

GOVERNMENT RELATIONS

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**Berks County
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Wolf Administration Continues to Address PFAS Contamination, Announces First Round of Statewide Sampling Results

As a result of Governor Tom Wolf's executive order to address Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) in drinking water, the Wolf Administration provided an update on the actions taken on this emerging environmental issue and released the results of the first round of drinking water samples. **The results do not indicate widespread PFAS contamination.**

"Pennsylvanians have a right to know that their drinking water is safe. As we and other states examine the presence of PFAS in our environment, my administration is committed to addressing the growing concern about whether these compounds are in our public water systems," said Gov. Wolf. "Tackling PFAS requires ongoing efforts by multiple agencies and I vow to

provide the resources needed and protect the public, despite inaction from the federal government. I will continue to make it a top priority, and I urge the White House and Congress to do the same."

In September 2018, the governor signed an **Executive Order** <https://www.governor.pa.gov/newsroom/executive-order-2018-08-perfluoroalkyl-and-polyfluoroalkyl-substances-pfas-action-team/> establishing the PFAS Action Team, moving Pennsylvania to the forefront of states taking proactive steps to address PFAS and other contaminants.

Led by the Action Team, the administration has taken steps to identify and address contamination and establish a cleanup plan that will result in every Pennsylvanian having water free from PFAS contamination including:

- Beginning the process of setting a Maximum Contaminant Level (MCL) for PFAS after the U.S. Environmental Protection Agency (EPA) did not commit to doing so in February 2019. This will mark the first time that the

Department of Environmental Protection (DEP) has set an MCL rather than adopting standards set by the federal government, as it has with all other regulated drinking water contaminants. Hiring toxicologists to move forward with setting a state limit for PFAS in drinking water.

- Taking steps to address remediation of the chemicals by working to change groundwater and soil remediation standards for three PFAS compounds.
- Taking steps to assist communities and private well owners if PFAS contamination above the federal Environmental Protection Agency (EPA) Health Advisory Level (HAL) 70 parts per trillion (ppt).
- Developing uniform, science-based operating procedures to guide the identification and assessment of commercial and industrial properties that have contaminated private and/or public drinking water sources.
- Approving more than \$20 million in grants to address PFAS groundwater contamination.
- Testing all water supplies to Pennsylvania Army National Guard facilities and state-owned homes for veterans for PFAS. While all sample results returned with non-detectable levels of PFAS, the water wells will continue to be monitored.
- Taking steps at the Horsham Air Guard Station to ensure adequate treatment of affected public drinking water supplies to the nearby Horsham Township in Montgomery County and Warminster and Warrington townships in Bucks County.

The statewide sampling plan began in June and is expected to take a year to complete. DEP collected the samples and an accredited laboratory is conducting testing

for six PFAS chemicals: PFOS, PFOA, Perfluorononanoic acid (PFNA), Perfluorohexane sulfonate (PFHxS), Perfluoroheptanoic acid (PFHpA), and Perfluorobutane sulfonate (PFBS).

DEP has identified 493 public water system sources as potential sampling sites because they meet the criterion of being located within a half mile of a potential source of PFAS contamination, such as military bases, fire training sites, landfills, and manufacturing facilities. Of those, DEP will test approximately 360 sources. DEP will also test around 40 sources that are not located within a half mile of a potential source of PFAS contamination to establish a baseline.

"Because PFAS are so pervasive in our environment and the public health impact is still emerging, we must examine the incidence and prevalence of these chemical compounds in Pennsylvania and take the unprecedented step of setting a MCL - a first for our state," said DEP Secretary Patrick McDonnell. "The statewide sampling plan of the state's public water systems is a critical step toward achieving that goal."

In the first round of sampling conducted by DEP, just one of 96 sampled sites tested above the federal EPA HAL of 70 ppt for the combined concentrations of two PFAS chemicals, Perfluorooctanesulfonic acid (PFOS) and Perfluorooctanoic acid (PFOA). The site, State of the Art Inc. in Benner Township, Centre County, had a combined sample result for PFOS and PFOA of 114 ppt. The private business is regulated by DEP as a non-transient non-community public water system, meaning that the water supply is not regularly served to the public, but is available to workers at the facility. The facility and DEP are working cooperatively to address the issue while a

formal agreement on corrective actions is in discussion. **State of the Art Inc. has been providing bottled water to employees since some time prior to the findings, for reasons unrelated to PFAS.**

PFAS was not detected in two-thirds of the sites sampled and the results of the other third were well below the EPA's HAL.

These and further actions and recommendations can be found in a new report released by the administration's PFAS Action Team.

View a copy of the **PFAS Action Team Initial Report**
<https://www.governor.pa.gov/wp-content/uploads/2019/12/20191205-PFAS-Action-Team-Initial-Report-Pennsylvania.pdf> .

View the first-round results of **DEP's statewide sampling plan**
<http://files.dep.state.pa.us/Water/DrinkingWater/Perfluorinated%20Chemicals/SamplingResults/PFASPhase1ResultsSummary.pdf> .

View information on **PFAS in Pennsylvania**
https://www.dep.pa.gov/Citizens/My-Water/drinking_water/PFAS/Pages/default.aspx .

Source: Governor Wolf's Press Office, 12/5/2019

PUC Notes Change in Starting Time for Dec. 19 Working Group Meeting on Lead Water Line and Damaged

Wastewater Line Replacement Issues

On December 5, 2019, the Pennsylvania Public Utility Commission (PUC) announced a change in the starting time for an upcoming meeting of the Commission's Act 120 Working Group.

The meeting is scheduled for Dec. 19, 2019, and **will now start at 1 p.m.** (rather than 1:30 p.m., as previously announced).

All other details regarding the meeting remain the same – it will be held in Hearing Room 1, Commonwealth Keystone Building, Second Floor, 400 North Street, Harrisburg, PA 17120.

Stakeholders planning to attend the meeting are still asked to RSVP by Dec. 12, 2019 to the following email address: pc-act120implementation@pagov.onmicrosoft.com .

Note: A PUC **Secretarial Letter** <http://www.puc.pa.gov/pdocs/1646023.docx> announcing the time change for the Act 120 Working Group meeting has been served to all stakeholders.

About the Act 120 Working Group

Act 120 of 2018 amended the Pennsylvania Public Utility Code (**66 Pa. C.S. § 1311(b)**) <https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=66&div=0&chpt=13&sctn=11&subctn=0>) regarding the accelerated replacement of customer-owned lead water service lines (LSLs) and damaged wastewater laterals (DWWLs). This new provision of the Public Utility Code establishes a uniform standard under which utilities may seek to replace

customer-owned LSLs and DWWLs and recover costs associated with such replacement.

The Act 120 Working Group was created to allow PUC staff to gather information and stakeholder input on how the Commission may develop uniform procedures to address LSL and DWWL replacement issues facing regulated utilities. The working group and directed questions for stakeholders were established by an Oct. 3, 2019, **Joint Motion**

<http://www.puc.pa.gov/pcdocs/1638785.pdf> by the Commission, and all stakeholders were invited to file comments in response to directed questions attached to the **PUC's initial Secretarial Letter** <http://www.puc.pa.gov/pcdocs/1638785.pdf> concerning Act 120.

Interested parties may review filed comments and other public documents related to Act 120, which are available on the PUC website docket for this matter: **M-2019-3013286** http://www.puc.pa.gov/about_puc/consolidated_case_view.aspx?Docket=M-2019-3013286 .

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 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.

Docket No.: M-2019-3013286

http://www.puc.pa.gov/about_puc/consolidated_case_view.aspx?Docket=M-2019-3013286

Source: PUC Press Release, 12/5/2019

PUC Damage Prevention Committee Actions Announced Against Underground Facility Owners, Excavators and Project Owners; PUC to Livestream Dec. 10 Meeting

A total of 154 disciplinary actions, including \$83,975 in administrative penalties, have been taken against 67 underground facility owners, excavators and project owners in the **latest enforcement actions**

http://www.puc.pa.gov/transport/gassafe/pdf/DPC_Agendas/2019/DPC_Case_Summaries111219.pdf by the Public Utility Commission's (PUC's) Damage Prevention Committee (DPC). These actions were taken during the DPC's November 2019 meeting.

The DPC is tasked with enforcing the state's Underground Utility Line Protection Act - also known as the "PA One Call Law." The next DPC meeting is scheduled for Dec. 10 in Harrisburg. Each meeting is

livestreamed on the PUC's website

http://www.puc.pa.gov/about_puc/live_streaming_video.aspx where a **meeting agenda** http://www.puc.pa.gov/transport/gassafe/pdf/DPC_Agendas/2019/DPC121019.pdf also can be viewed.

A comprehensive list of summaries and actions

http://www.puc.pa.gov/utility_industry/transportation/pa_one_call_enforcement/dpc_agendas_Actions.aspx from DPC meetings is available on the PUC's website. Penalties are payable to the Commonwealth of Pennsylvania. The Commission will offset the costs of administering this program through the penalties collected.

Digging Safety - PA One Call

Every year, underground lines across the state are struck more than 6,000 times - which means that during the average workday a pipeline or other vital utility system is hit every 20 minutes. While underground lines are often "out of sight and out of mind," every hit poses a risk to the contractors and homeowners who are doing the digging; to utility workers and emergency responders who are mobilized when lines are struck; and to bystanders who live, work or travel near the locations of the incidents.

State law requires contractors and residents to contact **PA One Call** <https://www.palcall.org/PA811/Public/> at least three business days prior to excavation - triggering alerts to all utilities within an intended digging area and prompting utilities to mark where their facilities are located. Pennsylvanians can dial 8-1-1 to connect with the One Call system, while out-of-state residents or businesses can call 1-800-242-1776.

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.

The DPC meets regularly to review alleged violations of Act 50 and make 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 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.

Modeled after successful programs in other states, the focus of the DPC is to reduce the number of "hits" on underground lines and utilities.

Creation of the committee was authorized by **Act 50 of 2017**

http://www.puc.pa.gov/about_puc/press_releases.aspx?ShowPR=3918 , which enhances Pennsylvania's Underground Utility Line Protection Act - also known as the "One Call Law."

About the Bureau of Investigation & Enforcement

As the independent investigation and enforcement bureau of the PUC, I&E enforces state and federal pipeline safety and motor carrier safety laws and regulations

and represents the public interest in ratemaking and service matters before the PUC's Office of Administrative Law Judge. I&E has the authority to bring enforcement action, seek emergency orders from the Commission or take other steps to ensure public safety.

Source: PUC Press Release, 12/6/2019

Gov. Wolf Orders Flags to Half-Staff to Honor Rep. Robert Godshall

Governor Tom Wolf ordered the commonwealth flag on all commonwealth facilities, public buildings and grounds fly at half-staff to honor former state Rep. Robert Godshall who passed away Sunday, November 24, 2019.

The commonwealth flag shall be lowered to half-staff until sunset on Friday, December 6, 2019. The United States flag is to remain at full-staff through this tribute.

All Pennsylvanians are invited to participate in this tribute.

ER Note: In 2013, Rep. Robert W. Godshall was the recipient of the James McGirr Kelly Award for Excellence. The James McGirr Kelly Award for Excellence is the highest honor bestowed by the National Association of Water Companies - Pennsylvania Chapter. The award is presented each year to a resident of Pennsylvania who most exemplifies dedication to promoting the availability of safe drinking water in the Commonwealth.

Source: Governor Wolf's Press Office, 12/6/2019

Availability of NPDES General Permit for Discharges of Stormwater Associated with Construction Activities (PAG-02)

The Department of Environmental Protection informs the public of the availability of the final National Pollution Discharge Elimination System (NPDES) General Permit for Discharges of Stormwater Associated with Construction Activities (PAG-02) for a new five-year term. The PAG-02 General Permit will become effective on December 8, 2019, and will expire on December 7, 2024. Additional information can be found on the Pennsylvania Bulletin.

Source: Pennsylvania Bulletin, 12/7/2019
<http://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol49/49-49/1811.html>

Base General Permit No. WMGR096 Renewed through June 2021

The Department of Environmental Protection published notice for the renewal of the existing version of General Permit No. WMGR096 for one year through December 23, 2019. This permit authorizes the beneficial use of regulated fill as a construction material. The department has renewed the existing version of WMGR096 until June 23, 2021.

Persons interested in obtaining a copy of the renewed general permit may contact Chris Solloway, Division of Municipal and Residual Waste, Bureau of Waste Management, PO Box 69170, Harrisburg, PA 17106-9170, (717) 787-7381. Additional information can be found on the Pennsylvania Bulletin.

Source: Pennsylvania Bulletin, 12/7/2019
<http://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol49/49-49/1812.html>

Environmental Assessment Approval for PENNVEST Funding Consideration

The Pennsylvania Infrastructure Investment Authority (PENNVEST), which administers the commonwealth's Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF), is intended to be the funding source for certain projects. The Department of Environmental Protection's review of these projects, and the information received in the environmental report for these projects, has not identified any significant adverse environmental impact resulting from any of the proposed projects.

The department hereby approves the environmental assessment for each project. If no significant comments are received during this comment period, the environmental assessment will be considered approved and funding for the projects will be considered by PENNVEST.

To be considered, the department must receive comments on this approval on or by Monday, January 6, 2020. Electronic

comments should be submitted using the department's **eComment site** <https://www.ahs.dep.pa.gov/eComment/> . Written comments can be submitted by e-mail to ecomment@pa.gov or by mail to the Policy Office, Department of Environmental Protection, Rachel Carson State Office Building, PO Box 2063, Harrisburg, PA 171052063. Use "PENNVEST SRF-Environmental Assessment" as the subject line in written communication

For more information about the approval of environmental assessments or the Clean Water and Drinking Water State Revolving Loan Programs contact Richard Wright at riwright@pa.gov or the Bureau of Clean Water, Department of Environmental Protection, PO Box 8774, Harrisburg, PA 17105-8774, (717) 7724059, or visit the **department's website** <https://www.dep.pa.gov/Business/Water/CleanWater/InfrastructureFinance/Pages/default.aspx> .

Any comments received during the comment period, along with the department's comment and response document will be available on the **department's website** <https://www.dep.pa.gov/Business/Water/CleanWater/InfrastructureFinance/Pages/EnvironmentalReview.aspx> .

Upon approval, the full list of approved projects and their costs can be found in a press release on PENNVEST's website. Additional information can be found on the Pennsylvania Bulletin.

Source: Pennsylvania Bulletin, 12/7/2019
<http://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol49/49-49/1833.html>

Revenue Department Releases November 2019 Collections

Pennsylvania collected \$2.4 billion in General Fund revenue in November, which was \$1.8 million, or 0.1 percent, more than anticipated, Revenue Secretary Dan Hassell reported. Fiscal year-to-date General Fund collections total \$12.7 billion, which is **\$166.1 million, or 1.3 percent, above estimate.**

Sales tax receipts totaled \$925.5 million for November, \$10.5 million below estimate. Year-to-date sales tax collections total \$4.8 billion, which is **\$49.1 million, or 1 percent, more than anticipated.**

Personal income tax (PIT) revenue in November was \$869.6 million, \$3.4 million below estimate. This brings year-to-date PIT collections to \$5.2 billion, which is **\$74.2 million, or 1.5 percent, above estimate.**

November corporation tax revenue of \$150.8 million was \$16.6 million above estimate. Year-to-date corporation tax collections total \$1.1 billion, which is **\$46 million, or 4 percent, below estimate.**

Inheritance tax revenue for the month was \$87.8 million, \$13.7 million above estimate, bringing the year-to-date total to \$461 million, which is **\$22 million, or 5 percent, above estimate.**

Realty transfer tax revenue was \$48.8 million for November, \$1.3 million above estimate, bringing the fiscal-year total to \$227.5 million, which is **\$32 million, or 1.4 percent, more than anticipated.**

Other General Fund tax revenue, including cigarette, malt beverage, liquor and gaming taxes, totaled \$160.6 million for the month, \$8.4 million below estimate and bringing the year-to-date total to \$747.4 million, which is **\$15 million, or 0.2 percent, below estimate.**

Non-tax revenue totaled \$113.4 million for the month, \$7.5 million below estimate, bringing the year-to-date total to \$237.3 million, which is **\$65.1 million, or 37.8 percent, above estimate.**

In addition to the General Fund collections, the **Motor License Fund** received \$257.7 million for the month, \$1.4 million above estimate. Fiscal year-to-date collections for the fund - which include the commonly known gas and diesel taxes, as well as other license, fine and fee revenues - total \$1.2 billion, which is **\$14.2 million, or 1.2 percent, below estimate.**

Source: PA Department of Revenue Press Release, 12/2/2019

EPA Proposes PFAS Chemicals be added to Toxics Release Inventory Reporting Program

On November 25, the U.S. Environmental Protection Agency announced it is asking the public for input on potentially adding certain per- and polyfluoroalkyl substances (PFAS) to the list of chemicals companies are required to report to the agency as part of the **Toxics Release Inventory** <https://www.epa.gov/toxics-release-inventory-tri-program> reporting program.

This action supports the agency's February 2019 **PFAS Action Plan** <http://www.paenvironmentdigest.com/newsletter/default.asp?NewsletterArticleID=45811&SubjectID=18> , which describes EPA's long- and short-term actions to address PFAS.

EPA's Toxics Release Inventory is an important tool that provides the public with information about the use of certain chemicals by tracking their management and associated activities.

U.S. facilities in different industry sectors must report annually how much of each chemical is released to the environment and/or managed through recycling, energy recovery, and treatment.

TRI helps support informed decision-making by companies, government agencies, non-governmental organizations and the public. Currently, no PFAS chemicals are included on the list of chemicals required to report to TRI.

As EPA considers whether to add these chemicals, the agency will use public comments and information received in response to the **Advance Notice of Proposed Rulemaking** <https://www.epa.gov/toxics-release-inventory-tri-program/pre-publication-version-advance-notice-proposed-rulemaking> for two purposes.

First, the public input will help the agency determine whether data and information are available to fulfill the TRI chemical listing criteria. Second, EPA will use the input to help evaluate the extent and usefulness of the data that would be gathered under TRI.

All comments and information received in response to this ANPRM will be evaluated along with previously collected and assembled studies. If EPA decides to move forward with adding PFAS chemicals to the TRI, the agency will publish a proposed rule and seek public comment on the proposal.

Click here for a **copy of the Advanced Notice of Proposed Rulemaking** <https://www.epa.gov/toxics-release-inventory-tri-program/pre-publication-version-advance-notice-proposed-rulemaking> . A 60-day comment period will open upon publication in the Federal Register.

For more information on federal actions related to PFAS chemicals, visit EPA's **PFAS webpage** <https://www.epa.gov/pfas> .

Visit **EPA's Toxics Release Inventory webpage** <https://www.epa.gov/toxics-release-inventory-tri-program> for more information on chemical reporting, including reporting on potentially hazardous chemicals in Pennsylvania.

For information on what Pennsylvania is doing, visit **DEP's PFAS: What They Are webpage** https://www.dep.pa.gov/Citizens/My-Water/drinking_water/PFAS/Pages/default.aspx .

Source: PA Environmental Digest, 12/2/2019

CFA Accepting Applications for Drinking Water, Wastewater,

Stormwater, Flood Control Infrastructure Funding

The Commonwealth Financing Authority is accepting applications for funding from the **H2O PA Water and Sewer Program**

<https://dced.pa.gov/programs-funding/commonwealth-financing-authority-cfa/h20-pa/> and the **PA Small Water and Sewer System Program** <https://dced.pa.gov/programs/pa-small-water-sewer/> . The deadline for applications is December 13.

The H2O PA Water and Sewer Program provides municipalities or authorities with funding for construction of drinking water, wastewater or stormwater projects.

The PA Small Water and Sewer System Program provides grants to help with construction improvement, expansion or rehabilitation or repair of a water supply system, wastewater or flood control projects.

For more information on available funding programs, visit the **Commonwealth Financing Authority webpage** <https://dced.pa.gov/programs-funding/commonwealth-financing-authority-cfa/> .

Source: PA Environmental Daily Blog, 12/6/2019

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This newsletter provides general information, not legal advice as to any specific matter. It should not be used as a substitute for appropriate legal advice.