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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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200 North 3<sup>rd</sup> Street ♦ Suite 1500 ♦ Harrisburg, PA 17101 ♦ Phone: 717-232-5322 ♦ Cell: 717-574-3963 ♦  
Erik A. Ross, Associate ♦ [www.millirongoodman.com](http://www.millirongoodman.com)

Harrisburg, PA

[Erik@millirongoodman.com](mailto:Erik@millirongoodman.com)

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*PA- Section, American Water Works Association  
National Association of Water Companies  
Water Works Operators' Association of Pennsylvania*

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### Drought Indicators Statewide Return to Normal

Following a meeting of the Commonwealth Drought Task Force, the Pennsylvania Department of Environmental Protection (DEP) announced that 19 counties have moved out of drought watch into normal status.

Hydrologic conditions are now normal statewide.

"Thanks to a wet spring, Pennsylvania has seen sufficient recovery of drought indicators to return all counties to normal status," said DEP Acting Secretary Patrick McDonnell. "We'll continue to monitor conditions heading into summer."

DEP bases its drought declarations on four indicators: precipitation deficits (averaged from numerous gauges), stream flows, groundwater levels, and soil moisture.

Berks, Bucks, Centre, Chester, Cumberland, Dauphin, Delaware, Franklin, Lancaster, Lebanon, Lehigh, Mifflin, Montgomery, Northampton, Northumberland, Perry, Philadelphia, Snyder, and Union Counties **all moved from watch to normal status.**

The Drought Task Force will next meet when conditions warrant.

Find more drought-related information on the [DEP Drought Information website](#).

Source: DEP Press Release, 5/16/2017

### MEDIA ADVISORY – DEP to Hold Environmental Justice Listening Session in Philadelphia

The Pennsylvania Department of Environmental Protection (DEP) will hold an Environmental Justice listening session in Philadelphia, PA on May 25, 2017.

The session will focus on engaging community residents and leaders in DEP's decision-making process, and how DEP can involve people that may not fit the traditional definition of an environmental justice area - which is based on minority population and income levels in census tracts.

WHAT: Philadelphia Environmental Justice  
Listening Session

WHEN: Thursday May 25, 2017  
4:00 P.M. – 6:00 P.M.

WHERE: Fairmount Water Works  
640 Water Works Drive  
Philadelphia, PA 19130

Comments will also be accepted via email at <mailto:DEP-OEJ@pa.gov>

Source: DEP Press Release, 5/18/2017

## **Pennsylvanians Invited to Help Develop State Plan to Improve Local Water Health in Chesapeake Bay Watershed Counties**

**P**ennsylvanians are invited to share their views on how the Commonwealth can best achieve federally mandated water pollution reductions in counties in the Chesapeake Bay watershed at a public event hosted by the Department of Environmental Protection (DEP) on June 5.

The planning event takes place from 9:30 am to 3:30 pm at the Radisson Hotel Harrisburg in Camp Hill. The event is free, and all Pennsylvanians are invited. [Registration](#) by May 24 is required.

"Local support and action are key to creating an implementable Phase 3 plan to reduce water pollutants in our 43 counties in the Bay watershed," said DEP Acting Secretary Patrick McDonnell. "The challenge is great, but we've made some progress, and together we can build on this."

In breakout groups, participants will discuss what initiatives are needed in agriculture, forestry, funding, local planning, stormwater, and wastewater to improve the health of local streams, rivers, and lakes. Discussions will also cover how the plan will be developed and ways participants can get involved.

For those who can't attend in person, a 45-day public online comment period will start June 3 on DEP [eComments](#).

Pennsylvania is mandated by the Environmental Protection Agency (EPA) to reduce nitrogen, phosphorus, and sediment levels in waterways in its Bay watershed counties by 2025. The Commonwealth fell short of its Phase 1 goal, set in 2010, and Phase 2 goal, set in 2012.

This year, EPA is conducting a midpoint assessment of these levels and will define what Pennsylvania needs to achieve in Phase 3 based on this assessment.

While Pennsylvania has made significant progress toward meeting the EPA targets, particularly since launch of the [Chesapeake Bay Restoration Strategy](#), considerable work remains to be done.

Find more information on the Phase 3 planning process at the [DEP Chesapeake Bay Program Office](#).

Source: DEP Press Release, 5/19/2017

## **DEP Proposes Plan to Improve Safe Drinking Water Oversight**

*Fee package would increase Safe Drinking Water staff to ensure drinking water safety*

**I**n order to provide mandated protections to public drinking water, the Pennsylvania Department of Environmental Protection (DEP) proposes to increase the number of inspectors who ensure safe drinking water is delivered from the state's more than 8,500 public water systems to more than 10 million Pennsylvania residents. To fund the positions, DEP proposes a new annual fee and amendments to existing permit fees for public water systems. The proposed fee package will allow DEP to expand the existing drinking water staff complement by more than 50 percent and improve inspection rates of public water systems.

“Years of under-investment in our safe drinking water oversight has put Pennsylvania in a precarious position,” said DEP Acting Secretary Patrick McDonnell. “DEP staff have done tremendous work to ensure that the water that we drink is safe and clean. But, we cannot continue with the staffing shortages we currently face.”

Over the past few months, the U.S. Environmental Protection Agency (EPA) has noted that DEP has one inspector for every 149 public water systems, more than double the national average of one inspector for every 67 systems. EPA has also warned that if inspection requirements are not met, Pennsylvania may lose primacy over Safe Drinking Water programs. Correspondence can be found on the DEP [website](#).

The proposed package would increase fees for new or amended permits and impose annual fees for community water systems, non-community water systems, and bottled, vended, retail and bulk water suppliers. The fees are anticipated to raise \$7.5 million in additional annual funding for the program. More information can be found [here](#).

The proposed fee package would add 33 new positions to the existing drinking water complement. The fee package would be the first increase to permitting fees since the fees were first implemented in 1984.

“It’s clear that the ever-expanding workload of inspections cannot be managed forever by the current staff levels,” said McDonnell. “These inspections cover the entirety of the water system, from the water source, through the treatment and storage, and finally the distribution to homes. We’re seeking these increases to make sure that we can continue DEP’s high-quality work and fulfill our responsibility to ensure clean drinking water sources to the people of Pennsylvania.”

The proposed fee package will be presented to the Environmental Quality Board at their May 17, 2017 meeting. Details of that meeting are available on the [website](#). A public comment period will be announced once a draft of the package is finalized; details of the comment period will be announced at that time.

**Editor’s Note:** The EQB **adopted** the proposed rulemaking on May 17, 2017 with a 30-day comment period, upon publication in the *Pennsylvania Bulletin*.

**Source:** DEP Press Release, 5/16/2017

## **PennLive Editorial: Pennsylvanians Can’t Wait For Clean Water, State Must Act Now**

**O**n Friday, PennLive posted this editorial entitled, “[Pennsylvanians Can’t Wait For Clean Water, State Must Act Now](#),” about significant funding gaps in DEP’s Safe Drinking Water Program and the ramifications on clean water and public health. The text of the editorial follows:

When you turn on the kitchen faucet at home, you count on a couple of things:

First, that the water will flow freely. And second, that it’s going to be clean and safe for you and your family to drink.

But for residents of the tiny borough of **Zelienople in Butler County**, that basic social compact didn’t apply for years.

In 1998, after a drought shut off its primary water source, the borough began drawing water from the polluted Connoquenessing Creek (photo), which ranks only second to the Mississippi River in toxic chemical dumping.

As [PennLive’s Wallace McKelvey laid out this week in chilling detail](#), high nitrate levels in the creek led to advisories against pregnant women and children drinking from their taps.

The nitrates, which were later traced to a nearby steel plant, can impact human metabolism and starve the brain of oxygen. Young children and fetuses are the most vulnerable to nitrate poisoning, McKelvey reported.

That went on for two years, with the state unaware of the problem. Finally, the U.S. Environmental Protection Agency stepped in, ordering a steel plant to pay for an alternate water source.

In 2002, the EPA's Office of Inspector General issued a report on failed oversight at the federal and state level that contributed to the crisis, McKelvey reported.

Now, the state is scrambling to [increase the number of inspectors](#) statewide and enact new regulations to prevent the Zelenople incident -- or more recent lead contaminations in [Pittsburgh](#) and [Flint, Mich.](#) -- from happening again.

As McKelvey points out, **unless Gov. Tom Wolf and the Republican-controlled General Assembly step in**, DEP's proposed solution won't result in fully trained inspectors on the ground until 2021.

And that's the [best-case scenario](#) -- because **even the slightest push back under the Capitol dome could result in a delay of months or years.**

Right now, the DEP is seeking regulatory approval to impose a [\\$7.5 million fee package to be paid for by water utilities across the state](#) that would bolster the ranks of water inspectors and beef up safety.

This process will take entirely too long. **State government can solve that problem by simply boosting DEP's budget for safe drinking water inspections.** That would put inspectors on the ground well before 2021.

Yes, it's possible that utilities could turn around and pass some of this negligible cost to their customers. Or taxpayers could be asked to pay more because of the increased budget appropriation.

**But consumers, the industry, and lawmakers need to ask themselves this:**

**What is the more pressing need? A few pennies on your water bill? Or an unsafe drinking supply that puts public health at risk?**

And there's no guarantee that more inspectors would prevent another Zelenople -- **that's what other proposed rule changes are designed to do.** But without them, we won't know what could be going wrong. **And there's no excuse for allowing Pennsylvanians to drink contaminated water.**

Because the Pennsylvania Constitution is absolutely unambiguous about state government's responsibility in this instance.

Article 1, Section 27 of the foundational document reads:

*"The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic, and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all of the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people."*

And lest you think that's just flowery verbiage, a [2013 state Supreme Court ruling](#) gave the amendment some real teeth:

*"The right delineated in the first clause of Section 27 presumptively is on par with, and enforceable to the same extent as, any other right reserved to the people in Article 1,"* the court held.

Those other rights, by the way, include the right to life, liberty, property and the pursuit of happiness; it includes freedom of speech, freedom of religion, the right to trial by jury and the right to bear arms.

**Looming above all this is the threat by the EPA to take over drinking water enforcement if the state fails to act.**

In budget after budget, lawmakers have found a way to slip in sweeteners and funding for favored causes back home, including the creation of taxing zones enabling the construction of baseball and hockey stadiums.

**If lawmakers and the administration can find the money for porkbarrel projects, they can find**

**the money for guaranteeing the constitutional right to clean water.**

Anything else is an absolute abdication of their collective responsibility.

**Source:** PA Environmental Digest, 5/22/2017

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*This newsletter provides general information, not legal advice as to any specific matter. It should not be used as a substitute for appropriate legal advice.*