on how each agency's programs may be made more efficient.

"We need to be more objective about our government spending," said Mensch. "Our spending is increasing but our revenue is uncertain. SB 1341 is a necessary tool that our taxpayers deserve. We have an obligation to our taxpayers to account for all state funding down to the penny and decide which expenditures are necessary and which are not."

The Senate Appropriations and Policy Committees recently held a joint hearing on SB 1341. The hearing included national, state and local experts, along with representatives from the Independent Fiscal Office and the Governor's Budget Office. The testifiers presented their experiences with performance measures and how performance management can aid in decision making. To watch the full joint Senate Hearing, click [here](#).

"Performance Based Budgeting will give us an objective, transparent, and effective approach to Pennsylvania's budgetary needs," said Mensch. "I look forward to continuing the conversation on how to streamline our spending."

For additional information on Performance Based Budgeting, click [here](#).

Source: Senator Mensch Press Release, 9/28/2016

PA Supreme Court Holds Additional Act 13 Provisions Unconstitutional

After a back-and-forth in the courts spanning years, the Pennsylvania Supreme Court today released its final decision on the Oil and Gas Act (known as Act 13), *Robinson Township et al v. Commonwealth of Pennsylvania*, finding that four additional provisions of that law violate the state or U.S. Constitutions. These provisions included: the "doctor gag rule" that prevented physicians from disclosing "trade secret" chemicals to patients who may have had exposure

to fracking fluid; a requirement that only customers of public water supplies - not private water supply owners - be notified of a nearby spill or leak at a gas drilling site; approval of eminent domain for the purpose of taking private land for gas storage; and the authority of the Public Utility Commission to withhold impact fee monies from municipalities with certain local ordinances.

The PA Supreme Court held that the General Assembly could not confer special treatment on the oil and gas industry by limiting access to chemical information. The Act requires doctors who seek information on fracking fluids to sign a confidentiality agreement. The Court found this "special law" restriction unconstitutional.

The Court also held that the spill disclosure provision of the Oil and Gas Act were not uniform, in that DEP was mandated to provide information on spills from oil and gas operations only to public water supplies.

"Pennsylvanians have a right to know the quality and safety of their water supply, regardless of whether they are on a public water system or have a private water well," said Thomas Au, Conservation Chair of the Sierra Club PA Chapter. The Court declined to rewrite the spill notification requirements of the statute, but noted that all residents in the affected area should be notified of any spill that could affect their health. The court gave the General Assembly 180 days to come up with a uniform rule. "Citizens will be watching to make sure they leave no one out this time around," continued Au.

The court affirmed the lower court's finding that a separate review of municipal ordinances by the PUC, to ensure that municipalities did not restrict oil and gas operations, served no purpose.

In addition, the court struck down a provision of the Oil and Gas Act that would allow private corporations operating underground gas storage facilities to take private property even if the operator were not a public utility. The court found this expansion of eminent domain authority repugnant to the Pennsylvania and US Constitutions. "We applaud the Court's respect for landowner rights," said Au.

"This ruling is a victory for communities across the Commonwealth whose care and well-being have been viewed as secondary to corporate polluters' profits by certain members of the legislature," said Joanne Kilgour, Director of the Sierra Club PA Chapter. "We thank the organizations and individuals who stood up to challenge this law and applaud the Court in its ruling that it is unconstitutional for the General Assembly to prevent doctors from sharing essential information about exposure to chemicals from the fracking industry with their patients - a mandate that was not only unconstitutional but unconscionable," continued Kilgour.

Source: Sierra Club, Pennsylvania Chapter Press Release, 9/29/2016

PUC Accepts PA Supreme Court Decision in Act 13 Case Regarding Review of Local Zoning Ordinances

On September 30, 2016, the Pennsylvania Public Utility Commission (PUC) issued the following statement regarding Wednesday's Pennsylvania Supreme Court ruling involving portions of Act 13 of 2012, which relate to natural gas development in Pennsylvania:

The Pennsylvania Supreme Court has ruled that sections of Act 13 related to PUC review of local zoning ordinances regulating oil and gas operations are no longer valid. The PUC has reviewed the Court's ruling and accepts the decision without reservation. As a result of this decision, the PUC will continue to carry out its statutory obligation under Act 13 to collect and distribute unconventional gas well Impact Fees.

"The PUC has always sought to be an independent and unbiased agency, focused on ensuring safe and reliable utility service while also safeguarding the public interest," said Commission Chairman Gladys M. Brown. "The Court has spoken very clearly on this matter and the Commission will continue to focus on its key responsibility under Act 13, which is the collection

of Impact Fees and the distribution of those funds to counties and municipalities across Pennsylvania."

Source: PUC Press Release, 9/30/2016

Preparedness Committees Set Nov. 16 Hearing On Pipeline Emergency Response

The House and Senate Veterans Affairs & Emergency Preparedness Committees are scheduled to hold a joint hearing November 16 to review emergency preparedness and response measures for natural gas and petroleum pipeline infrastructure.

The hearing will be held in Hearing Room 1 of the North Office Building starting at 9:00 a.m.

No agenda is yet available for the hearing.

Rep. Stephen Barrar (R-Delaware) serves as Majority Chair of the House Committee and can be contacted by sending email to: sbarrar@pahousegop.com and Rep. Chris Sainato (D-Lawrence) serves as Minority Chair and can be contacted by sending email to: csainato@pahouse.net.

Sen. Randy Vulakovich (R-Allegheny) serves as Majority Chair of the Senate Committee and can be contacted by sending email to: rvulakovich@pasen.gov and Sen. Jay Costa (D-Allegheny) serves as Minority Chair and can be contacted by sending email to: costa@pasenate.com.

Source: PA Environmental Digest, 10/3/2016

Susquehanna River Basin Commission Proposes Consumptive Use Mitigation Regs, Policy

The Susquehanna River Basin Commission has released a [proposed rulemaking](#) to amend its regulations, which includes the release of a [consumptive water use mitigation policy](#).

The amendments include application requirements and standards for the review of regulatory projects, modifying the rules dealing with the mitigation of consumptive water use, providing for the registration of grandfathered projects, and revising requirements for hearings and enforcement actions.

“With the proposed rulemaking, the Commission is striving to gain efficiencies in our procedures and enhance the tools and data we use to pursue our water resources management objectives,” said Executive Director Andrew Dehoff, P.E.

2 Webinars

To inform the regulated community and the public about these changes, the Commission is holding two informational webinars explaining the proposed rulemaking on October 11 and October 17. Click [here](#) to register for the webinars.

4 Public Hearings

The Commission has also scheduled four public hearings on the proposed rulemaking and policy:

- November 3: Harrisburg, from 2 p.m. to 5 p.m. or at the conclusion of public testimony, whichever is sooner; Pennsylvania State Capitol (East Wing, Room 8E-B), Commonwealth Avenue, Harrisburg, PA 17120.
- November 9: Binghamton, from 7 p.m. to 9 p.m. or at the conclusion of public testimony, whichever is sooner; DoubleTree by Hilton Hotel Binghamton (South Riverside Room), 225 Water St., Binghamton, NY 13901.
- November 10: Williamsport, from 7 p.m. to 9 p.m. or at the conclusion of public testimony, whichever is sooner; Holiday Inn Williamsport (Gallery Room), 100 Pine St., Williamsport, PA 17701.

- December 8: Annapolis, 1 p.m. to 3 p.m. or at the conclusion of public testimony, whichever is sooner; Loews Annapolis Hotel (Powerhouse-Point Lookout), 126 West St., Annapolis, MD 21401.

Click [here](#) for copies of the proposed regulation changes, mitigation policy and other supplementary information on the proposal.

Written comments on the mitigation policy may be submitted on or before January 6, 2017. Click [here](#) to submit comments online.

Written comments on the proposed rulemaking may be submitted on to before January 30, 2017. Comments may be submitted by mail to Jason E. Oyler, Esq., General Counsel, SRBC, 4423 N. Front St., Harrisburg, PA 17110-1788, or by email to regcomments@srbc.net.

Source: PA Environmental Digest, 10/3/2016

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