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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  
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### Governor Wolf's Statement on the Confirmation of Patrick McDonnell

**O**n May 23, 2017, Governor Tom Wolf released the following statement congratulating Patrick McDonnell on his confirmation as Secretary of the Pennsylvania Department of Environmental Protection (DEP):

“Patrick brings a breadth of experience to the Department of Environmental Protection, with his more than 20 years of government service. His deep knowledge of DEP’s mission, policies, and processes are why I chose him to lead an agency that plays such an important role in Pennsylvanians’ lives. From the water we drink to the air we breathe, DEP touches all aspects of life and the economy in Pennsylvania. That’s why it is important to have a leader like Patrick McDonnell at the helm. I look forward to working with Patrick to address the challenges the agency faces, from aging water and sewer infrastructure to tackling climate change and its effects on Pennsylvania’s environment and economy.”

**Source:** Governor’s Press Office, 5/23/2017

### Governor Wolf to Sign Bill Enabling Pennsylvania to Comply with Real ID

**O**n May 24, 2017, Governor Tom Wolf announced he will sign Senate Bill 133 now that the bill was altered to remove problematic change made in the committee process.

Governor Wolf’s full statement:

“I want to thank Senator Ward and her colleagues for their cooperation with PennDOT and my administration to ensure Pennsylvania can comply with the federal REAL ID law. I am hopeful that the House will not make further changes and I can sign this bill in its current form when it reaches my desk. This bill achieves the primary goal of allowing Pennsylvania commuters and businesses to avoid disruptions related to noncompliance.

Once the 2012 noncompliance law is repealed, PennDOT can begin working with the federal government to update its systems to complete compliance. We will work diligently to ensure the process is as consumer friendly and affordable as possible.

## Editor's Note:

[Senate Bill 133](#) (Ward-R) provides for participation in the REAL ID Act of 2005, for compliance by residents of this Commonwealth, for reports to the General Assembly and for publication of notice of issuance of Real IDs, and repeals the REAL ID Nonparticipation Act (Act 38 of 2012).

- Repeals the REAL ID Nonparticipation Act of 2012, and directs the Pennsylvania Department of Transportation ("Department") to comply with the REAL ID Act of 2005, and regulations promulgated under that act.
- Requires the Department, in complying with the REAL ID Act, to provide an eligible applicant with an option to obtain either a standard-issued driver's license or photo identification card or a REAL ID, and a brief description that reasonably describes the content, requirements and restrictions of a standard issued driver's license or photo identification card or a REAL ID.
- Stipulates that no individual shall be compelled by the Commonwealth to apply for a REAL ID, nor shall the Commonwealth exclusively mandate a REAL ID for any reason.
- Requires the Department, within 90 days of the effective date of this act, to present an initial report to the General Assembly. The report shall provide details on estimated costs associated with implementation and maintenance of all requirements for compliance with the REAL ID Act, as well as all estimated initial and recurring costs to establish and maintain a two-tiered system.
- Except for the year in which the initial report is presented, the Department is required to submit an annual report to the General Assembly by July 1 of each year, providing details on costs incurred by the Department under this act, including the cost to issue REAL IDs, the total number of REAL IDs applied for and issued, and funding received from the Federal Government for the implementation of the REAL ID Act.

- Requires the Department to provide notice to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin of the date on which the Department will commence issuance of the REAL IDs. The date of issuance must be at least 60 days after the date of publication of the notice in the Bulletin.

Source: Governor Wolf's Press Office, 5/24/2017

## Trump Budget Proposal Threatens Safe Drinking Water, Clean Air, and Job Creation

Pennsylvania Department of Environmental Protection (DEP) Secretary Patrick McDonnell has warned the Pennsylvania congressional delegation that the Trump administration's proposed cuts to environmental protection and clean energy programs will threaten Pennsylvania residents and businesses.

"The proposed cuts in the Trump administration's budget, if enacted, would risk the safe drinking water of more than 10 million Pennsylvanians; and that's just one program area," said McDonnell. "The proposed budget also cuts funds for air quality monitoring, sewage treatment plant inspections, and land cleanup programs that put Pennsylvanians to work."

In his letter addressed to the Pennsylvania congressional delegation, McDonnell warns that significantly reducing federal funding risks safe water, stifles job creation, and allows harmful pollutants to poison Pennsylvania air. Cuts to key U.S. Environmental Protection Agency program areas, if enacted, would mean:

- 30% fewer inspections of Pennsylvania's 8,500 public water systems
- Cuts to radon and lead risk programs, putting children especially at risk from these toxic substances

- 30% cut to air quality funding, leading to limited air quality monitoring and longer wait times for businesses seeking air permits
- Cutting funds to remove and cleanup damage from leaking underground storage tanks by 50%, putting groundwater sources at risk from leaking chemical storage tanks

The proposed Trump administration budget also makes drastic cuts to Department of Energy programs that create jobs and provide economic benefits to Pennsylvania residents and businesses through energy efficiency programs, new technology, and increased resilience and reliability of the electrical grid.

"These programs pay dividends far beyond the investment in the form of jobs, lower utility bills for Pennsylvania families, and new growth opportunities for the economy," said McDonnell. "Enacting the drastic cuts of the Trump administration's budget only hamstring Pennsylvania's future."

The letter to the delegation can be viewed [here](#).

Source: DEP Press Release, 5/25/2017

## Senate Environmental Resources & Energy Committee Update

The Senate Environmental Resources and Energy Committee approved two bills last week.

- [Senate Bill 624](#) amends the Bituminous Mine Subsidence and Land Conservation Act, providing for planned subsidence and for retroactivity.
- [Senate Bill 649](#) extends the Underground Storage Tank Environmental Cleanup Program and the Pollution Prevention Program which are set to terminate on June 30.

Source: Senate Weekly Session Wrap-up, 5/25/2017

## Rep. Sturla Reintroduces Water Use Fee Bill to Fund Clean Water Programs

Rep. Mike Sturla (D-Lancaster), who is one of 5 legislators who represent Pennsylvania on the interstate Chesapeake Bay Commission, Wednesday reintroduced legislation -- [House Bill 20](#) -- that would enact a water resource use fee on 5.6 billion gallons of daily water withdrawals in Pennsylvania that has the potential to generate \$250 million annually, based on current usage rates.

The bill would exempt the 1.4 billion gallons of daily water withdrawals for agricultural and drinking water usages.

**Note:** "Extraordinary water user." A person that withdraws more than 10,000 gallons of water per day from the waters of this Commonwealth for the purpose of for-profit business. **The term does not include withdrawals made by a community water system or a noncommunity water system regulated by the department under the act of May 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe Drinking Water Act.**

In January, the bipartisan Pennsylvania members of the Chesapeake Bay Commission put a spotlight on the need to invest more state resources into the state's water pollution cleanup programs by creating a state Clean Water Fund.

Sen. Gene Yaw (R-Lycoming), Majority Chair of the Senate Environmental Resources and Energy Committee, Sen. Rich Alloway (R-Franklin), Rep. Garth Everett (R-Lycoming), Rep. Keith Gillespie (R-York) and Rep. Mike Sturla (D-Lancaster) wrote to all members of the House and Senate on the need for more funding.

They said, "Clean water is fundamental to public health and our economy. Unfortunately, almost one quarter of Pennsylvania's streams and rivers are not safe for either drinking, swimming, fishing or aquatic life."

One possible solution, they said, was creating a Clean Water Fund financed by adopting a fee on water use.

“The Pennsylvania Constitution makes it clear that Pennsylvania’s public natural resources belong to the people of the Commonwealth. This bill ensures that entities that are currently using our water for free would pay a nominal fee that will be used to fund water-related programs and projects while freeing up money for the General Assembly to close structural deficits in the state budget,” Rep. Sturla said.

Water withdrawn from Commonwealth waterways in excess of 10,000 gallons a day is already required to be reported to the Department of Environmental Protection.

House Bill 20 would result in a charge of 1/100th of a cent per gallon if water is withdrawn for use and eventually returned to the source. Water withdrawn and not returned beyond 10,000 gallons a day would be charged 1/10th of a cent per gallon.

Revenue generated from House Bill 20 would be used to fund water-related programs and general governmental operations in the Department of Environmental Protection (\$30 million), Department of Conservation and Natural Resources (\$25 million), Department of Agriculture (\$5 million) and Fish and Boat Commission (\$5 million).

The remaining dollars would be allocated to the PA Water Infrastructure Investment Authority for water-related projects within Pennsylvania’s six major watersheds.

There is an additional option for PennVEST to use remaining funds to pay debt service on a \$3 billion bond issue for environment projects, subject to ballot referendum.

A [sponsor summary](#) is available.

**Source:** PA Environmental Digest, 5/29/2017

## Analysis: House/Senate Republicans Introduce DEP Permit/Reg Reform Bills

**O**n May 22, 2017, House Speaker Mike Turzai (R-Allegheny) told members of the Pennsylvania Press Club his Republican Caucus has introduced 10 or more bills aimed at reforming the way the Department of Environmental Protection reviews permits and regulates industry.

He said DEP really means “Don’t Employ Pennsylvanians” because its “bureaucratic red tape filibuster” is sending employers to other states as a result of delays in processing permits.

Speaker Turzai said the “excellent” proposals made by House Republicans will bring more transparency and accountability to the permit review process, as well as reducing permit review times.

It should be noted the General Assembly and Governor cut DEP General Fund monies by 40 percent and its staff by 25 percent over the last decade which has had a significant impact on not only the speed of permit reviews, but the ability of DEP to accomplish its mission.

The FY 2017-18 budget bill passed by House Republicans the beginning of April imposed more across-the-board cuts on DEP.

House Republicans have, instead, supported and repeatedly endorsed a Fee-For-Protecting The Environment Model, rather than use general taxpayer dollars, but enactment of the fees needed to support DEP programs always lag at least two or three years behind the actual need. (Click [here](#) for an example of the Safe Drinking Water Program.)

DEP has received deficiency notices from the U.S. Environmental Protection Agency and other federal agencies specifically citing lack of staff and other financial resources for not meeting minimum requirements in the Safe Drinking Water, Air Quality, Surface Coal Mining, Water Infrastructure Funding and other programs.

At the same time DEP is receiving these notices from federal agencies, the Trump Administration is proposing 40 percent or more in cuts to the grants states earn by administering federal environmental protection programs. Thirty percent of DEP's budget is federal funds. (Click [here](#) for more.)

### DEP Initiatives Underway

DEP now has significant initiatives underway, even with its very limited resources, to address the permitting concerns Secretary McDonnell and members of the General Assembly have identified over the last year he served as Acting Secretary.

At his May 15 Senate confirmation hearing, Secretary McDonnell summarized his approach to dealing with the challenges at DEP:

“Over my almost 20 years in state government, I’ve had the chance to see almost every aspect of our agency. From our policy making and regulatory functions to our budget and human resources apparatus.

“Through it all I prided myself on being open to collaboration, being honest about problems and listen to all perspectives to help my colleagues make meaningful decisions.

“It is no secret the Department faces challenges. Over the past year we’ve continued to address those issues.

“We are modernizing and improving our permitting processes, collaboratively addressing the Commonwealth’s Chesapeake Bay obligations, and we’ve created an e-permitting platform and e-inspection app to improve our partnerships with the regulated community and increase our transparency.

“We’ve refocused on engaging with stakeholders to identify problems and solutions and we’ve begun investing in the most critical asset we have in the Department, our people.”

Among the reform measures DEP has underway are:

-- **Listening Sessions to Hear about Issues from Consultants, Permittees:** DEP completed a series

of 7 regional listening sessions with consultants and permit applications early in the year to learn what DEP is doing right and wrong with its basic Chapter 102 erosion and sedimentation control and NPDES water quality permitting process. The results of that process and recommended changes will be ready to release in mid to late June. (Click [here](#) for more.)

-- **New General Permit for Low-Impact Projects Of 5 Acres or Less Instead Of Full Permit:** One result of the listening sessions is already being started-- developing a new General Permit for Chapter 102 erosion and sedimentation control permits for low impact projects like projects on farms, instead of a full permit. DEP’s workload evaluation found as many as 40 to 50 percent of the projects DEP now requires full permits for are projects of 5 acres or less. (Click [here](#) for more.)

-- **Shifting Permit Work between Regions:** DEP has a pilot project underway to shift some of the erosion and sedimentation permit work for oil and gas operations from the Southwest Regional Office to the Northcentral Office to speed permit reviews.

-- **ePermitting Platform:** Secretary McDonnell told both the Senate and House Appropriations Committees in March DEP’s new ePermitting platform has already reduced the modules required for mining permits by 20 percent. Since the system requires correct, step-by-step input of information, it also reduces errors and deficiencies in applications submitted significantly. This is potentially huge because 60 to 80 percent of the 30,000 permit applications DEP receives contain errors or other deficiencies. He said DEP would be expanding the system to erosion and sediment permits next. (Click [here](#) for more.)

-- **Electronic Documents System:** Secretary McDonnell told both the Senate and House Appropriations Committees in his budget testimony in March DEP has already taken the first steps toward an agency-wide electronic documents management system that will speed submissions to the agency and make the agency more transparent to the public by giving better access to documents without taking staff time for document reviews. (Click [here](#) for more.)

-- **Regional Permit Coordination Office:**

Secretary McDonnell told both the Senate and House Appropriations Committees in March he formed a special Regional Permit Coordination Office to better coordinate the handling of pipeline and other projects that cross DEP regional office boundaries

-- **Electronic Field Inspection Reports:** Secretary McDonnell told both the Senate and House Appropriations Committees in his budget testimony in March DEP has now equipped its Oil and Gas Program inspectors with iPads to fill out inspection reports electronically and submit them to agency databases making staff much more efficient and effect. Previously staff worked with paper and had to recopy field notes into a database at the office. He said he hopes to expand the initiative to other programs. (Click [here](#) for more.)

-- **Other Solutions Pros/Cons:** During a February Senate Transportation Committee hearing, DEP also discussed a variety of recommendations pro and con for improving the permit review process. (Click [here](#) for more.)

These are the kinds of realistic, grind-it-out-on-the-ground, hands-on management of programs DEP needs to improve its programs with the resources it is able to cobble together.

House Republican “Reforms”

Here’s a quick review of what House Republicans view as “reforms” of DEP’s permitting and regulatory process:

-- **Expedited Environmental Permit Review For Licensed Professionals:** [House Bill 1352](#) (Bloom-R-Cumberland) directs DEP to develop an alternative permit review process for all applications submitted by a licensed professional engineer, landscape architect, geologist and land surveyor that requires publication of public notice, schedule required public meetings and hearings and initiative a technical review within 10 working days of the receipt of an application and it is declared complete and requires DEP to make a decision on the permit within 45 days. It also prohibits DEP from charging an “additional” fee for receipt or processing of an application submitted by a licensed

professional ([sponsor summary](#)). Here’s a question, do you really want an expedited permit review for a permit related to a hazardous waste facility or landfill submitted by a land surveyor? Just one of the many, many difficulties that plague this vague proposal. There is no funding associated with this proposal to actually improve permit review times.

-- **Tracking DEP Applications:** [House Bill 587](#) (Zimmerman-R-Lancaster) requiring DEP to develop another system for tracking the status of permit applications ([sponsor summary](#)). DEP already has eFACTS which tracks permit review status, although it does need to be upgraded since it hasn’t been touched in 20 years. With no funding to support this added requirement, it represents just another unfunded mandate on DEP.

-- **Approving E&S Permits Whether Or Not They Meet Standards:** [House Bill 588](#) (Zimmerman-R-Lancaster) requiring DEP to approve erosion and sedimentation control permits whether or not they meet environmental standards within a set time frame ([sponsor summary](#)). Various studies by DEP show between 60 and 80 percent of 30,000 permit applications-- most completed by engineers-- come in the door at DEP with deficiencies. Do we want to compound these errors by issuing permits with these deficiencies? Again, there is no funding to backup this new requirement.

-- **Citing Specific Regulations in Deficiency Notices:** [House Bill 1353](#) (Bloom-R- Cumberland) would require DEP to cite specific regulations or statutes when it declares an application deficient ([sponsor summary](#)). DEP already does this in deficiency notices.

-- **Listing DEP Permits:** [House Bill 1003](#) (Ortitay-R-Allegheny) requiring DEP to list all its permits in the PA Bulletin and online ([sponsor summary](#)). Billed as a way to “streamline DEP permitting,” it does nothing of the sort. It only makes the PA Bulletin bigger and adds more costs. DEP already has an existing online [DEP Permit Application Consultation Tool](#) that leads potential applicants through a series of questions to answer the basic question of What Environmental Permits Do I Need for My Project? There is also no

funding associated with this proposal, so it's another unfunded mandate on DEP.

**-- IFO Verification Of Costs Of DEP**

**Regulations:** [House Bill 1237](#) (Keefer-R-Cumberland)-- would require the Independent Fiscal Office to verify the cost of the regulations and then provide the House and Senate with 30 calendar days or 10 legislative days to vote on the proposal ([sponsor summary](#)). Interestingly, there is no similar requirement for legislation going through the General Assembly and there is no funding associated with this proposal, so it's another unfunded mandate. (Click [here](#) for more.)

**-- General Assembly Vote On DEP Regulations:**

[House Bill 911](#) (Rothman-R-Cumberland) would send regulations to the House and Senate, assign them to the appropriate committee and require an informational hearing before the regulations would be voted up or down ([sponsor summary](#)). There is no criteria for evaluating the regulations other than cost in the bill. No assessment of benefits or the reason the regulations were adopted in the first place-- direction of state and/or federal law. And if the General Assembly can kill a regulation if it does nothing at all. (Click [here](#) for more.)

**-- Eliminate Church, School Water Supplies**

**From State Regulation:** [House Bill 776](#) (Zimmerman-R-Lancaster) would no longer require thousands of church-owned facilities-- churches, schools, camps and businesses-- with their own water supplies from being required to meet state Safe Drinking Water Act requirements ([sponsor summary](#)). It's billed as a simplification of the permit program and unneeded regulation. The legislation risks Pennsylvania's primacy for administration the federal Safe Drinking Water Program and the loss of \$100 million a year in federal funds to improve drinking water systems. (Click [here](#) for more.)

**-- Rolls Back Protections From Temporary**

**Suspension Of Mining Permits:** [House Bill 1333](#) (Gabler-R-Clearfield) would eliminate the current DEP limit on temporarily ceasing of surface coal mining operations of 180 days and replace it with the less stringent federal requirement that has no specific time frames ([sponsor summary](#)). There is no requirement for a maintenance or stabilization

plan for the site to prevent pollution and financial guarantees for restoring the site if a mine operator goes bankrupt. (Click [here](#) for more.)

**-- Transferring Permit Authority for Farm Projects to State Conservation**

**Commission:** Rep. David Zimmerman (R-Lancaster) [circulated a co-sponsor memo](#) for legislation that would transfer permit authority for all farm-related projects from DEP to the State Conservation Commission which has no staff to review these permits. There is no funding associated with this bill and represents another unfunded mandate.

**-- Exempts Farm High Tunnels From DEP**

**Permit Requirements:** Rep. David Zimmerman (R-Lancaster) [circulated a co-sponsor memo](#) to exempt high tunnels (greenhouse-like structures designed to extend the growing season on farms) from Stormwater Management Act permit requirements. It's billed as a way to simply permit reviews by exemption.

Senate Republican Initiatives

Senate Republicans have also introduced some of the same "reforms" as the House Republicans, plus their own ideas:

**-- General Assembly Approval of DEP**

**Regulations:** [Senate Bill 561](#) (DiSanto-R-Dauphin). (Click [here](#) for more.)

**-- Taking Oil & Gas Penalty Monies From DEP:**

[Senate Bill 32](#) (Hutchinson-R-Venango) would take oil and gas penalty monies from DEP and deposit them in the General Fund where it could be spent on any program in state government ([sponsor summary](#)). The sponsor believes DEP now has an incentive to penalize oil and gas operators more under the current system to make up for cuts to DEP's budget made by the General Assembly. It's right in his sponsor summary.

**-- Tracking DEP Applications:** [Senate Bill 487](#)

(Vogel-R-Beaver), same as [House Bill 587](#) (Zimmerman-R-Lancaster) above.

**-- Rollback DEP Drilling Regulations Waste**

**Reporting:** [Senate Bill 486](#) (Vogel-R-Beaver)

would rollback DEP's Chapter 78A drilling regulations to report waste generated every 6 months rather than monthly ([sponsor summary](#)).

-- **Limit State's Ability To Control Methane Emissions:** [Senate Bill 175](#) (Reschenthaler-R-Allegheny) prohibits the state from adopting its own methane emission limits from oil and gas development or any other source of methane and instead requires the adoption of any federal standards. (Click [here](#) for more.)

Will Final Budget Address The Real Issues?

We'll see if the final FY 2017-18 state budget begins to address the real issue with DEP's permit review and environmental protection programs-- strangling them with cuts in funding year after year and not investing in real solutions -- like IT and other upgrades -- to support streamlined permit review systems.

**Source:** PA Environmental Digest, 5/29/2017

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