

GOVERNMENT RELATIONS

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Commissioners Welcome Ralph Yanora to PUC

On October 23, 2019, the Pennsylvania Public Utility Commission (PUC) welcomed Ralph Yanora, from Northeastern Pennsylvania, to the PUC. The Commission thanked Gov. Tom Wolf, who nominated Yanora to serve a five-year term on the PUC, along with the Pennsylvania Senate for its support of his nomination.

"We look forward to working with Commissioner Yanora and welcome his insights and experience," said PUC Chairman Gladys Brown Dutrieuille. "His extensive background in the water, wastewater, stormwater and natural gas distribution industries will be beneficial as the Commission continues to tackle a diverse list of infrastructure and other utility issues facing Pennsylvania."

Yanora's appointment was approved today (Oct. 23, 2019) by the Senate, by a 45-3 vote, following a unanimous recommendation on Oct. 22, 2019 by the Senate Consumer Protection and

Professional Licensure Committee. He will be sworn in tomorrow during a brief ceremony in Harrisburg.

At his confirmation hearing, Yanora emphasized that his career has been dedicated to ensuring "safe, adequate, and continuous drinking water supply throughout our Commonwealth, which is very much a part of the Commission's core mission."

He also stressed the key role of consumer protection in the PUC's work, noting, "I served customers throughout my career, and I look forward to continuing to serve and protect the Commonwealth's utility customers while finding the appropriate balance between the needs of these consumers with those of the regulated utilities."

With more than 40 years of experience in the water, wastewater, natural gas, and more recently stormwater industries, Yanora is the founder and retired CEO of Pennsylvania Water Specialties Company - which provides consulting and management services for cross connection control programs, water loss programs, as well as

operation and maintenance programs for water distribution companies.

Yanora is a licensed Master Plumber and a certified instructor and trainer who has been recognized by the American Society of Sanitary Engineers for his knowledge and dedication to safeguarding water systems.

He is also an associate member of Pennsylvania Rural Water Association, a statewide organization whose mission is to support its approximately 1,100 municipal members along with all water and wastewater operators throughout the Commonwealth of Pennsylvania.

Additionally, since 2018 Yanora has served as a Pittston Township Supervisor, a position he has resigned.

Yanora resides in Pittston Township, Luzerne County, with his wife, Carmela, and their daughter Christina.

He succeeds Commissioner Norman J. Kennard, whose term expired on March 31, 2019.

The Pennsylvania Public Utility Commission balances the needs of consumers and utilities; ensures safe and reliable utility service at reasonable rates; protects the public interest; educates consumers to make independent and informed utility choices; furthers economic development; and fosters new technologies and competitive markets in an environmentally sound manner.

Visit the PUC's website at <http://www.puc.pa.gov/> for recent news releases and video of select proceedings. You can also follow us on Twitter, Facebook, LinkedIn, Instagram and YouTube. Search for the "Pennsylvania Public Utility Commission" or "PA PUC"

on your favorite social media channel for updates on utility issues and other helpful consumer information.

Source: PUC Press Release, 10/23/2019

PUC Announces Appointment of Terri Cooper Smith as Chairman of Damage Prevention Committee

On October 24, 2019, the Pennsylvania Public Utility Commission today announced the appointment of Terri Cooper Smith as Chairman of the Damage Prevention Committee (DPC).

The focus of the DPC is to reduce the number of "hits" on underground lines and utilities. It meets regularly to review alleged violations of Pennsylvania's Underground Utility Line Protection Act - also known as the "**One Call Law**"

(http://www.puc.pa.gov/about_puc/press_releases.aspx?ShowPR=3918).

"Ms. Cooper Smith's industry experience and understanding of the enforcement of Pennsylvania's One Call Law makes her a strong choice for this position," said Chairman Brown Dutrieuille, who announced Cooper Smith as her designee for the DPC at today's PUC Public Meeting.

Cooper Smith is a Senior Pipeline Safety Engineer in the PUC's Bureau of Investigation and Enforcement's Safety Division and is certified by the Pipeline and Hazardous Materials Safety Administration (PHMSA) as a Lead Inspector in numerous areas of Pipeline Safety.

In addition, Ms. Cooper Smith was instrumental in the development of the Pennsylvania Steam Regulations that went into effect in 2018. She was also named as the Engineer of the Year for the Safety Division at the Annual Safety Conference held in 2017 and is a nationally recognized Safety Engineer with a degree in Civil Engineering from the Massachusetts Institute of Technology. Cooper Smith resides in the Philadelphia area.

About the DPC

The DPC is a peer-based group of 13 representatives, nominated by their industry or affiliated organization and appointed by the PUC. It makes informal determinations as to the appropriate response including, but not limited to, the issuance of warning letters, mandatory training programs and/or administrative penalties. The position of DPC Chairman holds a non-voting role, unless needed to break a tie.

The DPC holds public meetings in Hearing Room 1 of the Commonwealth Keystone Building in Harrisburg. Each meeting is **livestreamed on the PUC's website** http://www.puc.pa.gov/about_puc/live_streaming_video.aspx where **summaries of actions** http://www.puc.pa.gov/utility_industry/transportation/pa_one_call_enforcement/dpc_agendas_Actions.aspx taken at those meetings also can be viewed.

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Source: PUC Press Release, 10/24/2019

AG Shapiro Opposes EPA's Proposed Rule to Limit States' Clean Water Act Oversight

Attorney General Josh Shapiro and 22 other Attorneys General today filed formal legal comments opposing the U.S. Environmental Protection Agency's (EPA) proposed rule that would unlawfully curtail state authority under Section 401 of the Clean Water Act. The coalition argues that the proposed rule is an unlawful and misguided policy that would degrade water quality and infringe on states' rights.

"The Clean Water Act unequivocally grants states the right to protect our waters, and the Environmental Protection Agency has recognized that right for three decades under both Republican and Democratic administrations," said Attorney General Josh Shapiro. "Now, the EPA is attempting to undermine this authority. I'm proud to stand with my colleague Attorneys General in opposition to this attack on states' rights and

our environment. As Attorney General, I will do everything in my power to protect Pennsylvanians' state constitutional right to clean air and pure water.”

In the Clean Water Act, Congress recognized and preserved states' broad, pre-existing powers to protect their state waters. The EPA has acknowledged this authority over three decades and four administrations. The proposed rule is a dramatic departure from the prior agency position. The states demand that EPA withdraw it.

In the letter, the coalition asserts that the proposed rule conflicts with the Clean Water Act's language, Congressional intent, and applicable case law interpreting the language. The proposed rule:

- Unlawfully limits the scope of state certification authority only to certain types of discharges;
- Illegally restricts state conditions on Section 401 certifications to a narrow set of EPA-approved water quality standards;
- Purports to authorize federal agencies to illegally disregard state-issued denials and conditions on certification applications; and
- Unlawfully restricts the timing and scope of state review of certification applications.

Moreover, the EPA fails to consider any water quality-related factors in its decision, fails to explain why it is changing its position from the prior Section 401 regulations and guidance, and fails to analyze the effects of the proposed rule on the states. Because the rule conflicts with Section 401 and limits state authority, the

Attorneys General assert that the EPA does not have the authority to issue it.

In addition to Pennsylvania, the Attorneys General of California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Washington, Wisconsin, Virginia, and the District of Columbia also signed onto the comment letter. The **letter can be read here**

<https://www.attorneygeneral.gov/wp-content/uploads/2019/10/Multi-State-Comment-on-WQ-Certs.pdf> .

Source: Attorney General Shapiro Press Release, 10/22/2019

Wyoming Valley Communities have Flexibility in implementing their Stormwater Program

(Rain tax not required by EPA)

On October 25, 2019, the U.S. Environmental Protection Agency (EPA) said that it has worked with Pennsylvania Department of Environmental Protection (PADEP) to ensure local communities have flexibility in planning and implementing local solutions to address stormwater runoff in Pennsylvania.

"EPA has been working diligently to answer questions of local communities concerning stormwater program obligations in Pennsylvania," said EPA Mid-Atlantic

Regional Administrator Cosmo Servidio. "Our agency establishes national stormwater standards based on the Clean Water Act and Pennsylvania administers the program on a state-wide basis. In accordance with guidance issued by the Pennsylvania Department of Environmental Protection, it is up to local authorities to determine how best to implement and finance their stormwater programs. This flexibility allows communities to assess their specific needs and make the best decisions for their citizens."

EPA met recently with stakeholders in the Wyoming Valley Sanitary Authority (WVSA) stormwater planning area. The WVSA planning area includes 32 municipalities that are working to achieve clean water goals. Some of these municipalities have taken advantage of flexibilities in PADEP's MS4 program to expand their MS4 planning area beyond what is required by state law, in some cases including entire townships in their planning area. To finance the MS4 program, WVSA has implemented a stormwater fee that applies to properties included in MS4 planning areas.

Local stakeholders expressed concerns to EPA about the expanded MS4 planning areas and the associated stormwater fees. EPA helped facilitate dialogue about these concerns and continues to encourage local authorities to work together to address them. The decision to modify or expand a MS4 planning area is a local decision.

Additionally, while WVSA chose the option of charging a stormwater fee - an option many communities have selected - other forms of financing are available, such as general funds, development fees, and low-interest loans.

The MS4 program is part of the National Pollution Discharge Elimination System (NPDES) program under the Clean Water Act, and it requires municipalities located in urbanized areas to obtain permit coverage for stormwater discharges. PADEP implements the MS4 program in Pennsylvania and state regulations require municipalities in urban areas to implement six minimum control measures. MS4 communities with discharges to impaired waters also have additional responsibilities. EPA and PADEP have several financial resources available to help communities meet their stormwater commitments. These include the Clean Water State Revolving Funds, the EPA Water Infrastructure and Resiliency Finance Center, Green Streets, Green Jobs, Green Towns (G3) Grants, and other financing opportunities.

Source: EPA Press Release, 10/25/2019

EPA offers compliance assistance to community water treatment facilities

The U.S. Environmental Protection Agency Mid-Atlantic Region is offering free compliance assistance to smaller water and wastewater treatment facilities in five states and the District of Columbia to help improve water quality protection throughout the mid-Atlantic.

"EPA is providing valuable technical assistance and training to operators of smaller public and private treatment facilities to help bring them into compliance with water quality standards set forth in the Clean Water Act," said EPA Mid-Atlantic Regional Administrator Cosmo Servidio. "This will ultimately lead to improved

operating facilities and cleaner waterways throughout the mid-Atlantic region."

States included in the project are Pennsylvania, Delaware, Maryland, Virginia, West Virginia and the District of Columbia.

Plants that optimize their treatment performance often experience costs savings through reduced energy and chemical treatment usage. EPA is also working with state partners and other technical assistance providers to increase the number of facilities reached through this effort.

EPA has already had success in assisting smaller communities including Adamstown Borough, in Lancaster County, Pennsylvania where technical assistance and training from EPA and the Pennsylvania Department of Environmental Protection led to a 40 % reduction in electrical costs. EPA continues to work with Adamstown on new technologies to remove total nitrogen from water.

The Region will be offering two training sessions in November, including a Wastewater Exam Preparation Course on November 7 in Wilkes Barre, Pennsylvania and a Process Control Course on December 12 in Cumberland, Maryland.

Facilities and system operators that are seeking compliance assistance and training opportunities can contact Walter Higgins of the Water Division's Infrastructure and Assistance Section at 215-814-5476 or higgins.walter@epa.gov.

Source: EPA Press Release, 10/25/2019

EPA Backs Pennsylvania's Water Infrastructure Plans

On October 22, 2019, the U.S. Environmental Protection Agency announced it has approved and helped fund Pennsylvania's plans for nearly \$200 million in water infrastructure projects that includes \$40.7 million for drinking water infrastructure and \$159 million for wastewater treatment infrastructure.

Pennsylvania's intended use plan for drinking water includes a \$33.9 million grant from EPA's Drinking Water State Revolving Fund (DWSRF), and Pennsylvania's intended use plan for wastewater treatment projects includes a \$62.9 million grant from EPA's Clean Water State Revolving Fund (CWSRF).

"The revolving fund program is essential to providing all Americans the clean and safe water they deserve," said EPA Mid-Atlantic Regional Administrator Cosmo Servidio. "EPA is proud to support Pennsylvania's plans and remains committed to helping communities with infrastructure improvements that protect their water resources."

The DWSRF program provides low interest loans for the construction of drinking water treatment facilities and other projects vital to help ensure clean drinking water and to achieve the health objectives of the Safe Drinking Water Act.

The CWSRF program provides low interest loans for the construction of stormwater and wastewater treatment facilities and other projects vital to protecting and improving water quality in

rivers, lakes and streams for drinking water, recreation and natural habitat.

The loans help communities keep water and sewer rates more affordable while addressing local water quality problems.

Along with the EPA grants, Pennsylvania's plans are supported by \$19.4 million in matching grants from the state, repayments from prior revolving fund loans, and interest earnings on revolving fund investments.

Some of the projects targeted for funding include:

- \$24.8 million to the Pittsburgh Water and Sewer Authority to help replace about seven miles of lead service lines.
- \$5.5 million to Springdale Borough, Allegheny County to upgrade its water treatment plant and replace about two miles of aged water distribution lines.
- \$5.7 million to the City of Chester for green infrastructure projects to help to reduce stormwater runoff.
- \$10 million to Shenango Township, Lawrence County to extend the sewage collection system to areas where septic systems have failed, which caused untreated wastewater to enter local waterways.
- \$5.2 million to the City of Johnstown to rehabilitate its sewer system to reduce the flow of untreated sewage to local waterways during wet weather events.
- \$35.7 million to the Borough of Rochester, Beaver County to upgrade its sewage treatment plant and pump stations to reduce the flow of untreated

sewage to local waterways during wet weather events.

- \$3.6 million to the Cambria County to construct new sewer infrastructure for 148 residences in Middle Taylor Township where septic systems have malfunctioned.
- \$8.8 million to Elizabeth Borough, Allegheny County to replace a pump station that will increase capacity during storms and reduce untreated sewage from entering waterways.
- \$2 million to the Greenfield Township Sewer Authority in Lackawanna County for upgrades to its 30-year-old wastewater treatment plant.
- \$4.6 million to Montgomery County for the construction of a sewer collection system to serve the Village of Morwood and other nearby neighborhoods that have been plagued with failing septic systems.
- \$12.6 million to North East Borough, Erie County to install a new outfall and thus, improve water quality within the Sixteen Mile Creek.

For more information on the **DWSRF**, visit: <https://www.epa.gov/drinkingwatersrf> . For more information on **CWSRF**, visit: <https://www.epa.gov/cwsrf> .

More information can also be found at: <https://www.pennvest.pa.gov/Pages/default.aspx>

Source: EPA Press Release, 10/22/2019

Senate Appropriations to Consider Keystone Tree

Fund Bill Oct. 28; PA Needs at Least \$324 Million this Year

The Senate Appropriations Committee is scheduled to meet on October 28 to consider **House Bill 374** (Everett-R-Lycoming)

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2019&sInd=0&body=H&type=B&bn=374> to establish the Keystone Tree Fund. The bill allows driver and vehicle license owners to add \$3.00 to those fees to support DCNR riparian buffer and tree planting programs starting in July 2020.

Sen. Gene Yaw (R-Lycoming), Majority Chair of the Senate Environmental Resources and Energy Committee, sponsored identical legislation -- **Senate Bill 108**

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2019&sInd=0&body=S&type=B&bn=0108> -- that is also in the Senate Appropriations Committee.

PennDOT said the new program would cost \$150,000 the first year to set up. Those expenses would come out of the Tree Fund.

While it's difficult to estimate how much income would be generated by the new checkoff, it may be possible to put some boundaries on it.

A similar driver and vehicle license checkoff for the Gov. Robert P. Casey Memorial organ and Tissue Donation Awareness Trust Fund, created in 1994, is expected to generate about \$709,000 in FY 2019-20.

The Wild Resources Income Tax Checkoff, created in 1982, is expected to generate about \$50,000 in FY 2019-20.

So, income could be somewhere between \$700,000 and \$50,000 the first year of the program ending in July 2021.

The Appropriations Committee meeting will be held in the Rules Room, off the floor, meaning the meeting could happen at any time after the Senate convenes its session at 1:00 on Monday.

The Need

There is a tremendous need for additional state funding to address critical drinking water, wastewater and nutrient and sediment reduction issues all across Pennsylvania.

For the 43-county Chesapeake Bay Watershed alone, the need is \$324 million each year for the next 6 years to implement the ground-up, stakeholder-driven plan submitted to EPA to meet Pennsylvania's clean water obligations.

Funding needs to start in FY 2019-20, if Pennsylvania has any chance of meeting our 2025 cleanup milestones.

If the funding is not provided, Pennsylvania will be subject to sanctions from EPA and additional legal actions by other states in the Bay Watershed.

And worst of all, Pennsylvania's rivers and streams will not get cleaned up. Limping along with existing resources means meeting the 2025 milestones will be pushed back to 2044 -- 19 years.

These are just the facts.

The General Assembly did provide \$6 million in additional funding through the PA Farm Bill in July, but that still leaves the farm community tens of millions of dollars

short -- \$171 million to put a number on it -- to support putting cost-effective conservation practices on the ground just this year.

However, the General Assembly also cut \$16 million from the Environmental Stewardship Fund which funded local, on-the-ground conservation practices.

That \$16 million could have planted 32,000 acres of stream buffers. DCNR's goal is to plant 95,000 acres of stream buffers by 2025.

In June, the Senate did pass **Senate Bill 575** (Yaw-R-Lycoming) <https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2019&sInd=0&body=s&type=b&bn=575> establishing a taxpayer-funded procurement program for nitrogen, phosphorus and sediment reduction that included a \$20 million appropriation.

However, the way the bill is structured, it will guarantee taxpayers pay the highest cost per pound of nutrient reduction practices to support complicated technology because the individual farmers that can install the lowest cost practices -- planting stream buffers -- couldn't afford to bid into the process.

This isn't a surprise, because the bill was introduced with the support of the **Coalition for Affordable Bay Solutions** <http://affordablebaysolutions.org/>, an industry-led coalition of private companies promoting complicated and expensive manure treatment technologies and manure-to-energy processing plants.

Whether a \$20 million appropriation for this expensive program survives is also in doubt.

Gov. Wolf's Restore Pennsylvania infrastructure funding plan ran into significant Republican opposition because of the way it was funded -- a new natural gas severance tax.

Some Senate Republicans want to open DCNR's state forest land to more gas drilling as an alternative -- Restore PA-lite proposal -- even though two-thirds of the existing leases haven't been drilled yet -- an empty solution.

In addition, county, municipal governments and authorities have been stuck adopting stormwater management fees because the General Assembly has failed to provide them the financial support they need to meet their MS4 Stormwater Pollution Prevention obligations, in particular.

Of course, everything helps, like House Bill 374, and that should not be dismissed because the involvement of each Pennsylvanian is critical in cleaning up our rivers and streams.

But, where's the rest of the \$318 million we need this year just for our part of the Chesapeake Bay Watershed?

And where's the funding for the rest of the Commonwealth?

The need is there, clearly. The need for real solutions is critical.

On January 24, 2017, the bipartisan Pennsylvania members of the Chesapeake Bay Commission dramatically wrote to all members of the Senate and House to spotlight the need for many more resources to address water pollution cleanup obligations across the state.

They highlighted the need for a new, dedicated Clean Water Fund.

The letter was signed by Sen. Gene Yaw (R-Lycoming), Majority Chair of the Senate Environmental Resources and Energy Committee, Sen. Rich Alloway (R-Franklin) - now retired, Rep. Garth Everett (R-Lycoming), Rep. Keith Gillespie (R-York) and Rep. Mike Sturla (D-Lancaster). They said in the letter: "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.

"Our state and local governments have already spent significant dollars to upgrade wastewater treatment plants and farmers are implementing best management practices.

"Unfortunately, much more needs to be done, not just for the Bay, but more importantly for our own local waters.

"The good news is that these practices work, and much of the remaining effort can be achieved with some of the most cost-effective practices available. Investment in clean water directly benefits local governments and landowners, and provides local jobs.

"By taking care of our own local waters, we also reduce regulatory uncertainty that can arise from pollution of downstream neighbors, whether in the Chesapeake, Ohio, Delaware or Great Lakes watersheds."

Time to follow their own words.

Just saying no or proposing empty or costly solutions doesn't cut it or help the farm community or local governments meet their obligations.

Time to step up. Time to do more for clean water than name the Eastern Hellbender the state amphibian; literally, the kids are depending on you.

The Senate has 9 voting days left this year and the House has 15.

Tick-tock, time is wasting.

Source: PA Environmental Digest, 10/28/2019

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