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# WUC

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



## GOVERNMENT RELATIONS UPDATE

From Milliron & Goodman Government Relations, LLC.

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*PA- Section, American Water Works Association  
National Association of Water Companies  
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### DEP Increases Drought Warning to Eight Counties, 26 Counties Remain on Drought Watch

The Pennsylvania Department of Environmental Protection (DEP) has placed four more counties on drought warning status following a meeting today of the Commonwealth Drought Task Force.

While recent precipitation over the past few weeks has helped dry conditions in the eastern part of Pennsylvania, the central part of the state still has persistent 90-day precipitation deficits of up to 4 inches from normal as well as low groundwater and stream levels.

Mifflin, Juniata, Snyder, and Union Counties were moved from drought watch to drought warning status. Snyder has a precipitation [deficit of 11 inches from normal over the past year](#).

These four counties join Carbon, Lehigh, Monroe, and Northampton, which have been on drought warning status since November 3. DEP encourages residents in these counties to voluntarily reduce their water use by 10–15 percent.

Counties on drought watch are Adams, Bedford, Berks, Bucks, Centre, Chester, Clinton, Cumberland, Dauphin, Delaware, Franklin, Fulton, Huntingdon, Lackawanna, Lancaster, Lebanon, Luzerne, Montgomery, Northumberland, Perry, Philadelphia, Pike, Schuylkill, Sullivan, Wayne, and York Counties.

Residents are encouraged to reduce their nonessential water use by 5 percent.

Conditions in western Pennsylvania and along the northern tier generally have remained at normal or above normal levels.

Public water systems continue to implement voluntary and mandatory water reductions in response to reduced supplies.

DEP suggests several steps citizens can take to voluntarily reduce their water use:

- Run water only when necessary. Don't let the faucet run while brushing your teeth or shaving. Shorten the amount of time you let the water run to warm up before you shower. Use a bucket to catch the water and then reuse it to water your plants.

- Run the dishwasher and washing machine only with full loads.
- Check for household leaks. A leaking toilet can waste up to 200 gallons of water each day.
- Replace older appliances with high-efficiency, front-loading models that use about 30 percent less water and 40 to 50 percent less energy.
- Install low-flow plumbing fixtures and aerators on faucets.

DEP also offers other water conservation recommendations and water audit procedures for commercial and industrial users, such as food processors, hotels and educational institutions. These recommendations and additional drought monitoring information are available on the [DEP Drought Information website](#).

Drought watch and warning declarations in late fall/early winter, while not common, have occurred several times in the past decade, in 2011, 2010, and 2008.

The Drought Task Force will meet next on January 5, 2017.

Source: DEP Press Release, 12/16/2016

## DRBC Approves Fee Restructuring

On December 14, 2016, the Delaware River Basin Commission (DRBC) at its quarterly public business meeting **approved several changes to its project review fee structure**, including an annual, indexed inflation adjustment for most fees and water supply charges.

"The fee restructuring will provide a more predictable and sustainable source of revenues to support the costs associated with implementing the DRBC's project review program," said DRBC Executive Director Steve Tambini. "The current project review fees, which have not been adjusted since July 2009, were creating a funding gap because they did not fully cover the regulatory

program costs needed to manage and protect the basin's water resources."

The new fee structure approved today will align with the One Process/One Permit Program that became effective on March 4, 2016. For routine DRBC docket applications and renewals that are processed by DRBC's member state agencies through One Process/One Permit, the DRBC project review fees that had previously been in effect will be eliminated. DRBC will continue to be involved in the review process; however, a separate DRBC fee will no longer be required at the time of application to the state agency.

DRBC's costs associated with reviews will now be supported by an annual monitoring and coordination fee. **This annual fee will apply to all water withdrawals and wastewater discharges subject to DRBC review and approval under the Delaware River Basin Compact and implementing regulations, including those permits issued under One Process/One Permit.** The annual fee will range from \$300 to \$1,000 depending upon the monthly water allocation for withdrawals and the design capacity for wastewater dischargers.

As a result of today's action, the project review fee with respect to water withdrawal projects for which the DRBC continues to act as the lead agency will be restructured. The amount will no longer be based upon project costs or a flat renewal rate; rather, it will be based upon the applicant's requested monthly allocation. This change will better align DRBC's review fee with the actual cost of conducting a thorough technical review of these applications.

The project review fee for most wastewater discharges for which DRBC issues a separate docket will continue to be a flat fee of \$1,000 for private projects and \$500 for publicly sponsored projects. This fee will no longer vary according to the cost of the projects.

There will be no change to fees for DRBC's review of projects that are neither water withdrawals nor wastewater discharges. The DRBC review fees for such projects are, and will continue to be, based upon project costs.

DRBC will now have an annual indexed inflation adjustment for most fees and charges, including water supply charges. Beginning in 2017, increases reflecting inflation adjustments will become effective automatically on July 1. No change to the rate will occur in any year in which the applicable inflation index is flat or negative.

Water supply charges have been collected by DRBC for surface water withdrawals within the basin, when applicable, since the 1970s to pay the capital and operating costs of water supply and flow augmentation storage owned by the commission in two reservoirs constructed and maintained by the U.S. Army Corps of Engineers. The water supply charges will now be subject to an annual inflation adjustment, but otherwise no changes to the rate structure or base rates that have been in effect since January 2011 will result from today's action.

The draft rule was published May 9, 2016 on the DRBC's web site as well as in federal and basin state registers between May 25 and June 11. A public informational meeting was held June 15, a public hearing was conducted on July 27, and written comments were accepted through August 12. Following a review of all comments, DRBC staff in consultation with the commissioners developed a comment and response document, including a recommended clarifying change to the May 9 draft rule in response to comments received.

Please see the links on the right for additional information, including the final rule with the approved fee schedule, the comment and response document, and a set of frequently asked questions (FAQs).

The DRBC is a federal/interstate government agency responsible for managing the water resources within the 13,539 square-mile Delaware River Basin without regard to political boundaries. The five commission members are the governors of the basin states and the commander of the U.S. Army Corps of Engineers' North Atlantic Division, who represents the federal government.

**Source:** DRBC, 12/14/2016

## U.S. EPA Releases Final Report on Impacts from Hydraulic Fracturing Activities on Drinking Water Resources

*EPA's report concludes that hydraulic fracturing activities can impact drinking water resources under some circumstances and identifies factors that influence these impacts.*

The U.S. Environmental Protection Agency (EPA) is releasing its scientific report on the impacts from hydraulic fracturing activities on drinking water resources, which provides states and others the scientific foundation to better protect drinking water resources in areas where hydraulic fracturing is occurring or being considered. The report, done at the request of Congress, provides scientific evidence that hydraulic fracturing activities can impact drinking water resources in the United States under some circumstances. As part of the report, EPA identified conditions under which impacts from hydraulic fracturing activities can be more frequent or severe. The report also identifies uncertainties and data gaps. These uncertainties and data gaps limited EPA's ability to fully assess impacts to drinking water resources both locally and nationally. These final conclusions are based upon review of over 1,200 cited scientific sources; feedback from an independent peer review conducted by EPA's Science Advisory Board; input from engaged stakeholders; and new research conducted as part of the study.

"The value of high quality science has never been more important in helping to guide decisions around our nation's fragile water resources. EPA's assessment provides the scientific foundation for local decision makers, industry, and communities that are looking to protect public health and drinking water resources and make more informed decisions about hydraulic fracturing activities," said Dr. Thomas A. Burke, EPA's Science Advisor and Deputy Assistant Administrator of EPA's Office of Research and Development. "This assessment is the most complete compilation to date of national

scientific data on the relationship of drinking water resources and hydraulic fracturing."

The report is organized around activities in the hydraulic fracturing water cycle and their potential to impact drinking water resources. The stages include:

- (1) acquiring water to be used for hydraulic fracturing (Water Acquisition),
- (2) mixing the water with chemical additives to make hydraulic fracturing fluids (Chemical Mixing),
- (3) injecting hydraulic fracturing fluids into the production well to create and grow fractures in the targeted production zone (Well Injection),
- (4) collecting the wastewater that returns through the well after injection (Produced Water Handling), and
- (5) managing the wastewater through disposal or reuse methods (Wastewater Disposal and Reuse).

EPA identified cases of impacts on drinking water at each stage in the hydraulic fracturing water cycle. Impacts cited in the report generally occurred near hydraulically fractured oil and gas production wells and ranged in severity, from temporary changes in water quality, to contamination that made private drinking water wells unusable.

As part of the report, EPA identified certain conditions under which impacts from hydraulic fracturing activities can be more frequent or severe, including:

- Water withdrawals for hydraulic fracturing in times or areas of low water availability, particularly in areas with limited or declining groundwater resources;
- Spills during the management of hydraulic fracturing fluids and chemicals or produced water that result in large volumes or high concentrations of chemicals reaching groundwater resources;

- Injection of hydraulic fracturing fluids into wells with inadequate mechanical integrity, allowing gases or liquids to move to groundwater resources;
- Injection of hydraulic fracturing fluids directly into groundwater resources;
- Discharge of inadequately treated hydraulic fracturing wastewater to surface water resources; and
- Disposal or storage of hydraulic fracturing wastewater in unlined pits, resulting in contamination of groundwater resources.

The report provides valuable information about potential vulnerabilities to drinking water resources, but was not designed to be a list of documented impacts.

Data gaps and uncertainties limited EPA's ability to fully assess the potential impacts on drinking water resources both locally and nationally. Generally, comprehensive information on the location of activities in the hydraulic fracturing water cycle is lacking, either because it is not collected, not publicly available, or prohibitively difficult to aggregate. In places where we know activities in the hydraulic fracturing water cycle have occurred, data that could be used to characterize hydraulic fracturing-related chemicals in the environment before, during, and after hydraulic fracturing were scarce. Because of these data gaps and uncertainties, as well as others described in the assessment, it was not possible to fully characterize the severity of impacts, nor was it possible to calculate or estimate the national frequency of impacts on drinking water resources from activities in the hydraulic fracturing water cycle.

EPA's final assessment benefited from extensive stakeholder engagement with states, tribes, industry, non-governmental organizations, the scientific community, and the public. This broad engagement helped to ensure that the final assessment report reflects current practices in hydraulic fracturing and uses all data and information available to the agency. This report advances the science. The understanding of the potential impacts from

hydraulic fracturing on drinking water resources will continue to improve over time as new information becomes available.

For a copy of the study, visit [www.epa.gov/hfstudy](http://www.epa.gov/hfstudy).

Source: EPA Press Release, 12/13/2016

## **Year-In-Review: DEP Puts Miners Back to Work, Protects Air and Water and Kick-Starts Energy Economy in 2016**

**P**ennsylvania Department of Environmental Protection (DEP) Acting Secretary Patrick McDonnell announced the following accomplishments by the agency in 2016.

“This year was tremendous year for the DEP, and we have many things to be proud of” said McDonnell. “From putting miners back to work reclaiming abandoned mine lands for communities to work to continuing to safeguard the state’s drinking water to kick-starting efforts to clean up Pennsylvania waterways, DEP has made great strides in 2016.”

### Putting Coal Miners Back to Work on Abandoned Mine Lands

Together with the federal Department of the Interior, Governor Tom Wolf and DEP [announced](#) mine land reclamation projects in 14 Pennsylvania communities. They will result in new or upgraded water supplies for more than 600 homes and businesses, reforestation and restoration of public lands, significant stream water quality improvement, restored fisheries, and increased tourism through public trail development and mining heritage preservation.

### Investing in PA’s New Energy Economy

In February, DEP and the [Pipeline Infrastructure Task Force](#) sent nearly 200 recommendations for pipeline safety, construction, permitting, and siting

to Governor Tom Wolf. The task force presented the 184 recommendations in six major categories, designed to drive wider public discussion on the critical, complex, and interrelated environmental and community issues that Pennsylvania faces in the development of the infrastructure needed to transport gas to market.

DEP was [selected](#) by the U.S. Department of Energy for a \$550,000 grant for a project called “Finding Pennsylvania’s Solar Future.” The project will bring together stakeholders to envision ways to increase solar deployment in the Commonwealth.

### New Methane Rules to Improve Air Quality, Reduce Industry Loss

Governor Tom Wolf [announced](#) a nation-leading strategy to reduce emissions of methane, a greenhouse gas that contributes to climate change, and has been implicated in health risks. The plan is designed to protect the environment and public health, reduce climate change, and help businesses reduce the waste of a valuable product by reducing methane leaks and emissions from natural gas well sites, processing facilities, compressor stations and along pipelines.

### Improving Local Water Quality in Central PA

DEP, along with the PA Departments of Agriculture and Conservation and Natural Resources released a [new plan](#) to improve local water quality in the Chesapeake Bay watershed. The plan brings new focus to the state’s efforts to help protect the Chesapeake Bay while emphasizing the need for balance and resilience. The strategy relies on a mix of technical and financial assistance for farmers, technology, expanded data gathering, improved program coordination and capacity and – only when necessary – stronger enforcement and compliance measures.

### Safeguarding Drinking Water

Amidst ongoing concerns about the safety of drinking water in Pennsylvania, DEP informed residents of how to protect themselves and their families from exposure to lead in drinking water, and conducted investigations into other contaminants. Residents should follow

commonsense tips posted at [dep.pa.gov/lead](http://dep.pa.gov/lead) and have their water tested if they are concerned about lead exposure.

### New Shale Drilling Regulations

In October, DEP released [updated regulations](#) for unconventional (shale) drilling. These regulations were the result of five years of deliberation, several public comment periods eliciting more than 25,000 comments, and more than a dozen public hearings and meetings with citizens, stakeholders, and companies. While parts of the new regulations have been enjoined by a lawsuit, many other parts are in effect today.

### Climate Change Action Plan

DEP released a [detailed plan](#) outlining ways to reduce greenhouse gas emissions in Pennsylvania by 2030. Recommendations include 13 work plans endorsed by the Climate Changing Advisory Committee and range from improving energy efficiency to increasing methane capture from coal mines, as well recommendations for how residents can reduce their contributions to climate change.

### Agency Modernization to Help Public, Businesses

Digitizing DEP operations has been a priority in 2016, with several new [online tools](#) to aid both Pennsylvania residents and regulated industries. Part of the updated shale drilling regulations included online permit applications for operators to cut down on physical paperwork sent to DEP and streamline processing. The 2016 Integrated Water Quality Report, which identified impaired waterways and the causes of impairment, launched with a companion web-application for residents to find out more information about their home waters.

Source: DEP Press Release, 12/13/2016

## **Wolf Locks Staff Levels At Dec. 2 Numbers Affecting Over 400 Positions at DEP, DCNR**

The [Associated Press reported Friday](#) Gov. Wolf sent a memo to each agency Secretary under his jurisdiction saying he was locking state agency staff levels at what they were on December 2.

The memo said the Governor is putting the funding earmarked for those positions in budgetary reserve.

For the departments of Environmental Protection and Conservation and Natural Resources that could mean not being able to fill any of the up to 408 vacant positions that were authorized, but are vacant.

The FY 2016-17 Executive Budget published by Gov. Wolf in February had DEP with an authorized staff complement of 2,691 positions. As of November 15 the Governor's Office [PennWATCH website](#) said DEP's complement was 2,401 **resulting in 290 positions now blocked from being filled.**

In DCNR the FY 2016-17 Executive Budget had DCNR with an authorized salaried staff complement of 1,427. As of November 15 the Governor's Office [PennWATCH website](#) said DCNR's complement was 1,309 resulting in 118 positions now blocked from being filled.

**The AP story said the positions not filled would be eliminated.**

[PennLive.com reported](#) if specific agencies want to exceed their December 2 staffing number, they will have to make a "business case" for the change.

Gov. Wolf took similar steps to freeze state hiring in February to deal with a then unfinished state budget, however, positions were not eliminated.

### Mid-Year Budget Briefing

At the Mid-Year Budget Briefing Wednesday, Randy Albright, Gov. Wolf's Budget Secretary, said he expects the current fiscal year to end on June 30 with a \$603.7 million thanks to lagging revenues and the expected need for up to \$182

million in supplemental funding primarily for the Department of Human Services.

While he said the Administration was in general agreement with the Independent Fiscal Office deficit numbers, the Governor's Office deficit projection was \$103.7 million higher than the IFO's \$500 million estimate.

The IFO is also projecting a \$1.7 billion deficit in the coming FY 2017-18 fiscal year, but Albright did not project a number for next year. Secretary Albright said there is some reason for optimism due to pent up demand due to the election and pointed to the surging stock market as evidence.

The Budget Office will be meeting with the agency secretaries later on Wednesday to work with them on identifying additional opportunities to cut costs, but not in an across-the-board way, but surgically.

Albright also acknowledged the Budget Office has already put "hundreds of millions of dollars" in budgetary reserve this year in anticipation of a deficit.

In response to another question, Secretary Albright said the Administration has not means to prevent the layoff of 500+ jobless call center workers.

### Restructuring Government

House Majority Leader David Reed (R-Indiana) told the media Wednesday the state is facing "a massive budget deficit" and needs to consider a broad restructuring of state agencies to save money, saying maybe we don't need all the state agencies we have now.

He said restructuring could affect schools, human services, prisons and operations of the General Assembly itself.

Rep. Reed said after the last two budget becoming law without Gov. Wolf's signature, the Republicans this year may write their own budget. [Actually, they did do that several times during the FY 2015-16 and 2016-17 budget discussions.]

Albright said in response to a question about Rep. Reed's suggestions, the Administration will exhaust any and all options to reduce spending and costs before seeking any additional revenues.

With respect to additional revenue, Albright said, as Budget Secretary, all options are on the table.

Gov. Wolf lays out his FY 2017-18 budget proposal on February 7.

Source: PA Environmental Digest, 12/19/2016

## **DEP Takes First Steps in Process to Update State Water Plan**

**T**he Department of Environmental Protection took the first steps in what it expects to be a 2-year process to update Pennsylvania's State Water Plan adopted in 2009.

The Plan was required by [Chapter 31 of Act 220 of 2002](#). The first Plan was to be adopted 5 years after the Act was signed into law and updated every 5 years thereafter.

The Plan consists of inventories of water availability, an assessment of current and future water demands and trends, assessments of resource management alternatives, and proposed methods of implementing recommended actions.

It also analyzes problems and needs associated with specific water resource usage such as navigation, stormwater management and flood control.

Key components of the 2009 State Water Plan included:

- An innovative Water Use Analysis Tool to determine where water demands may exceed available water supply;
- A [Statewide and Regional Atlas](#) to illustrate regional trends using maps, charts, pictures and text descriptions;

- [Water Plan Principles Document](#) that includes policies, priorities and legislative recommendations and other suggestions to protect and enhance Pennsylvania's water resources;
- Registration and reporting regulations for large water users; and
- Guidelines for identification of Critical Water Planning Areas.

#### Advisory Committees

The Plan was put together with the help of six regional advisory committees representing each of the major river basins in the Commonwealth and a Statewide Water Resources Advisory Committee with a total of membership of 169 individuals representing a broad cross-section of stakeholders.

As a first step in its update process, DEP Monday notified the original members of the regional advisory committees to see if they are interested in continuing to serve.

Once any gaps are identified in membership, DEP will be moving to fill those vacancies with the goal of having the groups meet for the first time in March or April to start the update process in earnest.

#### 2009 Water Recommendations

DEP is also starting to review the [State Water Plan Principles](#), including Recommendations for Action made in the Plan, to determine which ones have been accomplished, those that remain to be done and others that may no longer be relevant. (Click [here](#) for an Executive Summary.)

Among the legislative recommendations were:

- Enact legislation to require proficiency-based licensing and certification of water well drillers [introduced in 2001 as [House Bill 1591](#) (Dailey-R-Montgomery) but not enacted];
- Establish statewide private water well construction standards [introduced as [House Bill](#)

[48](#) (Godshall-R-Montgomery) in 2015 but not enacted];

- Encourage the development and implementation of Integrated Water Resources Plans [introduced as [Senate Bill 452](#) (Erickson-R-Delaware) in 2011 but not enacted];
- Integrate existing state and federal stormwater management regulations, policies and requirements (e.g. Storm Water Management Act, Sewage Facilities Act, Municipalities Planning Code, Chapters 102 and 105, NPDES, MS4, TMDLs) to provide an effective, straightforward, seamless stormwater management program that is blind to regulatory origin.
- Authorize by legislation, regulation, or policy the creation and operation of local Authorities, Utilities or Management Districts, and/or other sustainable funding sources that would enable entities to collect fees and generate revenues dedicated to planning, constructing, monitoring, maintaining, improving, expanding, operating, inspecting and repairing public and private stormwater management infrastructure [adopted in part as [Senate Bill 351](#) (Erickson-R-Delaware) Act 68 in 2013 authorizing the formation of stormwater authorities and [House Bill 1325](#) (Mustio-R-Allegheny) authorizing stormwater fees by townships of the Second Class Act 62 in 2016 and introduced by not enacted in 2016 as [House Bill 1394](#) and [House Bill 1661](#) (Mustio-R-Allegheny) that would have authorized stormwater management fees by boroughs and townships of the First Class].

#### Water Quantity Data

DEP continues to collect [water use data](#) from ground and surface water users who withdraw 10,000 gallons per day of water in any 30-day period as required by Act 220.

The agency has also been coordinating the collection of water data with the Delaware, Potomac and Susquehanna river basin commissions and the U.S. Geologic Survey.

Unfortunately, much of the data that was posted on DEP's website and in the State Water Plan Atlas is no longer available online.

One of DEP's major objectives is to get this updated information organized and posted online so local governments and other stakeholders can use the data for water resources planning purposes.

DEP hopes to be in a position of using the water yield assessments and ground and surface water data to designate green, yellow and red watersheds that show clearly which ones have adequate, available water supplies, which ones may have problems in the future and watersheds that have problems now supplying users with enough water to meet their needs.

### Critical Water Areas

Another provision of Act 220 called for the designation of [Critical Water Areas](#) where the State Water Plan showed the use of available water supplies is now or is projected to fall short of meeting the demands of water users.

In January 2011 DEP proposed to designate [4 Critical Water Areas](#) -- Back Creek Watershed in Fayette County, Laurel Hill Creek Watershed in Somerset County, Marsh Creek and Rock Creek Watersheds in Adams County.

For a variety of reasons, these designations were never finalized. DEP hopes to finalize these designations as part of the State Water Plan update.

### Reorganization

The move to update the State Water Plan is coming in part as a result of a change in the structure of DEP announced in December 2015 to organize the agency's water resources planning functions under Kelly Heffner, the Special Deputy Secretary for Water Resources Planning.

Heffner said the initiative was launched now, in part, because of drought conditions now worsening across the state, but more importantly, because updating the Plan was important work that should be done. The Plan update is already years late.

As PA Environment Digest has noted, water resource programs in DEP have suffered more than others because they are supported by General Fund monies. General Fund support for DEP has been cut by 40 percent over the last 13 years and DEP has lost 22 percent staff.

Staff time and resources were simply not available to do tasks like water planning before the reorganization.

For more information on the State Water Plan, visit [DEP's Division Of Planning and Conservation](#) and [State Water Plan](#) webpages. Questions should be directed to David Jostenski, Drought Coordinator/State Water Plan Manager, DEP Office of Water Resources Planning, by calling 717-772-5659 or send email to: [djostenski@pa.gov](mailto:djostenski@pa.gov).

**Source:** PA Environmental Digest, 12/19/2016

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