

WATER

FROM A15

statewide.

The DEP's primary method of enforcement is to issue fines but most water systems are facing financial struggles. If they can't afford to invest in infrastructure and routine maintenance, they probably can't afford to pay the fines, either.

"If you can explain to me how the fines do anything but make this more difficult, I'd appreciate it," said Robert Weimar, interim executive director of the Pittsburgh Water and Sewer Authority. The Pittsburgh authority was slapped with a \$2.4 million fine in November after years of violations. Of that, \$1.8 million will be used to help low-income residents replace lead water lines.

That figure, in addition to the more than \$500 million worth of upgrades the PWSA needs to make in the next decade, will have to be shouldered by ratepayers. That's a problem because some 11 percent of city residents were below the poverty line in 2016.

Daniels said penalties are a deterrent the agency uses sparingly and only in situations where it's needed to spur change. In Pittsburgh's case, another factor was the 2014 decision to switch from soda ash to caustic soda as an anti-corrosive agent to prevent lead from sloughing off aging pipes. At the time, officials publicly claimed the switch would save hundreds of thousands of dollars. Those claims were part of the calculation behind that fine, she said.

"With Pittsburgh," she said, "some of their violations were repetitive violations and so egregious, we really thought we needed to get their attention."

'IT JUST COMES DOWN TO MONEY'

From his vantage point, former DEP attorney Siegel saw both the hollowing out of inspection and enforcement. He now works as an environmental attorney, largely representing residential and commercial developers.

"I worked in government most of my career and I know there's inefficiency out there but at some point, it just comes down to money," he said. "There's only so much you can cut without impacting services."

Pennsylvania's water woes are hardly a new problem.

The EPA's 2016 drinking water warning may have surprised the public but it didn't surprise anyone at the DEP. It followed similar warnings from the EPA and the Office of Surface Mining about air quality and mining regulations, showing the wide-ranging impact of budget cuts.

In the past decade, the agency has grown increasingly reliant on fees paid by the industries it regulates. For drinking water, utilities will probably pass those costs on to their customers.

Daniels said she began working on a fee package that raised money from water systems to help fund the drinking water program in 2005. It went to the state's Environmental Quality Board, which reviews proposed regulation, in 2010 only to be pulled back the following year under former Gov. Tom Corbett's administration.

Gov. Tom Wolf's administration initially pinned its hopes on a \$7.5 million fee package, which is still working its way through the regulatory process, that the DEP proffered last year. The prevailing wisdom in Harrisburg is that any substantial increase to the DEP budget would be a tough sell with the Republican majority caucuses. Since 2013, the agency has seen a gradual increase in state funding, although those increases barely kept pace with inflation.

The recently enacted budget includes a \$5.6 million increase for the DEP. That would help pay for the hiring of 17 trainees and a variety of other new hires, 33 in all, that include compliance specialists, engineers and geologists.

Daniels said those trainees would eventually get the DEP closer to a more optimal workload of 100-125 water systems per inspector. The figure would still be well above the national average of 67.

"It's not going to get better immediately because we need to get those folks trained," she said, "but once we get this in place, we'll be closer to where we need to be."

Amid shrinking federal and state funding, the DEP has turned increasingly to fee hikes. It hasn't had much of an option.

"Really, it comes down to policy choices the Legislature and the governor are constantly having conversations about," McDonnell said.

Hess, the former environmental secretary, said he worries that Pennsylvania is on a path to the kinds of major outbreaks of waterborne illness that spurred protections for drinking water in the first place.

One of the inspectors put it this way: "I like my job. I'm not a disgruntled employee. This is important, which is the only reason I came forward."

It was only recently, in 2013, that the state Supreme Court cited Pennsylvanians' right to "clean air, pure water, and to the preservation of the natural, scenic, historic, and esthetic values of the environment" to strike down key portions of Act 13, the 2012 law that governs the Marcellus Shale gas industry.

Otherwise, state bureaucrats and lawmakers largely ignored the amendment passed in 1971.

"The constitution is only as good as the people who believe in it and act on it," Kury said. "How do you protect clean water? It has to be enforced politically as well as judicially and the political part is easier. They all take the oath. You've just got to push them."