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GOVERNMENT RELATIONS UPDATE

From Milliron & Goodman Government Relations, LLC.

Yellow Phase Orders Updated to Include 12 Additional Counties Moving on May 22

On May 21, 2020, the yellow phase orders were amended to include 12 counties moving to the yellow phase at 12:01 a.m., May 22. **Those counties include**: Adams, Beaver, Carbon, Columbia, Cumberland, Juniata, Mifflin, Perry, Susquehanna, Wyoming, Wayne, and York.

The 12 counties are joining 37 counties that previously moved into the yellow phase:

Allegheny, Armstrong, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Indiana, Jefferson, Lawrence, Lycoming, McKean, Mercer, Montour, Northumberland, Potter, Snyder, Somerset, Sullivan, Tioga, Union, Venango, Warren, Washington, and Westmoreland.

The Governor's amended order can be found **here** https://www.governor.pa.gov/wp-content/uploads/2020/05/20200521-TWW-Yellow-Phase-Order-Amendment.pdf .

The Secretary of Health's amended order can be found **here** https://www.governor.pa.gov/wp-content/uploads/2020/05/20200521-SOH-Yellow-Phase-Order-Amendment.pdf .

Source: Governor Wolf's Press Office, 5/21/2020

Gov. Wolf Adds Eight Counties to Yellow and 17 to Green on May 29, Remainder to Yellow on June 5

Furthering his plan for reopening Pennsylvania, Governor Tom Wolf announced eight additional counties will move to yellow and 17 to green, effective at 12:01 a.m., **May 29**. All remaining counties in red are expected to move to yellow by **June 5** at 12:01 a.m.

The counties moving to yellow on May 29 include: Dauphin, Franklin, Huntingdon, Lebanon, Luzerne, Monroe, Pike, and Schuylkill.

The 17 counties moving to green, also on May 29, include: Bradford, Cameron, Clarion, Clearfield, Crawford, Elk, Forest, Jefferson, Lawrence, McKean, Montour, Potter, Snyder, Sullivan, Tioga, Venango and Warren.

Counties that remain in red on May 29 and are **expected to move to yellow** by June 5 include: Berks, Bucks, Chester, Delaware, Lackawanna, Lancaster, Lehigh, Northampton, Montgomery, and Philadelphia.

"We know not only that we succeeded in slowing case growth, but that our actions, our collective decisions to stay at home and avoid social contact - we know that saved lives," Gov. Wolf said. "My stay-at-home order did exactly what it was intended to do: It saved lives and it bought us valuable time."

Gov. Wolf referred to a study by Drexel University that indicates that in Philadelphia alone, 60 days of staying at home resulted in more than 7,000 lives saved and prevented more than 68,000 people from needing hospitalization.

Yellow Metrics

In deciding which counties to move to yellow, the state used risk-based **metrics** https://www.governor.pa.gov/wp-content/uploads/2020/05/20200522-Risk-Based-Decision-Support-Tool-05-21-2020.pdf from Carnegie Mellon University combined with contact tracing and testing capability and a sustained reduction in COVID-19 hospitalizations. While the 50 new cases per 100,000 population was considered, it did not weigh any more heavily than other factors.

Over the past two weeks:

- The state has seen sustained reductions in hospitalizations. From May 8 when the first counties moved to yellow to yesterday, the number of COVID-19 patients hospitalized dropped by nearly one thousand - from 2,618 to 1,667.

- The number of COVID patients on ventilators shrank by about a third, from 505 to 347.

- New cases continue to decline: From May 8 to May 15, the state added 6,384 cases and from May 15 to 21, added 4,770.

- The current COVID-19 incidence rate in the state is 83.4 cases per 100,000 people. Two weeks ago, it was 113.6 per 100,000. Most other states are seeing their new case rate continue to increase or remain flat. Pennsylvania is one of just 19 states with new case-rate declines.

Green Metrics

Counties that have been in the yellow phase for the requisite 14 days have been closely monitored for the risk associated with transitioning to the green phase.

In the green phase, we will continue to take precautions, including reducing building capacity, encouraging teleworking, limiting visitation in certain high-risk environments, and preventing large entertainment gatherings.

The guidelines for moving to green are available **here** https://www.governor.pa.gov/plan-for-pennsylvania/, and include specifics for employers, large events, and social gatherings.

Moving Forward

"We continue to increase testing every day and are continuing to build our contact tracing capacity, as well," Gov. Wolf said. "We are able to do these things, to be successful, to reopen in this manner because of the Pennsylvanians who have made tremendous sacrifices since the virus emerged in our state," Gov Wolf said. "Thank you.

"I want to remember and honor all of those who we lost and give solace to their family and loved ones. The last two months have been trying and they have tested each of us, and I want to thank and acknowledge all the people of our commonwealth who have been called upon to upend their lives to keep their neighbors, friends and family safe."

Source: Governor Wolf's Press Office, 5/22/2020

Gov. Wolf Vetoes SB 327, HB 2388 and HB 2412

On May 19, 2020, Governor Tom Wolf vetoed three bills related to the state's response to COVID-19 that violate the separation of powers and make other changes that go against the administration's measured plan for reopening the state safely.

Senate Bill 327 (Argall-R) https://www.legis.state.pa.us/cfdocs/billInfo/billInfo

.cfm?sYear=2019&sInd=0&body=s&type=b&bn=3
27 would authorize counties to develop and
implement their own mitigation plans and decide
when businesses within their county can reopen and
includes a provision that prohibits commonwealth
agencies from performing an essential
governmental operation, the promulgation of
regulations, until 90 days after the COVID-19
disaster emergency declaration is terminated unless
the legislature grants permission for a regulation to
advance.

House Bill 2388 (Mihalek-R) and **House Bill
2412** (Polinchock-R) would allow various industries
to reopen in red phase counties.

NOTE: **House Bill 2388** (Mihalek-R)
https://www.legis.state.pa.us/cfdocs/billInfo/billInfo
.cfm?sYear=2019&sInd=0&body=h&type=b&bn=2
388 amends The Administrative Code, providing
for emergency COVID-19 provisions. Requires
waivers for multiple services including **Vehicle
dealer, Lawn and garden centers waiver
provisions, Cosmetology salon and barber shops,
Messenger service and agent service activities,
Animal grooming services, and Manufacturing
operations**.

NOTE: **House Bill 2412** (Polinchock-R)
https://www.legis.state.pa.us/cfdocs/billInfo/billInfo
.cfm?sYear=2019&sInd=0&body=h&type=b&bn=2
412 amends the Administrative Code, providing for
emergency COVID-19 provisions. The Secretary of
Community and Economic Development shall
immediately issue a waiver to the Governor's
20200319 TWW COVID-19 Business Closure
Order to **all providers of legal services, and
residential and commercial real estate services,
including settlement services**.

"Since the beginning of this month, my
administration has been gradually transitioning
counties from the restrictive red phase to an
intermediate yellow phase," Wolf wrote. "The
decisions to move counties from the red phase to
the yellow phase are based on the advice of expert
epidemiologists. These decisions are not based just
on the number of cases of COVID-19, but are also
based on other critical factors, such as how
community members interact, the county's number
of potential transmission points, a county's

geographic location, the capacity to undertake
contact tracing, and testing availability."

Read the **veto message** for SB 327 **here**
https://www.governor.pa.gov/wp-
content/uploads/2020/05/20200519-SB-327-Veto-
Message.pdf

Read the **veto message** for HB 2388 **here**
https://www.governor.pa.gov/wp-
content/uploads/2020/05/20200519-HB-2388-Veto-
Message.pdf

Read the **veto message** for HB 2412 **here**
https://www.governor.pa.gov/wp-
content/uploads/2020/05/20200519-HB-2412-Veto-
Message.pdf

Source: Governor Wolf's Press Office, 5/19/2020

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

A total of 47 disciplinary actions, including
$39,250 in administrative penalties, have
been taken against 42 underground facility
owners, excavators and project owners in the **latest
enforcement actions**
http://www.puc.pa.gov/transport/gassafe/pdf/DPC_
Agendas/2020/DPC_Case_Summaries051220.pdf
by the Public Utility Commission's (PUC's)
Damage Prevention Committee (DPC). These
actions were taken during the DPC's May 2020
telephonic 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/transportatio
n/pa_one_call_enforcement/dpc_agendas_Actions.a
spx 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.

<u>Digging Safety - PA One Call</u>

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.pa1call.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.

<u>About the DPC</u>

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."

<u>About the Bureau of Investigation & Enforcement</u>

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, 5/22/2020

Pennsylvania's Unemployment Rate at 15.1 Percent in April

On May 22, 2020, the Pennsylvania Department of Labor & Industry (L&I) released its employment situation report for April 2020. The April unemployment and jobs surveys reflect the effects of business and school closures to mitigate the spread of coronavirus (COVID-19).

Pennsylvania's unemployment rate was up 9.3 percentage points over the month to **15.1 percent in April**. The **national rate** rose 10.3 percentage points from March to **14.7 percent**. The commonwealth's unemployment rate increased by 11.0 percentage points from April 2019 while the national rate was up 11.1 points over the year.

Pennsylvania's civilian labor force – the estimated number of residents working or looking for work – declined by 91,000 over the month.

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Resident employment was down 687,000 while unemployment rose by 597,000.

Pennsylvania's total nonfarm jobs were down 1,024,100 over the month to 5,014,200 in April. Jobs were down in each of the 11 industry supersectors. The largest volume supersector decline for the second consecutive month was in leisure & hospitality.

Over the year, total nonfarm jobs in Pennsylvania were down 1,044,000 with declines in 10 of the 11 supersectors (financial activities were unchanged from last April). The largest volume 12-month change among supersectors was a decline of 347,100 jobs in leisure & hospitality.

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

Note: The above data are seasonally adjusted. Seasonally adjusted data provide the most valid month-to-month comparison.

Source: Pennsylvania Department of Labor & Industry Press Release, 5/22/2020

Sewage Advisory Committee Virtual Meeting; Change to Meeting Start Time

The Department of Environmental Protection's Sewage Advisory Committee will hold a virtual meeting at **10 a.m. on Wednesday, June 17, 2020**.

Individuals interested in providing public comments during the meeting must sign up prior to the start of the meeting by contacting Janice Vollero at jvollero@pagov or (717) 772-5157.

Information on how to join the meeting, as well as agenda and meeting materials, will be available **here** https://www.dep.pa.gov/Pages/default.aspx. Additional information can be found on the Pennsylvania Bulletin.

Source: Pennsylvania Bulletin, 5/23/2020 http://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol50/50-21/690.html

State Board of Certification of Water and Wastewater Systems Operators Meeting; Conference Call

The Department of Environmental Protection's State Board of Certification of Water and Wastewater Systems Operators will hold a conference call at **10 a.m. on Wednesday, June 10, 2020**.

Individuals interested in providing public comments during the meeting must sign up prior to the start of the meeting by contacting Ed Chescattie at echescatti@pa.gov or (717) 772-2184. The agenda and meeting materials, as well as call-in information, will be available **here** https://www.dep.pa.gov/Pages/default.aspx. Additional information can be found on the Pennsylvania Bulletin.

Source: Pennsylvania Bulletin, 5/23/2020 http://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol50/50-21/691.html

Gov. Wolf Stresses Roles of PA Emergency Management Agency, National Guard in Pandemic Response

When it comes to a crisis, preparedness is everything, and Governor Tom Wolf stressed the critical roles the Pennsylvania Emergency Management Agency (PEMA) and PA National Guard play in coordinating the state's preparedness and response to COVID-19. He was joined at a press conference by PEMA director Randy Padfield and PA National Guard Colonel Frank Montgomery.

"Pennsylvania has a great team working behind the scenes to coordinate our response to the

coronavirus," Gov. Wolf said. "I want to reassure all Pennsylvanians that we are in good hands with the teams at PEMA and the National Guard. The training and planning that they do year-round is tested during exercises, and all of that experience is being acted upon now."

Along with the Department of Health (DOH), PEMA has been monitoring the virus since January, establishing the DOH's operations center at PEMA before the virus was first detected in the United States.

PEMA's Commonwealth Response Coordination Center (CRCC), typically used only during weather emergencies, stood up full operations just a few weeks later, supplementing planning and coordination efforts with staff from dozens of state and federal agencies, and partners.

PEMA works with emergency management agencies in each of the state's 67 counties to identify and eliminate potential issues by providing the necessary guidance and support to execute their unique, local emergency plans, including coordinating the community-based testing sites in Montgomery County and more recently in Luzerne County in the northeast with the PA National Guard.

"These sites serve a critical role in testing of symptomatic individuals to get a better understanding of the virus spread, especially in the hardest hit areas of the state," PEMA director Randy Padfield said. "This is just one example of the coordination efforts PEMA manages. We remain committed to assisting the Department of Health, other state agencies, and counties with responding to the COVID-19 crisis and to mitigating the secondary and tertiary effects of such a long term and complex crisis."

The governor emphasized PEMA's role in obtaining the Battelle Critical Care Decontamination System in Delaware County from the federal government. The free service to decontaminate certain N95 masks is helping health care providers and first responders stretch PPE by being able to safely reuse these masks. The governor encouraged more facilities to take advantage of this service.

The PA National Guard, present in the CRCC every day, has been working to provide support to mass testing sites and the state's nursing homes that require more help than can be provided with facility staff. To date, the Guard has assisted 10 nursing facilities in the state, including Brighton Rehabilitation and Wellness Center in Beaver County.

Col. Frank Montgomery provided details on the Guard's role at Brighton and other facilities.

"Teams were built to include physician assistants, nurses, medics and general purpose forces to provide staffing assistance as well as any training on use of PPE, don and doff procedures, and decontamination measures as needed," said Colonel Frank Montgomery, director of Military Support for the Pennsylvania National Guard. "It's an honor for us to work side by side with other long-term care staff to serve this vulnerable population. To date, we have provided over 3,500 days of staffing support to 10 long-term care facilities, and are currently still supporting five facilities."

PEMA works hand-in-hand with the Pennsylvania National Guard on its missions, which in addition to nursing home aid, vary from food distribution to establishing mass testing sites.

"Pennsylvanians haven't had to worry that we'll miss out on federal disaster aid, they haven't had to worry about 9-1-1 centers becoming overwhelmed, and they haven't had to worry that other emergencies won't be taken care of during the pandemic," Gov. Wolf said. "That's all because PEMA efficiently and effectively does its job."

Source: Governor Wolf's Press Office, 5/18/2020

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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.