
WUC

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



GOVERNMENT RELATIONS UPDATE

From Milliron & Goodman Government Relations, LLC.

200 North 3rd Street ♦ Suite 1500 ♦ Harrisburg, PA 17101 ♦ Phone: 717-232-5322 ♦ Erik A. Ross, Senior Associate ♦ www.millirongoodman.com

Harrisburg, PA

Erik@millirongoodman.com

February 3, 2020 -- Issue 1169

EPA Remains Committed to Restoring and Protecting Chesapeake Bay

Threatened litigation distracts focus and resources from Bay restoration

On January 29, 2020, the U.S. Environmental Protection Agency (EPA) Region 3 sent a letter to Members of Congress emphasizing the agency's commitment to protecting the Chesapeake Bay (Bay). The Bay is a unique and important national resource, and EPA is fully committed to the restoration of the Bay.

EPA's actions to protect and restore the Bay match the promise EPA Administrator Andrew Wheeler made at his confirmation hearing where he said that, "I am very much committed to the Chesapeake Bay and to the Chesapeake Bay Program."

The mischaracterization of the EPA Chesapeake Bay Program Director's recent remarks is unfortunate and distracts from the good work that is being done by agency employees. The question of whether the Total Maximum Daily Load (TMDL) itself is enforceable by a court was answered by the previous administration in court filings defending the Bay TMDL. In 2016, the Obama Administration told the U.S. Supreme Court that a TMDL is an informational tool that "does not impose any binding implementation requirements on the

States," and that "the Bay TMDL does not directly regulate any sources or require any permits." The Trump Administration agrees with these statements from the prior administration.

"Nothing more clearly signifies the EPA's ongoing commitment and accountability to the restoration of the Bay than our most recent Phase III Watershed Implementation Plan (WIP) evaluations," said **Regional Administrator Cosmo Servidio**.

In the evaluations, EPA identified that five of the Bay jurisdictions, including Maryland, must do more to achieve their goals. Our evaluations also identified targeted and extensive EPA support to assist the jurisdictions in their efforts to implement the WIPs.

The **full letter** is here <https://www.epa.gov/newsroom/letter-response-congress-regarding-chesapeake-bay>.

EPA and the Bay jurisdictions, together, have legal authority to ensure the implementation of Bay TMDLs. As has been done since the Bay TMDL was issued, EPA will continue to use our existing authorities under the Clean Water Act to ensure that all six Bay states and the District of Columbia are accountable for implementing their share of the Bay TMDLs' nitrogen, phosphorus and sediment reductions.

EPA's authorities come from the Clean Water Act. These authorities have not changed.

Threatened litigation against EPA will undoubtedly distract from efforts to restore the Bay. The partnerships' resources are better spent on continued enhancement and implementation of plans that will improve water quality. EPA, with the partnership, is committed to having all practices and controls in place by 2025.

EPA's evaluations are available on the **Bay TMDL website**, www.epa.gov/chesapeake-bay-tmdl.

Source: EPA Region III Press Release, 1/29/2020

CBF calls on EPA to Honor its Commitments and Enforce the Clean Water Act

In a letter released on January 29, 2020, Cosmo Servidio, the Environmental Protection Agency Administrator for Region III, stated:

"As has been done since the Bay TMDL was issued, EPA will continue to use our existing authorities under the Clean Water Act to ensure that all six Bay states and the District of Columbia are accountable for implementing their share of the Bay TMDLs' nitrogen, phosphorus and sediment reductions."

This follows an announcement the Chesapeake Bay Foundation (CBF) made on Monday that we are preparing to challenge EPA's abdication of its responsibility under the Clean Water Act to enforce the Chesapeake Clean Water Blueprint. The reason for the litigation is that EPA failed to take action concerning Pennsylvania's lack of progress in reducing nitrogen pollution.

For more than 20 years Congress has said plans must be developed and implementation begun to achieve and maintain Bay Restoration goals. After decades of failed plans, CBF sued EPA over its failure to enforce the Clean Water Act.

As part of the settlement of the suit, EPA agreed to set pollution limits (called a Total Maximum Daily Load or TMDL), work with the Bay jurisdictions to apportion the reductions needed,

require plans to achieve the goals (Watershed Implementation Plans or WIPs), and require two-year incremental steps, called milestones, so that progress can be measured. EPA committed to evaluating the plans, as well as progress made toward the two-year milestones. EPA also laid out the consequences it could impose if any jurisdiction delivers inadequate plans or falls short on its milestone commitments. All of the programs and plans necessary to restore water quality were to be in place by 2025. This unique process is called the Chesapeake Clean Water Blueprint.

In December, EPA finished its review of Pennsylvania's latest WIP. Before receiving the plan, EPA told all the Bay jurisdictions what should be in their respective plans. By 2025, the jurisdictions must identify and implement all programs and practices necessary to meet the pollution-reduction commitments the jurisdiction made. Pennsylvania's plan has a funding shortfall of more than \$300 million annually. And even if the money were allocated, the plan falls 25 percent short of its nitrogen commitment.

In response, CBF Vice President for Litigation Jon Mueller issued this statement.

"By taking no action to hold Pennsylvania accountable, EPA has failed to adhere to the commitment to use its existing statutory authorities, abdicating its responsibilities under the Clean Water Act. While EPA can contend that the TMDL is not enforceable by re-citing the brief they filed during the AFBF v EPA case, that is no more than their opinion. The law concerning implementation of the Blueprint is backed by the Clean Water Act and any question of EPA's role was settled by the Federal Third Circuit Court of Appeals. That court upheld the clean-up plans and held EPA responsible to ensure that the state plans had a reasonable assurance of success. EPA's failure to hold Pennsylvania responsible to meet its clean water commitments by 2025 undermines the integrity of the historic federal/state clean-up plan and threatens the future of this national treasure."

The **EPA letter** is at <https://www.epa.gov/newsroom/letter-response-congress-regarding-chesapeake-bay>

Source: CBF Press Release, 1/29/2020

DEP Provides Funding to Help Counties with Water Quality Improvement in Chesapeake Bay Watershed

On January 29, 2020, the Department of Environmental Protection (DEP) announced it's helping counties hit the ground running on water quality improvement in Pennsylvania's part of the Chesapeake Bay Watershed by supplying \$789,400 in funding for local coordinators to head up county action plans and \$690,000 in grant funds to get planned projects underway.

"We're responding directly to feedback that county leaders provided during development of Pennsylvania's Phase 3 Watershed Implementation Plan last year," said DEP Secretary Patrick McDonnell. "They told us they need more staff resources to dedicate to local water quality improvement planning and funding to get going on planned projects. DEP is doing everything it can to meet these needs."

The **Phase 3 Watershed Implementation Plan** [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) is the state plan to reduce nitrogen, phosphorus, and sediment runoff pollution in local waters in Pennsylvania's part of the Chesapeake Bay Watershed and in the bay. All or part of 43 counties are in the watershed, and teams in each county are or will be working to develop and implement a Countywide Action Plan to reduce nutrient and sediment pollution.

Adams, Bedford, Centre, Cumberland, Franklin, Lancaster, Lebanon, and York are the first counties to be provided full-time local coordinators. The coordinator will lead community development of each county's plan and, once it's completed, coordinate project implementation and report the pollutant reduction impacts.

In addition, DEP has awarded grants to three counties that have already completed their Countywide Action Plans and applied for funding to break ground on planned projects. Lancaster County is receiving \$453,488; York County, \$137,000; and Franklin County, \$99,512. Funding comes from the U.S. Environmental Protection Agency.

The results-oriented grants come with a brisk timeframe, requiring projects to be completed by September 30, 2020.

"County leaders identified the need to complete multiple applications for state or federal grants as a significant hurdle in getting projects underway," said Secretary McDonnell. "The goal is to award these grants annually, as counties make progress. Still, much more funding is needed for local water quality projects in the watershed and across the state and Restore Pennsylvania is the answer."

Restore Pennsylvania

<https://www.governor.pa.gov/restore-pennsylvania/> proposes a commonsense severance tax that would invest \$4.5 billion over the next four years in significant high-impact projects throughout the commonwealth that would rebuild Pennsylvania's infrastructure and increase resources for blighted properties, internet access, storm preparedness, water quality, and disaster recovery to help make Pennsylvania a leader in the 21st century.

Source: DEP Press Release, 1/29/2020

DEP Posts Availability of the Non-Regulatory Agenda

In accordance with the Department of Environmental Protection's (Department) Policy for Development and Publication of Technical Guidance, the Department provides notice of the availability of the Non-Regulatory Agenda (Agenda) twice a year in February and July.

The Agenda serves as a guide and resource to the regulated community, the public, Department staff and members of the Department's advisory committees regarding the focus of the Department's policy development for the coming year. The types of documents listed in the Agenda include policies

and technical guidance documents that provide directives, guidance or other relevant compliance-related information.

The Agenda is available on the Department's **eLibrary web site** at www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=4198 (select "DEP Non-Regulatory Agenda").

Questions regarding the Agenda can be directed to Abbey Cadden, Department of Environmental Protection, Policy Office, 400 Market Street, Harrisburg, PA 17101, ra-epthepolicyoffice@pa.gov or (717) 783-8727.

Questions regarding a specific document should be directed to the contact person listed on the Agenda for that document.

Source: Pennsylvania Bulletin, 2/1/2020

EQB Meeting Cancelled

The February 18, 2020, meeting of the Environmental Quality Board (Board) is **cancelled**. The next regular meeting of the Board is scheduled for Tuesday, March 17, 2020, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the Board's next scheduled meeting may be directed to Laura Edinger at ledinger@pa.gov or (717) 783-8727. The agenda and meeting materials for all Board meetings are available through the Public Participation tab on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board").

Source: Pennsylvania Bulletin, 2/1/2020
<http://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol50/50-5/166.html>

Gov. Wolf Announces Billion-Dollar Plan to Fix

Toxic Schools, Address Lead across Pennsylvania

On January 29, 2020, Governor Tom Wolf presented a series of proposed 2020-21 budget items totaling more than \$1.1 billion to support reducing the risks to Pennsylvanians of lead and asbestos, and remediating existing toxins in schools, day care centers, homes, and public water systems.

"Decades ago, well-intentioned Pennsylvanians constructed our homes, schools, waterways and other structures out of asbestos and lead because they were thought to be harmless, even superior materials," Gov. Wolf said. "Now we know the serious harm both can cause. To build a better Pennsylvania, we first need to fix our foundation, which is why the five lead and asbestos removal initiatives I'm outlining today are so important.

Gov. Wolf's proposed budget investments to address asbestos and lead include:

Expanding the Redevelopment Assistance Capital Program to Schools

Governor Wolf is proposing that up to \$1 billion in grants from the Redevelopment Assistance Capital Program (RACP) be used for lead and asbestos remediation in schools, a problem plaguing many of the state's aging school buildings and causing health concerns for students and their parents, teachers, and staff.

RACP is a commonwealth grant program administered by the Office of the Budget for the acquisition and construction of regional economic, cultural, civic, recreational, and historical improvement projects.

RACP projects are authorized in the Redevelopment Assistance section of a Capital Budget Itemization Act, have a regional or multi-jurisdictional impact, and generate substantial increases or maintain current levels of employment, tax revenues, or other measures of economic activity.

Leveraging CHIP Health Services Initiative

The Department of Human Services is working with the Centers for Medicare and Medicaid Services for a Health Services Initiative (HSI) to improve the health of children and families in Pennsylvania by increasing funding of lead remediation activities in places where children have been exposed to high levels of lead.

Remediation projects could include paint, water, and other sources of contamination. We are currently contemplating enhancing funding opportunities for current HUD grant recipients statewide, but also building infrastructure in 1-2 new areas to increase the regions in Pennsylvania ready and able to assist in lead remediation efforts moving forward. Funding will also be made available for training and certification to increase the number of individuals who are EPA-certified to complete lead remediation in areas where there are shortages of individuals to do this work.

The plan is to have the program operational next state fiscal year. With a \$4 million state investment, \$10 million in federal dollars could be leveraged annually for an annual total of \$14 million to support efforts around lead remediation.

Transferring PENNVEST Grant Funds

Legislation recently passed in Congress allows a state to transfer amounts from its clean water state revolving fund to its drinking water state revolving fund in order to address a threat to public health as a result of heightened exposure to lead in drinking water. Specifically, a state may transfer no more than 5 percent of the cumulative amount of the federal grant dollars awarded for its clean water state revolving fund to its drinking water state revolving fund. It also requires that states coordinate with EPA to get their buy-in for the transfer.

By taking advantage of this new flexibility, PENNVEST may be able to free up to \$90 million for Pennsylvania to address lead in drinking water by providing grants for lead service line replacement statewide. The amount transferred will not have a negative impact on future projects that could have been funded with that money and will be

determined based on the amount of available dollars at the time the program begins.

PENNVEST has proposed to spend the next year working with communities to identify shovel-ready projects that can then be funded in 2021. Potential grant recipients will need to do testing, feasibility studies, and other consulting work next year to prep for projects.

Convening Lead Based Paint Hazard Reduction Program Grant Recipients

The Lead Based Paint Hazard Reduction Program helps communities address housing-related health and safety hazards, in addition to lead-based paint hazards through the Lead Hazard control and Healthy Homes grants. The **state** <https://www.governor.pa.gov/newsroom/gov-wolfs-lead-free-pa-initiative-advances-with-2-5-million-in-hud-lead-abatement-funding/>, as well as several local communities, received notice of \$22.5 million in funding awards in late September 2019. All recipients will target funds towards homes for low and very-low income families with children and will work with medical and social service providers.

At the most recent lead roundtable hosted by the commonwealth, the request was made for the state to convene all Pennsylvania recipients to ensure collaboration in implementation - a project the Department of Health is working to implement in the coming weeks under the direction of Gov. Wolf.

Implementing Lead Testing in School and Child Care Program Drinking Water Grant

Authorized under the Water Infrastructure Improvements for the Nation Act, the Environmental Protection Agency's Lead Testing in School and Child Care Program Drinking Water Grant creates a program to assist with voluntary testing for lead in drinking water at schools and child care programs. The grant opportunity was announced in 2018 and applications were due this year however, award notices have not yet been issued.

Pennsylvania submitted a grant application, which included the support of PENNVEST and the departments of education, environmental protection,

health, and human services. If awarded, approximately \$1.7 million in funds will be used to develop and implement a lead testing program in schools and child care facilities throughout the state. This testing will include the prioritization of facilities serving younger children (ages 6 and under), underserved and low-income communities, and facilities that are older and more likely to contain lead plumbing.

Funding will support the testing of 3,000 schools and child care facilities.

Gov. Wolf was joined by Sen. Vincent Hughes and Rep. Jason Dawkins, who provided remarks, as well as numerous other legislators and advocates in support of these budget proposals.

"Far too much of Pennsylvania is toxic and unsafe as a result of lead and asbestos," Sen. Hughes said. "Our homes, childcare centers, and schools suffer from serious disrepair and long-term neglect. Thank you, Gov. Wolf, for making a significant financial commitment to clean up these vital, necessary and fundamental places in our community. We intend to win on your proposal and to use that victory to propel us to a long-term even more robust investment."

"I'm inspired by the plan and bold leadership that the Governor has displayed today with this announcement," Sen. Jay Costa said. "Children across the state have been exposed to dangerous chemicals and crumbling facilities for years, and we know that it impacts their physical and mental health for their entire lives. Governor Wolf's programs outlined today will save future generations of children from these problems."

"The unhealthy dangers of lead contamination are proven without any doubt, and lawmakers should enthusiastically support the governor's initiative," said Rep. Frank Dermody. "It will make a critical difference in many thousands of lives."

"Our children deserve to learn and our teachers deserve to teach in schools that don't make them sick," Rep. Jason Dawkins said. "This is something that we can all agree on. But for far too long, our children, teachers and anyone else who has entered school buildings in Philadelphia have literally taken

their own lives in their hands. Why? Because often lead and asbestos were lurking inside. My delegation colleagues and I are overjoyed at the news that Gov. Wolf will be making investments in lead and asbestos remediation projects in our schools. Finally, we can take the steps to make our school buildings safe places to learn and to teach."

Gov. Wolf first introduced his **Lead-Free PA** <https://www.governor.pa.gov/newsroom/gov-wolf-discusses-initiative-for-a-lead-free-pennsylvania-with-focus-on-testing-and-abatement/> initiative in August 2019 to call attention to the need for a law requiring universal blood level testing of children according to federal guidelines, and to convene regional task forces to address specific local needs.

A Lead-Free PA task force convened in December to gather the input of communities and their partners toward compiling a complete list of needs so that funding, when allocated, goes directly to programs and initiatives that produce swift and measurable results toward protecting Pennsylvanians.

"Together, these programs have the potential to assist thousands of Pennsylvanians with living healthier lives free of lead and asbestos danger," Gov. Wolf said. "We have the opportunity to correct the past, and to build a brighter future. Pennsylvania should be a place free of lead and asbestos."

Source: Governor Wolf's Press Office, 1/29/2020

Governor Wolf Announces \$119 Million Investment in Water Infrastructure Projects in 15 Counties

On January 29, 2020, Governor Tom Wolf announced the investment of \$119 million for 18 drinking water, wastewater, and non-point source projects across 15 counties through the Pennsylvania Infrastructure Investment Authority (PENNVEST).

"The investments made today in Pennsylvania's communities continue to demonstrate the need for reliable and safe infrastructure," said Gov. Wolf. "These projects will continue to ensure that citizens across the Commonwealth have access to up-to-date, sound systems that provide clean water for every community."

The funding for these projects originates from a combination of state funds approved by voters, Growing Greener, Marcellus Legacy funds, federal grants to PENNVEST from the Environmental Protection Agency, and recycled loan repayments from previous PENNVEST funding awards. Funds for these projects are disbursed after expenses for work are paid and receipts are submitted to PENNVEST for review.

"Every day, we see more and more evidence of the impact that neglected infrastructure and environmental irresponsibility has on our communities," said Gov. Wolf. "Significant investments like the ones made by PENNVEST today and programs like Restore Pennsylvania continue to put the commonwealth on the right track to clean water and healthy living environments."

A list of project summaries follows:

Drinking Water Projects

Allegheny County

- **Pittsburgh Water and Sewer Authority*** - received a \$65,220,000 loan to address initial phases of a multi-year capital improvement plan. This project will include replacement of approximately 80,000 feet of water mains and associated connections, including the replacement of public and private lead service lines. The project will improve water supply by replacing leaking service lines and will address a Consent Order for lead service lines.

Blair County

- **Altoona Water Authority** - received a \$2,100,000 loan to replace approximately 6,500 feet of leaking water distribution lines. The project will reduce water loss and increase

reliability of potable water sources for lower income households within the service area.

- **Tyrone Borough** - received a \$5,710,200 loan to replace water storage and pumping systems, including 10,900 feet of piping and stream crossings. The project will ensure continuous access of potable water and address regular water line breaks.

Indiana County

- **Indiana County Municipal Services Authority** - received a \$10,775,000 grant to extend existing public water service to the Borough of Marion Center, which includes a public school and the Spring Life Drug Rehabilitation Center. The project will provide reliable drinking water to more than 1,000 residents, supply much-needed fire protection systems, and address lead and bacteria issues in drinking water in the Marion Center High School.

Northumberland County

- **Municipal Authority of the City of Sunbury** - received a \$1,550,000 loan to make capital improvements to an existing water filtration plant, including replacement of mechanically operated controls and discharge lines. The project will improve the efficiency of the overall water treatment system and address public health concerns with existing malfunctioning equipment.

Pike County

- **Twin Lakes Utilities, Inc.** - received a \$304,573 loan and a grant of \$4,660,027 to replace an entire water distribution system, including 27,000 feet of piping, a storage tank, and a well disinfection system. The project will address significant water losses from aging piping, improve fire protection systems, and correct systems that have led to chronic water outages of up to 30 hours.

Wastewater Projects

Berks County

- **Borough of Sinking Spring**** - received a \$1,750,000 loan to replace 2,950 feet of sanitary sewer line. The project will eliminate raw sewage backups into residential basements and raw sewage discharge into Cacoosing Creek, a tributary of the Delaware River.

Cambria County

- **Lower Yoder Township**** - received a \$561,032 loan and a grant of \$3,438,968 to install 18,000 feet of sanitary sewer line and 1,350 feet of storm water collection to eliminate inflow into the sanitary system. The project will address an existing Consent Order to reduce the amount of inflow and infiltration entering the sewer collection system and will reduce overflows into local waterways.

Dauphin County

- **Elizabethville Area Authority**** - received a \$1,100,000 loan to upgrade an existing pump station with variable speed pumps and a grinder. The project will eliminate untreated sewage into a tributary of the Wiconisco Creek and provide additional processing capacity for the overall pump station.
- **Londonderry Township** - received a \$283,700 loan and a grant of \$108,300 to design the extension of sewer lines to new growth areas of the township and connections to the Derry Township Municipal Authority for treatment. The project will design a remedy for an area that has confirmed onlot systems with a 24% failure rate and the potential for more broad system failure.

Delaware County

- **Chadds Ford Township Sewer**** - received a \$2,447,500 loan to convert a functionally obsolete wastewater treatment plant into a pump station and install a force main to service existing development. The improved system will consolidate and replace existing, non-functional treatment systems and eliminate existing effluent water quality non-compliance issues.

Erie County

- **Harborcreek Township Sewer Authority**** - received a \$7,250,000 loan to reconfigure an existing collection system by installing 10,000 feet of sanitary sewer pipe and a 750,000gallon surge tank. The project will eliminate raw sewage overflows into nearby watersheds and significantly reduce energy consumption at a local pump station.

Northumberland County

- **Municipal Authority of the City of Sunbury**** - received a \$950,000 loan to repurpose existing wastewater holding tanks into equalization basins, adding additional storage capacity of 750,000 gallons. The project will reduce the amount of combined overflows as well as the amount of untreated sewer overflow into the Little Shamokin Creek, a tributary of the Susquehanna River.

Washington County

- **Union Township** - received a \$593,148 loan to provide new sewer service to additional households in the service area by installing 2,600 feet of gravity sewer line and lateral services. The project will correct existing malfunctioning onlot sewage systems and address illegal connections to the system.

Westmoreland County

- **City of Arnold**** - received a \$1,797,027 loan and a grant of \$10,008,698 to reconstruct a combined sewer system by separating two partial sewer lines and widening the combined sewer piping. The project will reduce impact on aquatic life and reduce wet weather sewage overflows into the Allegheny River.

York County

- **York City Sewer Authority**** - received a \$6,807,942 loan to make upgrades to the wastewater treatment plant including replacement of effluent filters, weir gates, and new heating, ventilation, air conditioning, and electrical wiring. The project will reduce the

risk of untreated sewage discharging into local waterways and will improve the wastewater being discharged into the Codorus Creek, a tributary of the Susquehanna River.

Non-point Source Water Quality Improvement Projects

Centre County

- **Murmac Farms, LLC** - received an \$800,000 loan to construct a comprehensive manure solids separation system and 1,330 feet of piping to accommodate more than 1,800 dairy cows. The project will protect an unnamed tributary of the Nittany Creek and achieve compliance with National Pollutant Discharge Elimination System (NPDES) permitting.

Perry County

- **Perry County Conservation District** - received a \$796,305 loan to construct a manure storage area, gravel access area, stormwater controls, and streambank fencing. The project will eliminate 37,600 pounds of sediment and 6,141 pounds of nitrogen annually, in addition to protecting the Baken Creek, which serves as a tributary to the Chesapeake Bay.

* denotes projects that have Drinking Water State Revolving Funds

** denotes projects that are funded with Clean Water State Revolving Funds

Source: Governor Wolf's Press Office, 1/29/2020

Senate Panel Holds Joint Hearing on Impacts of PA Joining the Transportation and Climate Initiative

On January 29, 2020, the Senate Environmental Resources and Energy Committee and the Senate Transportation Committee held a joint public hearing in Harrisburg to hear testimony on the potential impacts of

Pennsylvania's participation in the Transportation and Climate Initiative (TCI), according to committee chairs Gene Yaw (R-23) and Kim Ward (R-39), respectively.

As chair of the Environmental Resources and Energy Committee, Yaw said the hearing served as an important starting point to hear from various groups who presented widely differing viewpoints on the environmental and economic implications of entering into the compact of Northeast and Mid-Atlantic states, which the Wolf Administration is considering despite resounding opposition.

TCI would require motor fuel distributors to purchase carbon dioxide emissions allowances at auction with the cost passed onto consumers at the gasoline/diesel pump, and is similar to the decade old Regional Greenhouse Gas Initiative (RGGI) for electricity.

Opponents raised concerns that it would take more money out of the pockets of working families, hurt job creators, and have minimal impacts on emissions, while supporters said it would help to reduce carbon dioxide emissions and promote clean transportation alternatives.

"This is a complicated and far-reaching issue, so today was an important step in the educational process," Yaw said. "I'm pleased that we were able to gain such insightful information from many different groups as we begin down the path of determining whether the Commonwealth should consider joining the compact."

Senate Transportation Committee Chair Ward raised concerns that entering into the TCI would negatively impact drivers, disproportionately affect rural residents and require a new "gas tax" of up to 17 cents per gallon. That would be an enormous burden on Pennsylvania motorists who already pay the second highest gas tax in the nation. Unlike the current gas tax structure constitutionally-protected for roads, bridges and safety, the proceeds from TCI would be dedicated towards electric buses, electric vehicle charging stations, bike lanes, etc.

"Today, the Wolf Administration touted the TCI would not increase the gas tax. But, if the TCI raises the overall price of gas at the pump, then the

outcome is the same for consumers." said Sen. Ward. "We do not have door-to-door mass transit programs in many areas of Pennsylvania, so when the cost of gas increases, drivers pay more. I respectfully ask the governor not to enter into the multi-state TCI."

A number of testifiers stressed that states need to work together to reduce emissions, but others questioned whether the benefits of joining TCI would really be realized. Testimony received also alluded to how low and zero emission vehicle technology offers great promise in terms of improving vehicle efficiency and air quality while providing consumers with expanded transportation choices.

Yaw said he is committed to hearing all viewpoints and data to ensure that Pennsylvania makes the best decision for its residents.

"We need to start talking about this and it was obvious that there are many different opinions on what we can or should be doing," Yaw said. "We need to look at the big picture."

A recording of the hearing as well as all testimonies received are available on both Committee websites.

Senate Environmental Resources and Energy Committee:

<https://environmental.pasenategop.com/>

Senate Transportation Committee:

<https://transportation.pasenategop.com/>

Source: Senators Yaw and K. Ward Press Release, 1/29/2020

Pennsylvania State Clean Diesel Grant Program; Availability of Grants

The Department of Environmental Protection (Department) announces an opportunity to apply for \$2,654,841 in grants offered through the Fiscal Year 2019 Pennsylvania State Clean Diesel Grant Program (Grant Program).

Funding has been made available through the United States Environmental Protection Agency (EPA) and the Federal Diesel Emission Reduction Act (DERA). Most of this funding, approximately \$2.15 million, is from the settlement of a lawsuit with Volkswagen and its subsidiaries, relating to diesel vehicle emission violations, and is being used as the Commonwealth's voluntary match funding under the DERA program. Funding is available for eligible diesel emission reduction projects that will improve air quality and protect public health and the environment by reducing emissions from diesel-powered vehicles and engines.

The Department is seeking applications for projects that will replace or retrofit fleet diesel-powered highway and nonroad vehicles, engines and equipment. The majority of the vehicle or engine's annual operation time must occur within this Commonwealth. Public and private entities that operate diesel-powered fleets throughout this Commonwealth should apply. These entities may include school districts, municipal authorities, political subdivisions, State agencies, nonprofit entities, corporations, limited liability companies or partnerships incorporated or registered in this Commonwealth, air quality or transportation organizations and metropolitan or rural planning organizations. Projects must use technologies certified or verified by the EPA or the California Air Resources Board to lower diesel emissions, unless otherwise noted in the Grant Program guidelines. The technology may be a single technology or a combination of available technologies.

The Department will not reimburse grant recipients for project costs incurred prior to the grant performance period set forth in the applicable grant agreement. The Grant Program guidelines and application instructions are available on the Department's **Driving PA Forward** webpage at <http://www.depgisstate.pa.us/DrivingPAForward/>.

A webinar on the Grant Program will be held on Monday, February 10, 2020, from 10:30 a.m. to 12 p.m. See the Department's previously listed Driving PA Forward webpage for registration information.

Applications must be submitted online through the Department of Community and Economic

Development's **Electronic Single Application web site, eGrants** at <http://www.esa.dced.state.pa.us> . The Department will accept applications through 4 p.m. on Friday, March 6, 2020. Fax and e-mail submissions of applications will not be accepted. Interested applicants with questions may contact the **Bureau of Air Quality** at ra-epvwmitigation@pa.gov or (717) 787-9495.

Source: Pennsylvania Bulletin, 2/1/2020
<http://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol50/50-5/159.html>

Wolf Administration Highlights Dangers Drones Pose in Emergency Situations

As the popularity of drones continues to increase across the country, the Wolf Administration today highlighted the danger these unmanned aircraft can pose to helicopters in emergency situations. According to the Federal Aviation Administration (FAA), there are more than 1.5 million drones registered in the United States, and they are being used for everything from recreation to commercial and military applications.

The Pennsylvania State Police (PSP), Pennsylvania Department of Transportation (PennDOT), Pennsylvania Emergency Management Agency (PEMA), Office of the State Fire Commissioner (OSFC), the Department of Health (DOH) and Penn State Health Life Lion Critical Care Transport came together at the PSP Academy in Hershey to discuss how drones in the airspace can not only delay connecting individuals to the care or help they need, but also put the operators in harm's way.

"PennDOT is excited about the potential that drone technology holds," said Jennie Granger, PennDOT's Deputy Secretary for Multimodal Transportation. "But as with any new technology, it's critical that safety is at the forefront of the conversation, and that all drone operators follow FAA regulations when operating."

All drones, both recreational- and commercial-use, must be registered with the FAA. Recreation and commercial drone operators must follow FAA guidelines. One of those guidelines is to not interfere with emergency response activities. In addition, the Pennsylvania's Unmanned Aircraft Systems (UAS) Law makes it a crime to operate a drone in the following circumstances:

- to conduct surveillance of another person in a private place; in a fashion that places another person in fear of bodily injury; and
- to deliver, provide, transmit, or furnish contraband.

"Safety of the troopers in state police helicopters and everyone on the ground is our top priority when flying any mission," said Captain Gary Vogue, director of the Tactical Operations Division of the Pennsylvania State Police Bureau of Emergency and Special Operations. "A police helicopter's flight path and altitude may change abruptly and with little warning. We ask drone operators to keep safety in mind and leave the area or land their unmanned aircraft when they see a police or EMS helicopter in the sky."

"What drone operators may not realize is that an EMS helicopter cannot land when there is a drone in the vicinity," Deputy Secretary for Health Preparedness and Community Protection Ray Barishansky said. "This means that there may be a significant delay to getting care to a patient. This is not just an inconvenience, but it can be a life or death situation. We urge operators to be aware of regulations, and to help keep the air space safe at any emergency scene."

There are 81 licensed air ambulances in Pennsylvania. In 2019, there were more than 21,000 calls for air medical services. First responders also use drones as a tool to assist them in searching for missing persons, in firefighting activities and to protect public safety.

"The utilization of drones in firefighting applications has been accelerating for some time," State Fire Commissioner Bruce Trego said. "These devices are providing departments with new capabilities, and affording them critical situational awareness data that saves lives. These benefits are

not without cost; however, and we want to ensure that operators are using them safely and in accordance with the applicable laws."

"Having worked as a flight paramedic and being a certified drone pilot, I am acutely aware of the hazards that drones pose to emergency response and disaster operations when they are not operated in accordance with federal regulations or their use is not coordinated with emergency response agencies," said PEMA Director Randy Padfield. "It's vital for drone operators to understand that official emergency response activities take priority over personal attempts to get pictures or video of an incident scene by using a drone, and that use of a drone during an emergency may result in significant safety issues for emergency responders as well as delay vital care to those who are injured or in need of rescue."

It is important to know that the FAA is responsible for the safety of U.S. airspace. Anyone who chooses not to operate a drone legally could face civil penalties, and potentially criminal prosecution.

For more information on drone operation and registration, visit <https://www.faa.gov/>.

Source: PennDOT Press Release, 1/31/2020

Independent Regulatory Review Commission Approves Final Triennial Water Quality Standards, Stream Designation Regulation

On January 31, the Independent Regulatory Review Commission voted 4 to 1 to approve the final EQB **Triennial Water Quality Standards and Stream Re-designation Regulation**

<https://www.dep.pa.gov/PublicParticipation/EnvironmentalQuality/Pages/2019-Meetings.aspx>.

DEP is required to review, revise and update, as needed, at least once every three years, water quality criteria and standards to reflect the latest scientific information and new federal guidelines for criteria development, and other implementation guidance.

The EQB adopted the Triennial regulation for comment in April of 2017 and held four public hearings on the proposal. It was adopted as a final rule in November, 2019.

Among other issues, the regulation deals with setting standards for ammonia and bacteria, makes changes to stream designations for a variety of streams and providing for exceptions for fishable and swimmable waters.

On January 22, Republicans on the House Environmental Resources and Energy Committee voted to send a letter to the IRRC recommending they disapprove the regulation. *Click here for more* <http://www.paenvironmentdigest.com/newsletter/default.asp?NewsletterArticleID=48925&SubjectID=85>.

The recommendation was based on comments presented to the Committee by the American Forest and Paper Association and the Monroe County Clean Streams Coalition, a group of business landowners who have been challenging stream re-designations in the Pocono Region. *Click here for more* <http://www.paenvironmentdigest.com/newsletter/default.asp?NewsletterArticleID=48839>.

The IRRC received comments from four parties on the regulation, the two business groups, the House Committee and PennFuture, who supported the regulation.

The House Committee still has an opportunity to block the regulation by reporting out a concurrent House-Senate resolution disapproving of the regulation that must be passed by both chambers and presented to the Governor for his action.

A copy of the regulation, supporting documents and DEP's presentation to the EQB can be found on the **Environmental Quality Board webpage** at

<https://www.dep.pa.gov/PublicParticipation/EnvironmentalQuality/Pages/2019-Meetings.aspx>.

Source: PA Environmental Digest Blog, 1/31/2020

Senator Dave Arnold Sworn into Office

On January 29, 2020, state Senator Dave Arnold was sworn into office. He was elected to represent the 48th Senatorial District in a January 14 special election. The 48th District includes all of Lebanon County, as well as northern York County and southern Dauphin County.

Prior to running for the Senate, Senator Arnold served 14 years as the Lebanon County District Attorney.

The Week Ahead

The House and Senate return to voting session on Monday, February 3, 2020 at 1 p.m., and on Tuesday, February 4, 2020 at 11:30 a.m. the **governor gives his budget address** to a joint session of the legislature.

You can watch session and the address live at <https://www.pasenategop.com/>.

Source: Senate Republican Communications, 1/31/2020

#####

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.