

SANITARIANS' NEWS



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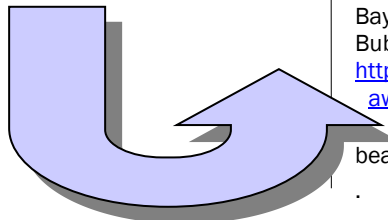
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Any photos, stories, or any good news? Share in the next issue by reaching out to Nick King,

Nicholas.B.King@wv.gov

GET INVOLVED WITH WVAS!



WVPHA ANNUAL CONFERENCE 2024: 100 YEARS: PROUD PAST, PROMISING FUTURE

Canaan Valley Resort September 17-19th, 2024



Registration link: <https://futureconnect1710422244.eventify.io/p/#/overview>

Room Reservation: <https://www.canaanresort.com/book-now?pid=24169>

Reservations need to be made no later than 8/31/24.

Nominate!

Know anyone that deserves recognition for their contributions to environmental health? Nominate them for the Steve Bayer, Recognition, Citizen, or Bubba Award. Info is found at <http://www.wvdhhr.org/wvas/awards.asp> or contact Awards Committee Chair, Gillian beach (Gillian.R.Beach@wv.gov),

Run for Office!

Elections of Executive Council occur once a year during WV Public Health Conference in the Fall. Serve your fellow sanitarians for a two year term as Member at Large or run for Vice President and serve a year as VP and a year as President. If you are interested in running reach out to Cara Harding at charding@berkeleywv.org.

Join the AOS (or Renew Membership!)

For 2024, the WVAS is doing a test run of a new membership policy that would make joining the WVAS free for all sanitarians in WV. Fees are covered in conference attendance to WVAS Mid-year and the WV PHA conferences. Another vote will take place this year to continue this policy in 2025.

News Liaison Committee

During the May 2024 Liaison Committee meeting, there was discussion about updating the state code 16-38 relating to Tattoo Studio Business Law. Members of the tattoo studio industry had approached several health departments asking for updates to the code that provides clearer regulation. There was discussion about creating a committee that would bring together state, local and industry members to be involved in the update. There would need to be an update to state code, which is where the tattoo studio regulation lies, there is currently no rule that contains tattoo studio regulations.

WV Board of Sanitarians

Training for CEUs needs to be submitted to Linda Whaley to officially count for your sanitarian registration. Email CEUs to linda.k.whaley@wv.gov

Region Representatives

JJ Rose—ROC (Beckley) Region
 Steve Hinerman—PACT (Fairmont) Region
 Gillian Beach—EPHRT (Kearneysville) Region
 Rodney Melton —BUNDLE (St. Albans) Region
 Nicole Needs—MID-OHIO VALLEY
 Lock Johnson—NORTHERN (Wheeling) Region
 Vacant—SPHERE Region

If you have an issue you wish to have addressed by this committee, please send that information to your Region Representatives.

Sanitarian Liaison Committee

webpage:

<https://oehs.wvdhhr.org/phs/public-health-sanitation/state-local-environmental-health-liaison-group/>

NEHA EXAM STUDY GROUP IN WORKS

Nick King is preparing a study group for the NEHA Exam. The study group is a weekly Zoom meeting based on the most recent editions of the official study guide. The sessions will also review the structure of the test itself as well as test taking strategies. The study group will take place in 1 hour meetings over the course of 16 weeks pending events such as holidays.

Before the study group occurs, two things will need to be done:

- If you are interested in joining the study group, email Nicholas.B.King@wv.gov. Make sure in the email you will include what dates/times work best with you. The group could be done in the morning, afternoon, or evening.
- October will be the “sign-up” period for the study group. After responses are pooled at the end of the month, a date/time each week will be set that is based on what works with the most people.

US Supreme Court's *Chevron* Reversal and Food Safety

On June 28th, the Supreme Court issued a decision in the case *Loper Bright Enterprises v. Raimondo* that reversed the *Chevron* Deference. The *Chevron* deference was that whenever an administrative regulation needed to be interpreted, the Court would defer to the federal agency's interpretation of the regulation. The original case that established the *Chevron* deference was *Chevron U.S.A., Inc v. Natural Resources Defense Council, Inc.* in 1984 which allowed the EPA to define what constituted a “source” of air pollution in the Clean Air Act of 1963.

In the recent *Loper Bright* decision, the Supreme Court reversed the *Chevron* deference on grounds that it violated the Administrative Procedures Act. The *Loper Bright* case was the result a lawsuit between fishing companies and the National Marine Fisheries Service under the Department of Commerce. The fishing companies claimed that the Magnuson-Stevens Fishery Conservation and Management Act did not allow the NMFS to pass the cost of having federal fishing monitors on ships to the fishing companies. The Supreme Court ruled in favor of the fisheries. In July, a bill called the Stop Corporate Culture Act was introduced to reverse this decision but has not yet been up for a vote in both the House and Senate.

The new ruling will affect the jobs of federal regulators of all levels, including environmental health. Administrative agencies such as FDA can now have their interpretations of federal statutes overruled by courts whenever a statute needs additional context. The ruling will make it easier for firms to sue federal agencies in order to allow courts to challenge their interpretations of federal administrative law.

SEVERE DROUGHT IN WV THREATENS WATER SUPPLIES AND AGRICULTURE

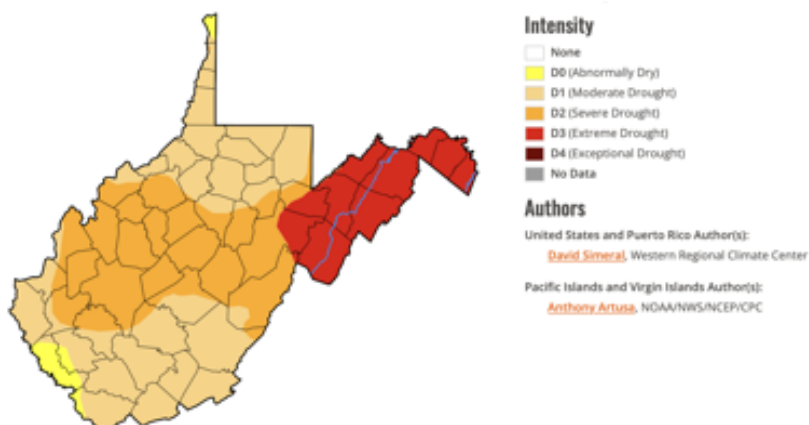
All 55 counties in WV have been in a drought all summer, with the eastern panhandle bearing the worst of it. According to Agriculture Commissioner Kent Leonhardt, the eastern panhandle is seeing its worst drought in over 130 years. The drought has resulted in emergency declarations in all 55 counties.

The drought has devastated both agriculture and wildlife. Many local farms are harvesting less than half, and in some cases on a quarter of their yields. Fields have needed to be hand watered using water tanker trucks and sprayers. The timelines for harvests have changed. For example, fruits are ripening about a couple weeks earlier in the beginning of August. The lack of water has also encouraged wildlife to intrude into crops more than usual, making crops even more susceptible to insects and disease, especially from deer and birds.

Community water supplies in some areas have also been heavily impacted. The lack of water has increased the concentration of chemicals and minerals from sources such as acid mine drainage in water supplies due to the decreased amount of water. For example, many residents and businesses in Thomas have had to resort to tanker trucks provided by WVDOT. Water rafting around Blackwater Falls has been limited due to lower depths.

Even though climate change has generally caused increased precipitation, cooler summers, and shorter, less snowy winters in WV, the changes in climate can increase the variability of weather and cause large swings from extremely wet weather to extremely dry weather. Hurricane Debbie is expected to bring some much needed rainfall but communities are on the lookout for flash flooding. The predicted 3-5 inches of rain will not be enough to end the drought, which may continue into the fall and exponentially increase the risk of wildfires.

Drought Conditions Across WV as of 8/8/2024



FIND US ONLINE

WVAS now has a closed group on Facebook to share news and information with members.

Request to join at www.facebook.com/groups/263384244100903/

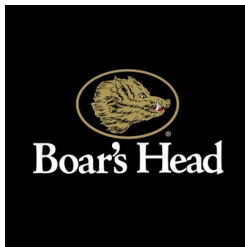
WVAS also has a website at <https://wvaos.org/>

Our email is wvaos@outlook.com.

The WV Public Health Association also has a website. <https://wvpublichealthassociation.org/>



Boar's Head Deli Meats cause Multi-state Listeria Outbreak, at least 43 cases and 3 Deaths.



Seen in grocery stores across the country, Boar's Head deli meat has been recalled due to a suspected listeria contamination that was later confirmed in Maryland after unopened packages of the company's liverwurst tested positive for listeria in Maryland. Since July, Boar's Head has recalled over 7 million pounds of products. The recalled products are identified by the USDA inspection marks "EST. 12612" or "P-12612" on the product labels.

However, enough product had been in the market to infect at least 43 cases in 13 states. Because testing can take at least 3-4 weeks, this is overwhelmingly likely to be undercounted at this time. Whole genome sequencing of unopened product in NY confirmed the same strain in all products.

Listeria is a prevalent threat in the deli meat industry because of contamination of ready to eat food by deli slicers, hands, surfaces, and food and can grow in much colder environments compared to other pathogens.

H5N1 Avian Flu Outbreak causes crisis in Colorado agriculture.



The rise in novel H5N1 avian flu infection in livestock and agricultural workers has become the largest threat to public health since COVID-19. Earlier this year, the virus was detected in cattle herds indicating that the virus had crossed species. Cattle infections of H5N1 were mild but became another public health issue when studies showed that the virus had become present in their milk. This development has negatively impacted efforts to legalize raw milk across the country because raw milk now has the potential to infect humans with H5N1. However, pasteurization still renders milk safe to consume and neutralizes virus present in the raw milk.

Outbreaks in dairy herd and poultry flocks have been multistate. However, the virus has begun to infect agricultural workers. In July, the CDC confirmed that outbreaks of the virus in humans have occurred in Colorado, especially in Weld County. At the time of this writing, there are 13 human cases. All of which are agricultural workers involved in culling poultry flocks that tested positive for the virus.

Colorado governor Jared Polis declared a statewide emergency in July and has activated Incident Command to try to control the outbreak. As of this writing, the emergency has been extended to Sept. 1st. Over 100 million poultry have been culled attempting to control the virus, but wild birds have been spreading it as well.

So far, none of the human cases of novel H5N1 have been confirmed person to person cases. But if cases rise the risk of the virus developing the ability to cause person to person infections increase.

WVPHA Conference Schedule Highlights

Tuesday, Sept. 17

- 6 PM. WV PHA Executive Council Dinner.

Wednesday, Sept. 18

- 10 AM. WV Association of Local Health Departments meeting.
- 12 PM. PHA registration and ballot boxes open.
- 1:15 PM-3:00 PM. Addresses by Dr. Matthew Q. Christiansen and Dr. Sherry Young.
- 3 PM. Dr. Michael Kilkenny, "National Trends and Governmental Public Health."
- 8 PM. Live music at the Laurel Lounge by Adrian and the Soul Miners.

Thursday, Sept. 19

- 8 AM. PHA Registration desk open.
- 8 AM– 4 PM. WVAOS events, including Outbreak Illness Tabletop, CDC's Model Aquatic Health Code, VNRPS, Anode Wells, and switching from Microsoft to Google Cloud based services.

Friday, Sept. 20

- 8 AM. Public Health Roundtable and Questions.
- 10 AM. Closing remarks by NACCHO CEO Lori Freeman.

DIAMOND SHRUUMS EDIBLES OUTBREAK GROWS TO OVER 100 CASES



As of August 6, 113 illnesses in 28 states, including two deaths and 42 hospitalizations, have been confirmed associated with Diamond Shrooms brand edibles. These products used derivatives of psilocybin hallucinogenic mushrooms and are produced by Prophet Premium Blends. These products are sold in grocery stores and smoke/vape shops. This product is also distributed in WV, mainly in smoke and vape shops. The specific cause of the poisoning has yet to be determined but one suspect is excess amounts of psilocybin. The FDA has issued a recall but local and state health departments are participating in retail audits to ensure the product is no longer distributed.

To report adverse reactions or to report sellers who have not pulled the products, contact the FDA by:

1. Calling an FDA Consumer Complaint Coordinator if you wish to speak directly to someone about your problem.
2. Completing an electronic Voluntary MedWatch form online.
3. Completing a paper Voluntary MedWatch form that can be mailed to the FDA.

NEHA AEC 2025 SET FOR PHEONIX, AZ



After a successful conference in Pittsburgh in July, NEHA has planned to have their Annual Education Conference and Exhibition in Phoenix, Arizona. The month and dates have not yet been set for the conference. Just like the last conference, health departments can use the NEHA-RFFM grant to attend the conference. The 2024 AEC had an option to attend virtually as well. Whether or not the 2025 AEC will also allow a virtual option is pending. Stay tuned for updates on <https://www.neha.org/aec>.

Ohio Supreme Court: Boneless Wings can have Bones, not Adulteration



In 2017, Michael Berkheimer ordered boneless wings at Wings on Brookwood in the Cincinnati suburb of Hamilton. According to Berkheimer, he cut the wings into thirds. The last third of a wing he ate contained a 1 and 3/8 in. piece of bone that got stuck in his throat and failed to vomit it out. Later that evening, Berkheimer failed to vomit the bone out; the bone tore the wall of his esophagus, causing an infection in the thoracic cavity that resulted in a 105 degree fever. After rushing to the ER, the bone was surgically removed. Several surgeries were required to repair Berkheimer's heart and lungs, including two medically induced comas and four weeks in the hospital. To this day, Berkheimer has not made a full recovery.

After the hospital stay, Berkheimer filed a lawsuit against both the restaurant and chicken suppliers, arguing that the boneless wings containing a bone that size was negligence that resulted in damages. The restaurant also did not have a disclaimer in the menu indicating that the boneless wings could have bones in them. The Butler County Court of Common Pleas and the Twelfth District Court of Appeals ruled against Berkheimer and did not allow the lawsuit to go to trial. Both courts argued it was "common sense" that boneless wings could have bones in them. Following an appeal, the case went to the Ohio Supreme Court.

In July this year, the Ohio Supreme Court voted along party lines in a 4-3 decision ruling against Berkheimer. Writing for the Republican majority, Justice Joe Deters wrote that boneless wings are a "cooking style" and not a guarantee that bones would not be present, comparing them to chicken fingers; it was common sense that chicken fingers were not actual fingers. Then majority also used the 'Allen test' of negligence. The Allen Test determines negligence if the adulterant was foreign to the food or natural and if consumers can reasonably guard against it. The justices argued that since the bone was natural to the chicken and not too small for a chicken wing, the bone is not considered an adulterant nor that the wings were misbranded.

The dissenting Democrat minority called the reasoning of the majority "utter jabberwocky" and criticized the majority's appeal to "common sense." The minority argued that if the grounds for their ruling was "common sense" then the case should have been decided by a jury of peers. Justice Donnelly wrote: "Does anyone really believe that the parents in this country who feed their young children boneless wings or chicken tenders or chicken nuggets or chicken fingers expect bones to be in the chicken? Of course they don't... When they read the word 'boneless,' they think that is means 'without bones,' as do all sensible people."

Since this case does not involve federal law or the U.S. Constitution, the case cannot be appealed to the U.S. Supreme Court. However, some state legislators are considering legislation that would reverse the ruling and similar consumer protections. Three of the four justices that ruled against Berkheimer are up for election this year; some legislators warn that this decision could be used to undermine their prospects of reelection.

FALL CONFERENCE WVAS ELECTIONS

Elections for WVAS occur at the PHA conference. These are the positions up for election:

Vice President

Nominees

Bob Custard, Jefferson County Health Department

Ethan Thomas, Greenbrier County Health Department

2 Year Member at Large

Nominees

Glenn Ondick, Berkeley/Morgan County Health Department

Bios for each candidate will be available at this link:

<https://wvaos.org/committees-and-elections>

Bylaw changes were planned for this year to permanently implement the removal of membership fees but more work needs to be done. A membership vote will occur at the conference to suspend fees for 2025.



**West Virginia Association
of Sanitarians**

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Kingwood, WV 26537
Phone: 304-272-2137
Email: WVAOS@Outlook.com

We're on the Web
<https://wvaos.org/>

WVAS Executive Council

Elected Officers

President: Samantha Beaudoin

Vice-President: Vacant

Elected Members at Large: Jimmy Casdorff, David Whittaker, Vacant

Appointed Members

Secretary-Treasurer: VJ Davis

Newsletter: Nick King

Legislative Committee: Vacant

Nominating Committee: Cara Harding

Awards: Gillian Beach

By Laws: Mike Bolen

IEHS: Bill Nestor

Media: AJ Root

Membership: Robert Custard

Event Planning: Mark Hawkins

News Liaison Committee: Stacy King

Credits

Lead Writer

Nick King

News Liaison

Stacy King

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