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# WUC

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



## GOVERNMENT RELATIONS UPDATE

### From Gmerek Government Relations, Inc.

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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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## Announcing the Release of the Revised Total Coliform Rule Assessments and Corrective Actions Guidance Manual

**E**PA has released the Interim Final version of the *Revised Total Coliform Rule Assessments and Corrective Actions Guidance Manual*.

The guidance manual is currently available online at [http://water.epa.gov/lawsregs/rulesregs/sdwa/tcr/regulation\\_revisions.cfm](http://water.epa.gov/lawsregs/rulesregs/sdwa/tcr/regulation_revisions.cfm).

The guidance manual provides public water systems and primacy agencies with guidance on complying with and implementing the assessment and corrective action requirements of the Revised Total Coliform Rule (RTCR). Under the RTCR, public water systems that are vulnerable to microbial contamination in the distribution system (as indicated by their monitoring results for total coliforms and *E. coli*) are required to assess the problem and take corrective action that may reduce cases of illnesses and deaths due to potential fecal contamination and waterborne pathogen exposure.

The guidance manual provides information on the common causes of total coliform and *E. coli* occurrence in the distribution system, how to conduct assessments to identify possible causes of contamination (“sanitary defects”), and corresponding corrective actions that systems can take to correct the problem.

Source: EPA

## DEP Announces Oil and Gas Technical Advisory Board Meeting to be Available Online

**O**n September 17, 2014, the Department of Environmental Protection (DEP) announced that the Oil and Gas Technical Advisory Board's (TAB) meeting on Thursday, Sept. 25 to discuss proposed changes to the Chapter 78 Oil and Gas regulations will be available online via webinar.

The morning session will run from 10 a.m. to noon and include discussion on the bifurcation of the regulations for the conventional and unconventional industries. The afternoon session

will run from 1 to 2:30 p.m. and include discussion of several changes to the proposed Chapter 78 Subchapter C rulemaking.

To attend the webinar, pre-registration is required at least 30 minutes prior to the start of each session. To register, visit [www.dep.state.pa.us](http://www.dep.state.pa.us) and click on the "Webinar" button on the home page.

The TAB meeting will be held in the Rachel Carson State Office Building, Room 105, 400 Market Street, Harrisburg.

To learn more about the proposed regulations, visit [www.dep.state.pa.us](http://www.dep.state.pa.us).

**Source:** DEP Press Release, 9/17/2014

## **First-of-its-Kind Mine Drainage Project to Generate Electricity for Sale on Grid**

**T**he Federal Energy Regulatory Commission (FERC) has issued a power generation license for an innovative project in Tioga County that uses mine drainage to generate electricity that can be sold on the grid.

FERC issued the license Sept. 3 to Antrim Treatment Trust to operate the 40 kW micro-hydropower plant in the Babb Creek/Pine Creek Watershed as net producer of power.

This is the first project ever licensed by FERC that uses mine drainage to generate electricity that can be sold on the grid. In February 2014, the Trust received the final "NEMR" (net energy metering) approval from Penelec authorizing the connection of the Antrim micro-hydropower turbines to the electric grid. This agreement allows both turbines to go on-grid and sell excess power.

The hydropower project has been operational and providing the Antrim AMD water treatment plant with a portion of the plant's electric need with just one of two turbines since May 2012. Combined, the turbines can generate up to 40 kW of power. Expected power generation from the grid-

connected power system is 460,000 kilowatt hours per year.

The Antrim treatment plant will use a large portion of the power, saving up to \$12,000 annually. Any additional power generated by the Antrim Micro-Hydropower Project (AMHP) will help offset the operational cost of the Antrim Treatment Plant.

The project was a collaborative effort of DEP's Moshannon District Mining Office, Babb Creek Watershed Association, Antrim Treatment Trust, the Anthracite Region Independent Power Producers Association (ARIPPA), the Eastern Pa. Coalition for Abandoned Mine Reclamation (EPCAMR) the Western Pa. Coalition for Abandoned Mine Reclamation (WPCAMR), the Tioga County Conservation District, and the project design/build partner, BioMost Inc.

The project was financed by a 2009 Energy Harvest Grant to the Babb Creek Watershed Association, Inc., for \$428,710; however, the cost to obtain the FERC license, greater than \$75,000, was contributed by BioMost, Inc.

**Source:** DEP News, 9/18/2014

## **Governor Corbett Announces Grant to Assist Montgomery County Residents Affected by Trichloroethene Drinking Water Contamination**

**O**n September 17, 2014, Governor Tom Corbett announced that the Department of Environmental Protection awarded a \$450,000 grant to Skippack Township, Montgomery County to extend public water to area residents whose drinking water wells are contaminated with trichloroethene (TCE). Funding for this Hazardous Sites Cleanup Fund grant comes from Act 13 impact fee revenues.

“The impact fee on the natural gas industry provides numerous financial benefits to communities across Pennsylvania,” Gov. Corbett said. “For Skippack Township, this funding will provide a permanent clean drinking water source to ensure the public’s safety.”

The Department of Environmental Protection (DEP) first began sampling wells at this site in 2001, after a referral from the Montgomery County Health Department. Residents with well contamination above safe drinking water limits, who did not already have carbon filtration in place, have been provided bottled water by DEP during the investigation.

A public hearing was held in December 2013 to give residents an opportunity to comment on a more permanent solution, including the installation or upgrade of carbon filter systems, or extending public water.

In February, DEP announced its decision to extend public water to the site, located in the vicinity of Bridge Road and Skippack Pike in Skippack.

For more information, visit [www.dep.state.pa.us](http://www.dep.state.pa.us) or call 484-250-5900.

**Source:** Governor’s Press Office, 9/17/2014

## **DEP to Assist Luzerne County Communities in Securing Safe Drinking Water Supply**

**O**n September 18, 2014, DEP and Hazleton City Authority kicked off a partnership plan to provide safe, reliable drinking water to two old coal mining communities in southern Luzerne County.

Staff from the Safe Drinking Water Program in DEP’s Northeast Regional Office has agreed to provide free engineering services for a water line construction project to help residents of the patch-town communities of Stockton #6 and Stockton #8,

which are part of Hazle Township, get fresh and treated water to their homes.

The 43 residences in both communities have been relying on a 50-year old outdated and unregulated system to supply their water. Test results from samples taken in July by staff from DEP's Northeast Regional Safe Drinking Water Program show a presence of giardia cysts in the water and high concentrations of metal.

The project, known as the Main Extension Project, would provide a water line extension from the homes to the main water supply line run by the Hazleton City Authority. The offer now allows the HCA to apply for a PennVest loan to build and maintain the water line.

It is estimated the water line extension project could cost close to \$1-million.

**Source:** DEP News, 9/18/2014

## **DEP Fines Range Resources \$4.15 Million for Violating Environmental Regulations**

**O**n September 18, 2014, the Department of Environmental Protection (DEP) announced it has signed a wide-ranging consent order and agreement with Range Resources for violations at six of its Washington County impoundments.

The consent order requires the company to pay a \$4.15 million fine, the largest against an oil and gas operator in the state's shale drilling era, close five impoundments and upgrade two other impoundments to meet heightened "next generation" standards currently under development at DEP.

"This action reaffirms the administration's unwavering commitment to protecting Pennsylvania's soil and water resources," DEP Secretary E. Christopher Abruzzo said. "This landmark consent order establishes a new, higher benchmark for companies to meet when designing future impoundments, which is an environmental win for Pennsylvania."

Violations at the impoundments include various releases of contaminants, such as leaking flowback that affected soil and groundwater. To date there has been no impact on drinking water from any of these impoundments.

Under the consent order, Range Resources will immediately begin the closure of the Hopewell Township 11 (Lowry), Cecil Township 23 (Worstell), and Kearns impoundments. Range Resources will also continue the closure of the Yeager impoundment. The company must close the Hopewell Township 12 (Bednarski) impoundment by April 1, 2015.

Additionally, the consent order also directs Range Resources to upgrade two other impoundments. The liner systems at the Chartiers Township 16 (Carol Baker) and Amwell Township 15 (Jon Day) impoundments will be completely redesigned and rebuilt to meet "next generation" standards currently under development at DEP.

When upgrading the two impoundments, Range Resources will install thicker liners than are currently required, an electrically conductive geomembrane that will allow better identification of potential leaks and a real-time leak detection system. Range will also fully investigate and remediate any groundwater contamination caused by the previous operation of the impoundments.

Another impoundment, Mount Pleasant Township 17 (Carter), will be limited to storing only fresh water for as long as it remains in service. Range will also install a groundwater monitoring well network at the impoundment now and will perform an environmental site assessment at this impoundment once it is permanently closed.

The company will be required to report to DEP quarterly on the progress of the shutdown and remediation of the sites.

The consent order also requires Range Resources to immediately begin soil and groundwater investigations at each of the closed impoundments to determine what, if any, impact there was from their operation of the impoundments. If contamination is found, the company is required to remediate the sites.

For more information, visit [www.dep.state.pa.us](http://www.dep.state.pa.us), or call 412-442-4000

**Source:** DEP Press Release, 9/18/2014

## House Approves James' Emergency Response Bill

**O**n September 17, 2014, the state House in Harrisburg approved a bill introduced by Rep. Lee James (R-Venango) that would remove a tax provision that harasses out-of-state utility workers who come to Pennsylvania to restore service following an emergency.

"When Pennsylvanians lose services during an emergency, they expect their utility companies to do whatever is necessary to restore them," James said. "Sometimes that means calling in crews from other states to work around the clock. We don't want our tax laws to stand in the way of restoring utility services following an emergency."

James is talking about a provision in current state law that requires out-of-state utility workers to pay all applicable taxes in any Pennsylvania municipalities where they work following an emergency.

Workers are responsible for paying the state income tax, local municipal income taxes and other municipal fees in the places where they perform work.

"We want these workers to focus on restoring services instead of worrying about the tax documents they're going to have to file every time they cross a municipal boundary," James said. "These guys almost have to bring a tax accountant with them to help restore services for our residents."

James' [House Bill 2377](#) would allow out-of-state utility workers to perform work in Pennsylvania following an emergency without paying applicable state and local income taxes and fees. Workers would still have to pay the state sales tax on applicable purchases.

Out-of-state utility workers or the companies they work for currently have to pay several taxes

and fees when helping Pennsylvania residents following an emergency, including the state income tax, local income taxes, local services taxes, local fees, state business licensing and registration fees, unemployment insurance costs and property taxes.

"These workers are leaving their families to come here for days or weeks and help us during our time of need," James said. "In return, they're getting headaches from all the tax documents they have to fill out. We should be thanking them instead of trying to squeeze tax dollars out of them."

James' bill now heads to the Senate for consideration.

**Source:** Representative Lee James Press Release, 9/17/2014

## Everett Salutes September as Emergency Preparedness Month

**O**n September 17, 2014, the House unanimously passed [House Resolution 998](#) which designates September as Emergency Preparedness Month in Pennsylvania, said Rep. Garth Everett (R-Lycoming), a sponsor of the measure.

"This resolution honors all of our first responders in Pennsylvania and coincides with the same observance on a national scale," said Everett. "We are blessed to have so many dedicated men and women in all walks of life who volunteer in emergency services in addition to those who do this as a vocation. The services they provide are of life and death importance to our residents."

The resolution stresses the importance of strengthening the security and health of the Commonwealth through consistent preparation for hazards such as natural disasters, acts of terrorism, cyber attacks and pandemic diseases. It also encourages local governmental entities to take a full range of steps in preparing for the event of a disaster.

Everett said this recognition is even more poignant now, following the sniper death of Pennsylvania State Trooper Cpl. Bryon Dickson II and the wounding of Trooper Alex Douglass in Blooming Grove, Pike County.

"A massive manhunt continues in an effort to apprehend the assassin who did this," said Everett. "This is an example of how first-responders literally put their lives on the line every day and deserve nothing less than our full measure of honor and support."

For information on emergency planning and preparedness in Pennsylvania, visit the [Pennsylvania Emergency Management Agency website](#).

**Source:** Representative Garth D. Everett Press Release, 9/17/2014

## Senate Committee Approves 'Property Tax Independence Act'

**O**n September 16, 2014, the Property Tax Independence Act was approved by the Senate Finance Committee, according to the bill's prime sponsors Senators David G. Argall (R-29), Mike Folmer (R-48), Judy Schwank (D-11) and John Yudichak (D-14).

"Today marks the first time in Senate history that there has been a vote in favor of eliminating the school property tax and represents a major victory for homeowners throughout the state," Argall said. "For too many years, legislative plans to remedy this problem have languished in committee, never to see the light of day. While much work remains in the battle to rid ourselves of the state's most-hated tax, approval of this legislation by the Senate Finance Committee is considerable progress toward our ultimate goal of removing this burden from homeowners once and for all."

[Senate Bill 76](#) would eliminate all school property taxes across the state. To replace the revenue the property tax currently provides to public schools, the legislation would broaden the

base of the state sales tax to include more services and products as well as increase the state sales tax from 6 percent to 7 percent. The remainder of the funding necessary for public schools would be generated by an increase in the state's personal income tax from 3.07 percent to 4.34 percent.

"Property tax elimination has been a long-debated topic with no legislative action for decades – we took a major step today to allow us to reach the much-needed and long-overdue goal of eliminating school property taxes," Folmer said.

The legislation was authored through the combined efforts of more than 80 grassroots groups who are committed to eliminating the school property tax.

"There is no question that we can create a better and fairer way to fund our public schools. Approval of Senate Bill 76 allows us to take another big step toward that end," Argall said. "I am deeply grateful for the support of so many grassroots organizations, and I appreciate the efforts of Chairman Brubaker, Chairman Blake and members of the Senate Finance Committee in helping us take the next step on the road to school property tax elimination."

The bipartisan efforts of Senator Judy Schwank (D-11) and John Yudichak (D-14) pushed the co-sponsors to include 12 Democrats of the 25 total co-sponsors.

"There is no doubt that too many families in Berks County and throughout the commonwealth are being crushed by steep property levies, they need relief, and they need it quickly and today's vote was in property owners' favor," Schwank said.

"The heavy burden of property taxes impacts all parts of the social and economic spectrum," Yudichak said. "Today's Finance Committee vote shows that the Senate recognizes the strong will of our constituents that want and deserve the elimination of high property taxes."

"I am happy to advance Senate Bill 76 to continue this important discussion. I'm confident that every legislator agrees that property taxes and the way we fund public education in the Commonwealth is antiquated. That's why the time

has come to begin acting on an issue which is so very important to so many people," said Senator Mike Brubaker (R-36), who serves as the Chairman of the Senate Finance Committee.

Senate Bill 76 was sent to the full Senate for consideration.

**Source:** Senate Republican Communications, 9/16/2014

## **IRRC Disapproves Lobbying Fee Increase**

**B**y a vote of 3-1, the Independent Regulatory Review Commission (IRRC) disapproved the increase to the biennial registration fee for individuals and entities required to be registered under the Lobbying Disclosure Act from \$200 to \$400. Chairman Mizner, Commissioner Bedwick, and Commissioner Faber all voted to disapprove the regulation. Commissioner Watson was supportive of the fee increase. Commissioner Tabas recused himself from the vote.

Commissioner Bedwick stated that disapproving the regulation did not mean that he was opposed to some increase in the fee, but he felt that a 100% increase was unreasonable.

The following is a summary of the discussion:

IRRC staff mentioned that they have received comments from Representative Dermody, Representative Metcalfe, and Drew Crompton in Senator Scarnati's office, asking IRRC to reject the proposed lobbying fee increase to \$700. All believed that the proposed 250% increase in the lobbying fee by the Department of State was excessive. After discussions with the members of the regulated community and the General Assembly, the Department of State reduced the increase from \$700 to \$400.

IRRC staff said that they received comments from Steve MacNett who believes the proposed \$400 fee achieves a reasonable balance. MacNett said that at the time the law was written, lawmakers didn't focus greatly on the fee.

IRRC staff noted that the groups listed below submitted comments in opposition to the fee:

- Pharmacists Association;
- Common Cause PA;
- Pennsylvania Association of Government Relations (PAGR);
- PA Homecare Association;
- Fred Brown;
- Duane Morris Government Strategies;
- PA Partnership for Children;
- Pa Society of Association Executives;
- Pa Advocacy and Resources; and
- Broadband Cable Association.

IRRC staff noted that they have not received any comments from the standing committees on the final regulation and it was deemed approved. On the regulation, Commissioners Mizner, Bedwick and Faber vigorously questioned the Department of State for about an hour on the fee increase.

Commissioner Faber challenged the need for the original increase to \$700. He noted that based on the budget for the lobbying disclosure division within the Department of State, the current lobbying fee of \$200 covers 41% of the budget. Based on those numbers, Commissioner Faber said that an increase to \$400 would cover 82% of the budget, and the original proposed fee increase to \$700 would have covered 144% of the budget.

Faber explained that had the initial \$100 lobbying fee just been adjusted for inflation since the law passed in 2007, the fee would be \$114. Commissioner Faber asked what the basis for the \$400 fee is.

Department of State staff noted that the cost of the lobbying disclosure system has increased beyond the rate of inflation. It was determined by the finance and operations within the Department of State that an increase was necessary.

Commissioner Faber believes that the lobbying disclosure system was setup to provide the public with more access. The use of the system for the regulated community is to post reports to the website.

Commissioners Faber and Mizner believe that it is reasonable to have the taxpayers cover some of the costs for maintaining the system. Chairman Mizner went on to say that the lobbying fee is different than many other fees imposed because it's imposed on people that are exercising their First Amendment right. When we talk about the right to petition our government, it seems to me that... the fees ought to be as little as possible so the cost of exercising that right is as limited as possible.

Mizner opined that lobbyists didn't ask for this act, it was the public that asked for this act. He said that it's the public who gains a huge benefit by having the ability of the transparency, so why then shouldn't it be the public that bears the vast majority of the costs.

Commissioner Bedwick stated that this fee increase could set a dangerous precedent for all boards and commissions that request fee increases. He noted that this is the second time since 2007 that the Department of State has requested a 100% increase without raising the threshold for having to register as a lobbyist.

Catherine Dotto, association director with PAGR, spoke at the meeting and said if the rulemaking goes into effect as it's currently written, it will undoubtedly cut off access to the public policy arena for many organizations. Barry Kauffman, director of Common Cause PA, who also opposed the regulation, said that such a dramatic increase in the lobbying registration fee could lead to a system where people might be challenged or might be tempted to not play the game according to the rules simply because the fees have become oppressive.

The regulation was disapproved by a vote of 3 to 1. Chairman Mizner, Commissioner Bedwick, and Commissioner Faber all voted to disapprove the regulation. Commissioner Watson was supportive of the fee increase. Commissioner Tabas recused himself from the vote.

Commissioner Watson said that despite all the arguments heard today, he thinks a 50/50 split between industry funds and public funds is a fair resolution.

Below is a link to the regulation:  
<http://www.irrc.state.pa.us/regulations/RegSrchRslt.s.cfm?ID=3018>

Source: Gmerek Government Relations

## House Moves Bill To Roll Back Stream Buffer Protection, Final Vote Monday, September 22, 2014

Last week the House moved [House Bill 1565](#) (Hahn-R-Northampton) eliminating the nearly 4 year old requirement for stream buffers in High Quality and Exceptional Value streams which is positioned for a final vote next week.

On September 22, 2014, the House Environmental Resources and Energy Committee voted 15 to 7 to report the bill out of Committee.

Before being reported out, the bill was amended to make stream buffers a preferred option to help control erosion and sedimentation, but the keeps the provision eliminating the stream buffer requirement. The amendment was approved 17 to 5.

The full House amended House Bill 1565 on September 24, 2014 to eliminate the nearly 4 year old requirement for stream buffers in High Quality and Exceptional Value streams and make buffers a “preferred” option, but the bill still retains the language eliminating the buffer requirement.

Rep. Chris Ross (R-Chester) offered the amendment which was agreed to and passed by a vote of 191 to 0.

Eight other amendments were offered to retain the current buffer requirement or make other changes, but those were defeated largely along party lines.

The bill was referred to the House Appropriations Committee for consideration and will be put in position for a final vote next week.

Amendments to Chapter 102 of DEP’s regulations have required stream buffers in High Quality and Exceptional Value watersheds since November of 2010.

Section 102.14 provides a long list of exceptions to the buffer requirement, including: a project site located greater than 150 feet from a named waterbody; activities involving less than one acre of earth disturbance; activities when a permit is not required under Chapter 102; activities where the permit was acquired before November 19, 2010; road maintenance activities; repair and maintenance of existing pipelines and utilities; oil, gas, timber harvesting or mining activities; single family homes not part of a larger common plan or development; and activities authorized by a Department permit under another Chapter or title.

Source: PA Environmental Digest, 9/22/2014

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