

GOVERNMENT RELATIONS

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**Berks County
Water & Sewer
ASSOCIATION**

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Senate Environmental Resources & Energy Committee to hold a ‘Briefing on the Bay’ during 2020 PA Farm Show

The state Senate Environmental Resources & Energy Committee will hold a discussion (Wednesday, January 8th) on Pennsylvania’s efforts to curb Chesapeake Bay pollution, according to Sen. Gene Yaw (R-23), Chair of the Committee.

In 2010, the U.S. Environmental Protection Agency (EPA) established a regulatory “Total Maximum Daily Load” to reduce the amount of nitrogen, phosphorous, and sediment that Pennsylvania, five other states and the District of Columbia send into the Chesapeake Bay by 2025. Sources include wastewater treatment systems, urban stormwater, and agricultural runoff. These goals were reaffirmed by the Bay jurisdictions and EPA in the 2014 Chesapeake Bay Watershed Agreement.

In order to help get the Commonwealth back on track to meet the goals, 10 percent of Pennsylvania farms in the Bay watershed are inspected annually to ensure they have written plans for manure or

nutrient management and erosion control. A “Phase III” Watershed Implementation Plan was also finalized in August and outlines several additional measures that the state plans to take. Key to implementation will be the closing of a \$324 million funding gap for the work.

“Based on extensive testing and undertakings, we know where the problems are in the watershed,” Sen. Yaw said. “Frankly, the areas which need the most attention lie in that part of the watershed south of Harrisburg. Without question, we face significant challenges in meeting the EPA TMDL requirements. We just need the time and, most importantly, the resources to address those problem areas.”

The Senate Environmental Resources and Energy Committee, along with the state Chesapeake Bay Commission Delegation, will hold the ‘Briefing on the Bay’ on Wednesday, January 8th, 2020, 9AM-11AM at the **Pennsylvania Farm Show Complex, Crossroads Conference Center** http://pafarmshowcomplex.pa.gov/Portals/0/Exhibitors/Complex%20Map_With%20Docks.pdf (2nd Level), Erie Room, 2300 North Cameron Street, Harrisburg, PA 17110-9443.

Individuals offering comments include: Ann P. Swanson, Executive Director, Chesapeake Bay Commission; Secretary Russell Redding, Pennsylvania Department of Agriculture; Secretary

Patrick McDonnell, Pennsylvania Department of Environmental Protection; Karl Brown, Executive Secretary, Pennsylvania State Conservation Commission; David Graybill, Board Member, Pennsylvania Farm Bureau; and Bill Chain, Senior Agriculture Program Manager, Chesapeake Bay Foundation.

The hearing will **not** be streamed LIVE, **but will be posted on the Committee website that day.** For more committee-related news and information visit

<https://environmental.pasenategop.com/> , Senator Yaw's website at <http://www.senatorgeneyaw.com/> or on Facebook and Twitter @SenatorGeneYaw.

Source: Senator Yaw Press Release, 1/2/2020

CBF: EPA Statement on Enforceability of Chesapeake Bay Pollution Reduction Targets Should Put Fear in the Hearts of All Who Care About Clean Water

On January 3, at the interstate Chesapeake Bay Commission meeting, EPA's Chesapeake Bay Program Director Dana Aunkst addressed the 2025 deadline states have to meet water pollution reduction goals.

He said the goals of restoring the Bay by implementing the Chesapeake Bay Total Maximum Daily Load, otherwise known as the Chesapeake Bay Clean Water Blueprint, **were merely aspirational and not legally enforceable** <https://www.capitalgazette.com/environment/ac-cn-bay-comission-0104-20200103-o5nun6uojbapjecl5dak7p62wa-story.html> .

In response, Chesapeake Bay Foundation President William C. Baker issued this statement.

"For the head of EPA's Bay Program to say pollution limits designed to save the Bay are merely aspirational and not legally enforceable should put

fear in the hearts of all who care about clean water.

"The Clean Water Act requires that EPA set limits on pollution entering local rivers, streams, and the Chesapeake Bay. In addition, a federal court has held that state plans developed to implement the Chesapeake Clean Water Blueprint must have reasonable assurance that they will succeed.

"In the past, EPA has said it will ensure that the state plans in place will do the job, and if not, it will impose consequences. This federal oversight has helped push the states to effect policy changes and invest substantial resources to try to restore local water quality as well as the Chesapeake Bay.

"EPA's retreat is yet another signal that the Administration does not value clean water and clean air. This position minimizes the significant financial and personal efforts some states, local governments, businesses, and individuals have taken to ensure that the Blueprint goals are met.

"If EPA does not fulfill its responsibilities to the region's residents and the American public, the Bay will never be saved."

For more on Chesapeake Bay-related issues in Pennsylvania, visit the Chesapeake Bay Foundation-PA webpage <https://www.cbf.org/about-cbf/locations/pennsylvania/> .

PA's Bay Plan Comes Up Short

On December 19, the U.S. Environmental Protection Agency notified DEP Pennsylvania's **Chesapeake Bay Watershed Implementation Plan falls 25 percent short of meeting its nitrogen reduction goal** <https://paenvironmentdaily.blogspot.com/2019/12/e-pa-says-pas-final-chesapeake-bay-plan.html> .

Pennsylvania's failure to meet its obligations means the entire Chesapeake Bay Partnership will fail to meet its 2025 nutrient pollution reduction targets.

For more information on how Pennsylvania plans to meet its Chesapeake Bay cleanup obligations, visit **DEP's PA's Phase 3 Watershed Implementation Plan webpage** [https://www.dep.pa.gov/Business/Water/Pennsylvania's%20Chesapeake%20Bay%20Program%20Office/WIP3/Pages/Phase-III-WIP-\(Watershed-Implementation-Plans\).aspx](https://www.dep.pa.gov/Business/Water/Pennsylvania's%20Chesapeake%20Bay%20Program%20Office/WIP3/Pages/Phase-III-WIP-(Watershed-Implementation-Plans).aspx) .

Click here for a **summary of the steps the Plan recommends** <https://paenvironmentdaily.blogspot.com/2019/08/final-pa-chesapeake-bay-implementation.html>

EPA Expectations & Consequences

In **June of 2018, EPA notified Pennsylvania** and the other jurisdictions in the Chesapeake Bay Watershed of what its expectations were for the Phase III Watershed Implementation Plans and the consequences if those expectations were not met <http://www.paenvironmentdigest.com/newsletter/default.asp?NewsletterArticleID=43831&SubjectID=202> .

Four pages of the 18 page expectations document outlines specifically what is expected of Pennsylvania and a series of steps EPA could take if Pennsylvania does not live up to these expectations. (*A page and a half was devoted to each of the other jurisdictions.*)

Quoting from the document:

In EPA's role to provide accountability, EPA will assess all potential and appropriate federal actions under its discretionary authority under the Clean Water Act (CWA) as described in the **EPA letter to the partnership Principals' Staff Committee in December 2009** https://www.epa.gov/sites/production/files/2015-07/documents/bay_letter_1209.pdf and in the 2010 Chesapeake Bay TMDL Section 7.2.4 to take any or all of the following potential actions.

Several examples of potential actions EPA could take specific to Pennsylvania include:

1. EPA may continue to target federal enforcement and compliance assurance in the watershed, which could include both air and water sources

of nitrogen, phosphorus, and sediment pollutant loads;

2. EPA may expand NPDES permit coverage through designation, as provided by the Clean Water Act and its regulations, for the following sources of pollutants not currently regulated under any NPDES permits: animal feeding operations, [industrial and municipal] stormwater sources, and/or urbanized areas. Such designations would require those sources to apply for NPDES permit coverage and would assist Pennsylvania in achieving the pollutant load reductions proposed in its Phase III WIP;
3. EPA may redirect Chesapeake Bay or other EPA grant funding to a third party (through a grant, cooperative agreement, or contract) to implement practices in priority areas in Pennsylvania when the Commonwealth has been unwilling or unable to implement necessary pollutant load reduction practices or spend down EPA grant funds in an efficient and timely manner;
4. EPA may direct Chesapeake Bay funding to identified priorities in the EPA evaluations if the Commonwealth does not adequately target work plans and funding toward priority actions and watersheds within the Susquehanna and Potomac River watersheds and other expectations of EPA's evaluations;
5. EPA may establish finer scale wasteload and load allocations through a Pennsylvania state-specific proposed amendment to the 2010 Chesapeake Bay TMDL to include more specific wasteload allocations for additional municipal and industrial wastewater discharging facilities, concentrated animal feeding operations, and regulated stormwater municipalities, as well as more finely, geographically scaled load allocations for the non-federally regulated agricultural, stormwater, and other pollutant source sectors than are contained in Pennsylvania's Phase III WIP;
6. EPA may require additional reductions of loadings from point sources through a Pennsylvania state specific proposed amendment to the 2010 Chesapeake Bay TMDL

to include reductions in current facility specific wasteload allocations for the significant municipal and industrial wastewater discharging facilities in order to increase the share of the allocations to stormwater and/or agriculture; and

7. EPA may initiate a process to propose promulgating nitrogen and phosphorus numeric water quality standards for Pennsylvania applicable to streams and rivers in Chesapeake Bay watershed.

Click here for a copy of the **EPA expectations statement**

<https://www.epa.gov/sites/production/files/2018-06/documents/epa-phase-iii-wip-expectations-6-19-18.pdf> .

According to EPA on December 19, Pennsylvania has not met those expectations.

Source: PA Environmental Digest Blog, 1/4/2020
http://paenvironmentdaily.blogspot.com/2020/01/cbf-epa-statement-on-enforceability-of.html?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+PaEnvironmentDaily+%28PA+Environment+Daily+Blog%29

PUC Damage Prevention Committee Actions Announced Against Underground Facility Owners, Excavators and Project Owners

A total of 214 disciplinary actions, including \$124,725 in administrative penalties, have been taken against 93 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_Summaries121019.pdf

by the Public Utility Commission's (PUC's) Damage Prevention Committee (DPC). These actions were taken during the DPC's December 2019 meeting.

The DPC is tasked with enforcing the state's Underground Utility Line Protection Act - also known as the "PA One Call Law."

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** <http://www.pa1call.org/> 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.pucpa.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, 12/30/2019

IRRC Submits Comments to the Environmental Quality Board

Comments are available on the IRRC website at: Environmental Quality Board #7-545: **Water Supply Replacement for Coal Surface Mining** <http://www.irrc.state.pa.us/docs/3245/IRRC/3245%2001-02-20%20COMMENTS.pdf>

The regulatory review process in Pennsylvania is a two-stage process. The submission of comments on this regulation concludes IRRC's formal role at the proposed stage.

The promulgating agency is required to respond to all comments received on their proposed regulation when submitting the final regulation with or without changes to IRRC and the legislative standing committees.

Commissioners:

- Chairman George D. Bedwick
- Vice Chairman John F. Mizner, Esq.
- W. Russell Faber
- Murray Ufberg, Esq.
- Dennis A. Watson, Esq.

The Independent Regulatory Review Commission provides oversight and review of all proposed and existing rules and regulations issued by all departments, boards, commissions, agencies or other authorities of the Commonwealth, excluding the Legislature, Fish and Boat Commission, the Game Commission, and any court, political subdivision, or municipal or local authority. IRRC also acts as a clearinghouse for complaints, comments and other input regarding existing, proposed, final-form and final-omitted regulations.

For recent news and updates on Commission proceedings or information about IRRC, visit our **website** at <http://www.irrc.state.pa.us/> and follow IRRC on Twitter: @PA_IRRC.

Source: IRRC Press Release, 1/2/2019

L&I Secretary: 61,000 Workers Become Eligible for Overtime Jan. 1

Department of Labor & Industry (L&I) Secretary Jerry Oleksiak is reminding employees and businesses about a new federal law that will make 61,000 workers in Pennsylvania newly eligible for overtime pay of time and a half beginning January 1, 2020. Oleksiak is also urging Pennsylvania lawmakers to do more for all our hardworking men and women, who will continue to earn an embarrassingly low minimum wage of \$7.25 in the new year.

"This new federal law means some of our workers can begin earning the overtime pay they deserve, but far too many are struggling to make ends meet because of Pennsylvania's stagnant minimum wage. It is time for the commonwealth's lawmakers to recognize the value of our hardworking men and women and increase their wage," said Oleksiak. "Every one of our neighboring states has invested in their workers by boosting the minimum wage. It is unconscionable that Pennsylvania has not done the same in more than a decade."

"Senate Bill 79 would give nearly 400,000 Pennsylvanians a much needed first step towards a more secure financial future," added Oleksiak. "The bill had overwhelming bipartisan support in the Senate, and I am disappointed that the House failed to consider this compromise legislation prior to leaving for the holiday break. Pennsylvania's workers deserve more."

An increase in the minimum wage will give working Pennsylvania families a better livelihood, save tax dollars by reducing the number of individuals and families receiving public assistance, and strengthen local economies by increasing workers' paychecks. The increase in earning thresholds under the new federal overtime regulations is a step in this direction, ensuring that more employees who work overtime are fairly and fully compensated for their labor.

The new federal overtime rules, under the U.S. Department of Labor, go into effect on New Year's Day, January 1, 2020.

Who is eligible for overtime?

- With a few exceptions, all hourly employees who work more than 40 hours per week;
- Most salaried employees who work more than 40 hours per week and earn less than \$684 per week/\$35,568 per year are eligible for overtime, regardless of their job duties; and
- Most salaried employees who are not engaged in an executive, administrative, or professional capacity, regardless of how much they are paid.

Who is not eligible for overtime?

- Salaried employees who are engaged in an executive, administrative, or professional capacity and make more than \$35,568 per year; and
- Other occupations specifically exempted by the minimum wage act.

For more information on the new overtime rule, call 1-800-932-0665 (L&I's Bureau of Labor Law Compliance), email RA-LI-SLMR-LLC@pa.gov or visit www.dli.pa.gov.

Source: PA Department of Labor & Industry, 12/30/2019

Revenue Department Releases December 2019 Collections

Pennsylvania collected \$2.9 billion in General Fund revenue in December, which was \$91.5 million, or 3.1 percent, less than anticipated, Revenue Secretary Dan Hassell reported. Fiscal year-to-date General Fund collections total \$15.6 billion, which is **\$75 million, or 0.5 percent, above estimate.**

Sales tax receipts totaled \$981.4 million for December, \$6.7 million below estimate. Year-to-date sales tax collections total \$5.8 billion, which is **\$42.7 million, or 0.7 percent, more than anticipated.**

Personal income tax (PIT) revenue in December was \$1 billion, \$18.9 million above estimate. This brings year-to-date PIT collections to \$6.2 billion, which is **\$93 million, or 1.5 percent, above estimate.**

December corporation tax revenue of \$542.2 million was \$80.7 million below estimate. Year-to-date corporation tax collections total \$1.7 billion, which is **\$126.7 million, or 7.1 percent, below estimate.**

Inheritance tax revenue for the month was \$94.7 million, \$7.7 million below estimate, bringing

the year-to-date total to \$555.7 million, which is **\$14.3 million, or 2.6 percent, above estimate.**

Realty transfer tax revenue was \$53.4 million for December, \$6.1 million below estimate, bringing the fiscal-year total to \$281 million, which is **\$2.8 million, or 1 percent, less than anticipated.**

Other General Fund tax revenue, including cigarette, malt beverage, liquor and gaming taxes, totaled \$183.2 million for the month, \$1.9 million below estimate and bringing the year-to-date total to \$930.6 million, which is **\$34 million, or 0.4 percent, below estimate.**

Non-tax revenue totaled \$24.2 million for the month, \$7.3 million below estimate, bringing the year-to-date total to \$261.5 million, which is **\$57.8 million, or 28.4 percent, above estimate.**

In addition to the General Fund collections, the **Motor License Fund** received \$206.3 million for the month, \$8.4 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 \$1.4 billion, which is **\$5.8 million, or 0.4 percent, below estimate.**

Source: PA Department of Revenue, 1/2/2020

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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.