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# WUC

Water Utility Council of the  
PA-Section, American Water  
Works Association (PA-AWWA)



## GOVERNMENT RELATIONS UPDATE

From Milliron & Goodman Government Relations, LLC.

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### Pennsylvania's Unemployment Rate Remains at 3.9 Percent Total Nonfarm Jobs Reach Record High

**O**n September 20, 2019, the Pennsylvania Department of Labor & Industry (L&I) released its employment situation report for August 2019.

Pennsylvania's unemployment rate was unchanged from July at 3.9 percent, one-tenth of a percentage point above the record low that was held from April through June. The national rate, at 3.7 percent, was also unchanged in August.

Pennsylvania's unemployment rate was down three-tenths of a percentage point from August 2018.

Pennsylvania's civilian labor force – the estimated number of residents working or looking for work – was up 9,000 over the month to 6,479,000. Employment and unemployment both rose by 5,000.

The estimated number of jobs in Pennsylvania, referred to as total nonfarm jobs, increased 16,500 over the month to a record high of 6,051,700 in August. Jobs were up in eight of the 11 industry supersectors with one, professional & business

services, setting a new record high level. The largest supersector movement from July was an increase of 8,100 education & health services jobs.

Over the year, total nonfarm jobs in Pennsylvania were up 38,400 with gains in 10 of the 11 supersectors. The largest gain from last August was an increase of 14,500 jobs in education & health services.

Additional information is available on the L&I website at [www.dli.pa.gov](http://www.dli.pa.gov).

**Source:** PA Department of Labor & Industry, 9/20/2019

### SRBC: Review and Approval of Projects

**T**he Susquehanna River Basin Commission has proposed rules that would amend the regulations of the Susquehanna River Basin Commission dealing with the mitigation of consumptive uses. These rules are designed to enhance and improve the commission's existing authorities to manage the water resources of the basin.

The commission will hold an informational webinar explaining the proposed rulemaking on October 1, 2019. Instructions for registration for the webinars will be posted on the commission's website <https://www.srbc.net/>.

Comments on the proposed rulemaking may be submitted to the commission on or before November 12, 2019. The commission has scheduled a public hearing on the proposed rulemaking to be held on October 31, 2019, at 4423 N. Front Street, Harrisburg.

Comments may be mailed to Jason E. Oyler, Esq., general counsel, Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110-1788, or by e-mail to [regcomments@srbc.net](mailto:regcomments@srbc.net)

For further information contact Jason E. Oyler, Esq., general counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: [joyler@srbc.net](mailto:joyler@srbc.net). Also, for further information on the proposed rulemaking, visit the commission's website <https://www.srbc.net/>.

**Source:** Pennsylvania Bulletin, 9/21/2019  
<https://www.pabulletin.com/secure/data/vol49/49-38/1420.html>

## Wolf Administration Rolls out PA Farm Bill Program to Increase Agricultural Conservation

On September 18, 2019, Secretary Russell Redding joined farmers and equipment dealers to announce the availability of \$13 million in Pennsylvania tax credits for on-farm conservation efforts. At Messick's Equipment in Elizabethtown, he outlined enhancements to PA's nationally-recognized [https://www.media.pa.gov/Pages/Agriculture\\_detail.aspx?newsid=823](https://www.media.pa.gov/Pages/Agriculture_detail.aspx?newsid=823) **Resource Enhancement and Protection Program** (REAP) thanks to Governor Tom Wolf's PA Farm Bill.

"The Pennsylvania Farm Bill recognizes the deep culture of stewardship among Pennsylvania farmers," said Agriculture Secretary Russell Redding. "The newly expanded REAP program eases the financial responsibility of this stewardship while supporting viable, profitable farms and healthy waterways."

REAP is a Pennsylvania tax credit program for agricultural producers who implement best management practices or purchase equipment that reduces the amount of nutrient and sediment runoff and improves the quality of Pennsylvania's waters. This is the 12th year Pennsylvania farmers have been able to take advantage of REAP tax credits. As a result of the PA Farm Bill, this year funding has increased to \$13 million, up from \$10 million. In addition, farmers may now receive up to \$250,000 in any seven-year period, and spouses filing jointly can use REAP Tax Credits.

The most common projects approved are for no-till planting and precision ag equipment, waste storage facilities, conservation plans, **Nutrient Management Plans** [http://www.agriculture.pa.gov/Plants\\_Land\\_Water/StateConservationCommission/NutrientManagementProgram/Pages/default.aspx](http://www.agriculture.pa.gov/Plants_Land_Water/StateConservationCommission/NutrientManagementProgram/Pages/default.aspx), and protecting animal heavy-use areas, like barnyards. Cover crops and riparian stream buffers are also common REAP-eligible practices. Farmers may receive REAP tax credits of 50 to 75 percent of the project's eligible out-of-pocket cost and can be used in conjunction with other funding sources such as the Environmental Quality Incentive Program (EQIP) or the Chesapeake Bay Program to help install BMPs. REAP applications are accepted on a first-come, first-served basis. The basic eligibility requirements are that producers must be in compliance with the **PA Clean Streams Law** <https://www.dep.pa.gov/Business/Energy/OilandGasPrograms/OilandGasMgmt/Pages/Laws%2c-Regulations-and-Guidelines.aspx> and the Pennsylvania Nutrient and Odor Management Law.

Private investors may act as project sponsors by providing capital in exchange for tax credits. Any individual or business subject to taxation by Pennsylvania through personal income tax, corporate net income tax, the bank shares tax or others is eligible to participate in REAP.

Since the program began in 2007, REAP has awarded tax credits to more than 5,500 projects totaling over \$84 million. Improvements from these projects have kept more than five million pounds of nitrogen, 200,000 pounds of phosphorus, and 200,000 tons of sediment out of streams and rivers in Pennsylvania and the waterways they feed.

Private investments in REAP have also contributed to the conservation projects, which in total are worth nearly \$220 million.

The 2019-20 REAP application packet, as well as other information about REAP, is available on the **Pennsylvania Department of Agriculture's website**, <http://www.agriculture.pa.gov/>.

For more information about the **PA Farm Bill** <https://www.agriculture.pa.gov/Pages/PA-Farm-Bill.aspx> and investments to support Pennsylvania agriculture, visit <https://www.agriculture.pa.gov/Pages/default.aspx>.

**Source:** Governor Wolf's Press Office, 9/18/2019

## **PFAS Action Team to Release Recommendations for Action, Funding Needs Soon; 25 Sites Now Contaminated In PA**

**O**n September 17, officials from the departments of Environmental Protection and Health told DEP's Citizens Advisory Council the Governor's PFAS Action Team will be releasing a report in the near future on the status of the state response to PFAS contamination issues, recommendations for next steps, and outlining a significant need for additional funding to address this problem.

The Action Team was formed in September of 2018 to address PFAS contamination issues.

DEP also reported there are now **25 confirmed sites around the state** [https://www.dep.pa.gov/Citizens/My-Water/drinking\\_water/Perfluorinated%20Chemicals%20%E2%80%93PFOA%20and%20PFOS%20%E2%80%93in%20Pennsylvania/Pages/PFC%20Sites%20Under%20DEP%20Investigation.aspx](https://www.dep.pa.gov/Citizens/My-Water/drinking_water/Perfluorinated%20Chemicals%20%E2%80%93PFOA%20and%20PFOS%20%E2%80%93in%20Pennsylvania/Pages/PFC%20Sites%20Under%20DEP%20Investigation.aspx) with PFAS contamination, up from the 17 sites reported earlier.

One comment made by several presenters was the science needed to set water quality, drinking

water and cleanup standards and determine what the long-term human health impacts are of PFAS exposure is running significantly behind the demand for action by the public to deal with contamination issues.

Collecting the necessary data and other information to support setting these standards is now underway by the state, other states and the U.S. Environmental Protection Agency, but it will take time and will be expensive.

**Abbey Cadden, DEP's Office of Policy**, provided the Council with a general overview of the PFAS issue and the state's response. She noted PFAS represents a family of more than 6,000 chemicals that are used in making a very large number of products like carpets, personal consumer products, clothing and in metal plating operations, not just in fire fighting foams.

As a result, there are potentially thousands of sites across the state that could be a source of PFAS contamination. PFAS contamination has also been confirmed in wastewater treatment plant biosolids, landfill leachate as well as drinking water which all present difficult and expensive issues to deal with.

Cadden said while expensive filtering processes for drinking water can remove the chemicals, that's not a permanent solution to the problem. More permanent solutions may involve digging up contaminated soil and then dispose of it.

Other DEP presenters said even that presents problems because there are no clear standards on basic things like how hot an incinerator must be to reliably destroy PFAS chemicals in soil and whether any additional precautions need to be taken when disposing of contaminated soil in landfills to prevent contaminating leachate.

Cadden said state agencies will need significant additional funding to continue their data collection activities used as a basis for setting standards, for treating contaminated drinking water and cleaning up the sources of contamination.

Several DEP presenters also said the fact PFAS chemicals were not regulated in the past and are not regulated now means the locations where they were

used are not confirmed, how they were stored, emitted into the air or discharged into water was not regulated, making companies or individuals responsible for their cleanup, having these chemicals tested for during property transactions and using existing state funding sources to deal with the PFAS problem are difficult without additional statutory authority in some cases.

### Presentation Highlights

Here are some highlights from the presentations made to the Council:

**Troy Conrad, Director of DEP's Bureau of Environmental Cleanup & Brownfields**, [Click here for presentation [https://www.dep.pa.gov/Citizens/My-Water/drinking\\_water/Perfluorinated%20Chemicals%20%E2%80%93PFOA%20and%20PFOS%20%E2%80%93in%20Pennsylvania/Pages/PFC%20sites%20Under%20DEP%20Investigation.aspx](https://www.dep.pa.gov/Citizens/My-Water/drinking_water/Perfluorinated%20Chemicals%20%E2%80%93PFOA%20and%20PFOS%20%E2%80%93in%20Pennsylvania/Pages/PFC%20sites%20Under%20DEP%20Investigation.aspx)] made several key points:

- There are now 25 sites in Pennsylvania DEP is investigating with known PFAS contamination;
- PFAS is not a regulated substance, the very definition of an **emerging contaminant** <https://www.dep.pa.gov/Citizens/My-Water/PublicDrinkingWater/Pages/Emerging-Contaminants.aspx>, they are now using the 70 ppt (parts per trillion) health advisory EPA issued, but is now reconsidering;
- There are no approved analytical methods for testing for PFAS chemicals which appear in a wide variety of products, including shaving cream;
- Little toxicity information is available for PFAS chemicals to use as a basis of cleanup standards;
- Disposing of PFAS contaminated soils in an incinerator or landfill is an issue because clear standards are not available for the right temperatures to ensure destruction or special landfill precautions to avoid contaminating leachate;

- DEP has had private site owners come forward to develop cleanup plans, like for the National Foam site in West Chester and there are other sites where taxpayer funding must be used to respond and supply clean drinking water, like the Ridge Run site in Bucks County;
- DEP needs additional funding to continue investigating sites for PFAS chemicals, need to continue responses to existing sites which are getting expensive, to fill staff vacancies working on this issue and properly fund activities by other state agencies involved in supporting this response; and
- The Hazardous Sites Cleanup Fund, used to respond to PFAS contamination emergencies, has been without a reliable sources of funding for years and is due to all but run out of money in FY 2020-21. Without replacement funding, DEP could not respond.

**Lisa Daniels, Director of DEP's Bureau of Safe Drinking Water**, [Click here for presentation [http://files.dep.state.pa.us/PublicParticipation/Citizens%20Advisory%20Council/CACPortalFiles/Meetings/2019\\_09/02%20Safe%20Drinking%20Water%20PFAS%20Presentation%209172019.pdf](http://files.dep.state.pa.us/PublicParticipation/Citizens%20Advisory%20Council/CACPortalFiles/Meetings/2019_09/02%20Safe%20Drinking%20Water%20PFAS%20Presentation%209172019.pdf)] provided an overview of the response involving public drinking water systems:

- Provided a timeline of EPA actions related to PFAS chemicals, beginning in 2009 with the issuance of an initial health advisory, the 2015 70 ppt health advisory standard and the current initiative to review that standard and set a maximum contaminant level. She said, however, EPA's timeline for actually setting a standard could stretch for years.
- The first step in EPA's standard setting process could happen by the end of the year with EPA making a regulatory determination a new MCL is needed. Pennsylvania and other states are not happy with the time it is taking EPA to set a standard so they are moving to set their own.
- As part of the Drinking Water Sampling Plan, DEP identified potentially several thousand sources of PFAS contamination across the state

and overlaid the location of public water supply sources. She noted DEP does not have statutory authority to include private water supplies in the Sampling Plan.

- DEP is taking samples from 360 of the 6,000 public water supply sources that could be potentially affected by PFAS contamination. The first sample results from the initial samples are expected to be posted in October.
- Daniels said she has asked for \$1.5 million in funding for next fiscal year to deal with PFAS issues.

**Steve Taglang, Acting Director of DEP's Bureau of Clean Water** [Click here for presentation [http://files.dep.state.pa.us/PublicParticipation/Citizens%20Advisory%20Council/CACPortalFiles/Meetings/2019\\_09/03%20Bureau%20of%20Clean%20Water%20PFAS%20Presentation%209172019.pdf](http://files.dep.state.pa.us/PublicParticipation/Citizens%20Advisory%20Council/CACPortalFiles/Meetings/2019_09/03%20Bureau%20of%20Clean%20Water%20PFAS%20Presentation%209172019.pdf)] and Josh Lookenbill, Manager of the Monitoring Section of DEP's Bureau of Clean Water, described steps the Bureau is taking to gather data to get a picture of the extent of PFAS contamination in streams and rivers across the state.

- They noted there is no water quality standard for PFAS contaminants for use in setting permit discharge standards, and noted the science for setting a standard like this is not moving fast enough to keep up with the public demand to act on this issue;
- Systematic data gathering using DEP's existing 178 Water Quality Network sampling stations started in August, in partnership with the U.S. Geologic Survey, along with the placement of 21 passive water sampling devices at key points around the state as part of its **emerging contaminants initiative** <https://www.dep.pa.gov/Citizens/My-Water/PublicDrinkingWater/Pages/Emerging-Contaminants.aspx>; and
- The Bureau is also focused on efforts to further define the PFAS contamination problem in wastewater treatment plant biosolids.

**Dr. Anil Nair, Director of the Division of Environmental Health Epidemiology at the Department of Health**, [Click here for presentation [http://files.dep.state.pa.us/PublicParticipation/Citizens%20Advisory%20Council/CACPortalFiles/Meetings/2019\\_09/04%20PADEH%20-%20PFAS%20Presentation%209172019.pdf](http://files.dep.state.pa.us/PublicParticipation/Citizens%20Advisory%20Council/CACPortalFiles/Meetings/2019_09/04%20PADEH%20-%20PFAS%20Presentation%209172019.pdf)] gave an overview of the existing work his agency is doing to generate more information on exposure to PFAS contamination in Bucks and Montgomery counties and the possible health impacts.

In response to a question about how big a health issue/threat PFAS chemicals are compared to radon or other issues, Dr. Nair said it is difficult to answer that question because most of the available health effects information is developed from animal studies or other studies that have limitations when applied to humans.

He noted studies related to occupational exposures do show there are links to endocrine disruption and autoimmune diseases, but the extent of their contribution to those kinds of health impacts and other diseases has yet to be determined.

#### Additional Background

Gov. Wolf signed an executive order on September 19 of 2018 forming the interagency PFAS Action Team which was charged with developing a comprehensive response to the PFAS contamination problem.

Since then, the state has taken a series of steps to help define the threat faced from PFAS contamination and deal with contaminated water. They include:

- PFAS Action Team held 2 public meetings to gather public input on steps needed to deal with the issue and established an open comment process for the public to submit ideas and suggestions [November & April];
- DEP announced plans to develop a Maximum Contaminant Level for PFAS in drinking water and retaining toxicological services to support that effort [February];

- Gov. Wolf proposed the Restore PA Infrastructure initiative to, in part, fund drinking water contamination cleanup from PFAS and other contaminants [February];
- Dept. of Health requested \$1 million in funding for PFAS monitoring and is prioritizing the hiring of a state toxicologist to support its efforts [March];
- DEP announced PFAS sampling plan to identify possible water contamination across the state [April];
- CFA announced \$8 million in funding to remove PFAS contamination from 17 drinking water in Bucks County [April];
- DEP provided an update on the August 2017 petition to the Environmental Quality Board asking that a Maximum Contaminant Level be set for PFAS in the Delaware River [June]; and
- An additional \$3.8 million in funding to remove PFAS contamination from drinking water supplies in Bucks and Montgomery counties [August].

In addition to this bullet-list of items, DEP provided this short update on the PFAS issue to the CAC in its **September written report** [http://files.dep.state.pa.us/PublicParticipation/Citizens%20Advisory%20Council/CACPortalFiles/Meetings/2019\\_09/September\\_CAC\\_Report.pdf](http://files.dep.state.pa.us/PublicParticipation/Citizens%20Advisory%20Council/CACPortalFiles/Meetings/2019_09/September_CAC_Report.pdf) .

For more information on the PFAS issue in Pennsylvania, visit **DEP's PFAS webpage** [https://www.dep.pa.gov/Citizens/My-Water/drinking\\_water/Perfluorinated%20Chemicals%20%E2%80%93PFOA%20and%20PFOS%20%E2%80%93in%20Pennsylvania/Pages/default.aspx](https://www.dep.pa.gov/Citizens/My-Water/drinking_water/Perfluorinated%20Chemicals%20%E2%80%93PFOA%20and%20PFOS%20%E2%80%93in%20Pennsylvania/Pages/default.aspx) .

The next scheduled meeting of the Council is on October 15.

For more information, visit the **DEP Citizens Advisory Council webpage** <https://www.dep.pa.gov/PublicParticipation/CitizensAdvisoryCouncil/Meetings/Pages/default.aspx>

. Questions should be directed to Keith Salador, Executive Director, by calling 717-787-8171 or send email to: [ksalador@pa.gov](mailto:ksalador@pa.gov) .

**Source:** PA Environmental Digest, 9/23/2019

## SRBC Announces Proposed Rulemaking and Consumptive Use Mitigation Policy

The Susquehanna River Basin Commission has released a proposed rulemaking to amend its regulations, which includes the release of a consumptive water use mitigation policy. The proposed rules would amend the regulations dealing with the mitigation of consumptive uses. These rules are designed to enhance and improve the Commission's existing authorities to manage the water resources of the basin. The accompanying Consumptive Use Mitigation Policy offers implementing guidance for the Commission's mitigation rules.

The voting Commissioners and alternates were: Aneca Atkinson, Chair, Deputy Secretary, Office of Water Programs, Pennsylvania Department of Environmental Protection; Paul D'Amato, Director, Region 8, New York State Department of Environmental Conservation; Amy Guise, Chief, Planning Division, Baltimore District, U.S. Army Corps of Engineers; and Suzanne Dorsey, Assistant Secretary, Maryland Department of the Environment.

To inform the regulated community and the public about these changes, the Commission is hosting a webinar explaining the proposed rulemaking on Oct. 01, 2019. For more information or to register for the webinars, visit <https://mdw.srb.net/consumptive-use-webinar/>.

The Commission has scheduled a public hearing on the proposed rulemaking and policy to be held on October 31, 2019 in Harrisburg, PA at the Commission Headquarters; 4423 N Front Street, Harrisburg, PA 17110-1788.

Comments may be mailed to: Jason E. Oyler, Esq., General Counsel, Susquehanna River Basin Commission, 4423 N Front Street, Harrisburg, PA 17110-1788, or submitted by email to [regcomments@srbc.net](mailto:regcomments@srbc.net).

The deadline to submit comments specific to the proposed rulemaking and policy is November 12, 2019.

**Source:** SRBC Press Release, 9/16/2019

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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.*