

Pennsylvania Septage Management Association

November 2020

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PSMA's mission is to protect Pennsylvania's citizens and our industry through sound management, proper maintenance and environmentally conscious disposal of wastewater.

SAVE THE DATE!

Dec 8-9, 2020 - 101 Basic Inspector Course, Clinton NJ

PSMA's Conference & Trade Show will be going virtual in 2021! We will offer live remote training in late January & early February including: installation course, drip system inspection certification, and many, many more topics!

President's Message

As I take a minute to look back on my 30 plus years as an active member of the PSMA, I am reminded of the many great people I have been lucky enough to spend some time with to share and learn from them. The list is quite extensive mind you as the folks that have been in our ranks have become mentors to me, dear friends and exceptional Business associates who are just unique, genuine human beings. My words cannot express my gratitude for all they have given to this industry, the PSMA, and myself.

There have been and are so many names that come to mind, however the ones that ring largest in my mind are the likes of Joe Macialek, Dick Macialek, Bill Hapchuck, Ralph Macchio, Tom Ferraro, and Vince Phillips. All of these folks have made a difference in our industry and in the lives of everyone who has had the opportunity to get to know them personally and professionally. They are kind compassionate people who have humbly served our industry and association in a very positive manner with immeasurable returns for all of us.



Ned Lang
PSMA President

I would like to speak about just one individual in this letter and that is Vince Phillips. Recently Vince has given notice to the PSMA executive board that he will be retiring as our lobbyist as of January 31st, 2021. It is with deep regret that the executive board had to accept Vince's resignation, however we are heartened to know that Vince, his wife Claudia and their family will be able to spend much more time together, sharing all the blessings that life has to offer.

Now let's chat a bit about Vince and my relationship with him as it has developed over the years. I believe Vince became a part time lobbyist for the PSMA in 2011 to alert our BOD'S about any good or bad legislation that was in the pipeline in Harrisburg. Over the next year or so Vince's

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PRESIDENT'S MESSAGE (Cont.)

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very perceptive and in-depth accounting of some of the legislation that was either being proposed or activity being voted on in Harrisburg that had implications for the PSMA, it became apparent we needed to hire Vince as an active lobbyist to protect the PSMA's interests as they relate to legislation in Harrisburg. Then Vince really got busy and became very effective for the PSMA. As a result of Vince's hard work and influence in Harrisburg the PSMA leadership has testified at numerous hearings, has met with PADEP Secretary McDonnell and several of his predecessors. The PSMA has been decisive through the introduction of legislation, hosting events in Harrisburg, working closely with other like-minded organizations such as, PSATS, PA Farm Bureau and PASEO association to combine our forces and resources to either promote or attempt to stop legislation, all because of Vincent's vigilant guidance and oversight of the happenings in Harrisburg.



Vince Phillips (center) leading a group of PSMA members in a visit with PA DEP Secretary Patrick McDonnell. (l to r: Ned Lang, DEP Sec. McDonnell, Vince Phillips, Joe Valentine, Jay Patel).

I have personally taken part in at least six of Vince's citizen lobbyist events in Harrisburg. This brainchild of Vince's is amazing to say the least! Usually 3 or 4 of us would meet in the cafeteria in the Capital Building at 8:00am to strategize about the upcoming day. Vince would call for a citizen lobbyist day whenever critical legislation was being proposed by either chamber in Harrisburg which was perceived to be either good for our industry or bad for our industry.

Our meetings with key legislators had already been set up by Vince over the previous week or more to ensure our time in Harrisburg was as effective as possible. Let me tell you in no uncertain words- you better have comfortable walking shoes because the pace was fast and 10k plus steps were done before lunch or so my feet thought so!! Vince would give us citizen lobbyist stickers on our shirts and the other lobbyist we encountered as well as the legislators we met with all thought that was a fantastic idea and an effective tool!

Vince's presence as we met with each and every legislator or their staffers was powerful and everyone we met had the upmost respect for Vince regardless of their stance on any particular issue.

On behalf of myself and the entire PSMA Board I want to thank Vince for doing such a fantastic job in representing and protecting the interests of the PSMA and our industry at every level. His tireless work ethic, time and energy will be truly missed by all of us whom have had the good fortune to work with him and especially getting to know him.

Vince you will always have a friend in the PSMA especially our Board of Director and myself.

Ned Lang, PSMA President

LEGISLATIVE UPDATE



Vince Phillips
PSMA Lobbyist

A PERSONAL LETTER TO PSMA MEMBERS

Dear Friends,

For well over a decade I have been honored to serve as your lobbyist for the PA Septage Management Association. Dedication by Association leadership and rank and file members has shown that again and again, PSMA has risen to the fore to defend customers' interests in the PA General Assembly. Using septic systems (26% of Pennsylvania households do) is an environmental bulwark against pollutants entering the various watersheds. The work that PSMA members do reduces the burdens carried by waste water treatment systems. In other words, PSMA members hold the moral high ground. As your lobbyist, I have worked to defend your ability to provide those services and I am very proud of the work done by the PA Septage Management Association in Harrisburg. Personally, I have spent 31 years lobbying for small businesses in our State Capitol but I am retiring. To re-state, it has been an honor serving the Association and I thank you all for your friendship and trust.

Sincerely,
Vince Phillips
PSMA Lobbyist

CLOSING THE LEGISLATIVE SESSION AND OPENING A NEW ONE

As the 2019-20 session of the PA General Assembly comes to a close, it is time to reflect on progress the PA Septage Management Association has made in advancing our members' interest in Harrisburg. It is also time to discuss pending agenda items for the new 2021 session.

LEGISLATIVE TURNOVER

An impressive number of legislative retirements took place in 2020. Thankfully, the turnover will not affect PSMA too much. Some of interest to PSMA include:

- Former Speaker of the House Mike Turzai (R-Allegheny) retired last summer. Replacing him in 2020 was Lancaster Republican Bryan Cutler, previously the Majority Leader.

- Senate President Pro Tempore Joe Scarnati (R-Jefferson/McKean/Cameron/Clearfield/Clinton/Elk/Potter/Tioga) is not returning to the General Assembly in 2021.
- Senator Andy Dinniman (D-Chester) ends his legislative career in 2020. That means there will be a Democratic vacancy on the Senate Environmental Resources & Energy Committee and the Senate Agriculture & Rural Affairs Committee.
- On the House side, the Majority Chair of the House Agriculture & Rural Affairs is retiring. He is Rep. Mark Keller (R-Perry).
- The only retirement from the House Environmental Resources & Energy Committee is Rep. Cris Dush (R-Indiana/Jefferson). He did not run for re-election to his House seat because he became the Republican nominee to succeed Senate President Pro Tempore Joe Scarnati.

There will also be committee changes. Existing Chairs must be re-named to retain their posts. Legislators may want to serve on different committees than they were on this year. Committee Chairs may decide to move to another committee as its Chair. The first few months of 2021 will be spent getting oriented for the newly-

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elected Representatives and Senators. Staff assignments will change. Committees will change. Settling in to a new session of the General Assembly is a complex and sometimes uncertain process.

THE BIGGEST SUCCESS... PSMA TOP PRIORITY BILL BECAME LAW

On June 5, 2020, Senate Bill 1030 sponsored by Senator Gene Yaw, Majority Chair of the PA Senate Environmental Resources & Energy Committee, was signed into law by Governor Tom Wolf as Act 34 of 2020. This legislation returns approval of alternate systems to the original legislative intent of Act 26 which was to establish a system where the Department of Environmental Protection (DEP) with the help of the Sewage Advisory Committee would develop a systematic way of evaluating NEW alternate systems on installation of onlot septic systems AND grandfather alternate systems that had previously been approved.

NEXT SESSION

2021 marks the start of the new two-year legislative session. What are PSMA's goals?

Support septic system inspection credentialing by the state. PSMA advocates passage of legislation that says when a septic system inspection is done during a real estate transaction, the inspection must be performed by someone who has had specified training that allows him or her to perform a thorough inspection rather than a cursory look. PSMA believes that this is extremely important for home-buying consumers. They absolutely do not need to be told that the system is technically "functioning" when it really shows signs of system fatigue and deterioration.

Block the Delaware River Basin Commission from continuing to ignore Pennsylvania State law. It is an issue of state sovereignty and allowing PA's regulatory system to regulate PSMA members rather than seeing a non-elected regional entity usurp PA authority. For example, supporting legislation that prevents DRBC from

regulating or imposing fees on septic system installation or maintenance.

Monitor DEP's implementation of Senate Bill 1030 (Act 34 of 2020) to make sure that the 'guidance' blocking use of alternate systems are reviewed.

Support regulatory reforms to streamline the permit approval process.

Protect the Right To Farm (and legal ability to apply biosolids).

Meet with the DEP Secretary and top DEP officials regarding issues of concern to PSMA members such as the definition of "malfunctioning."

Oppose Revenue Department's administrative reinterpretation of Sales Tax law.

Oppose legislation that would give municipalities the authority to override DEP authority in granting permits for bio-solid applications on farms.

This is just a start. There will be other proposals out there in the new session of the PA General Assembly that affect PSMA members. Sometimes issues find us instead of the other way around.

Some of these are: More legislation regarding the coronavirus crisis; Misclassification of employees versus independent contractors (Workers' Compensation); Raising the minimum wage to \$15 per hour; Changes in Federal health insurance law that will force changes in Pennsylvania; Changes in tax law such as expanding the range of activities subject to the Sales Tax; Property Tax and school funding...and many, many more.

Suffice it to say that PSMA and many other business associations will again have a full agenda of topics to address.

Vince Phillips
PSMA Lobbyist

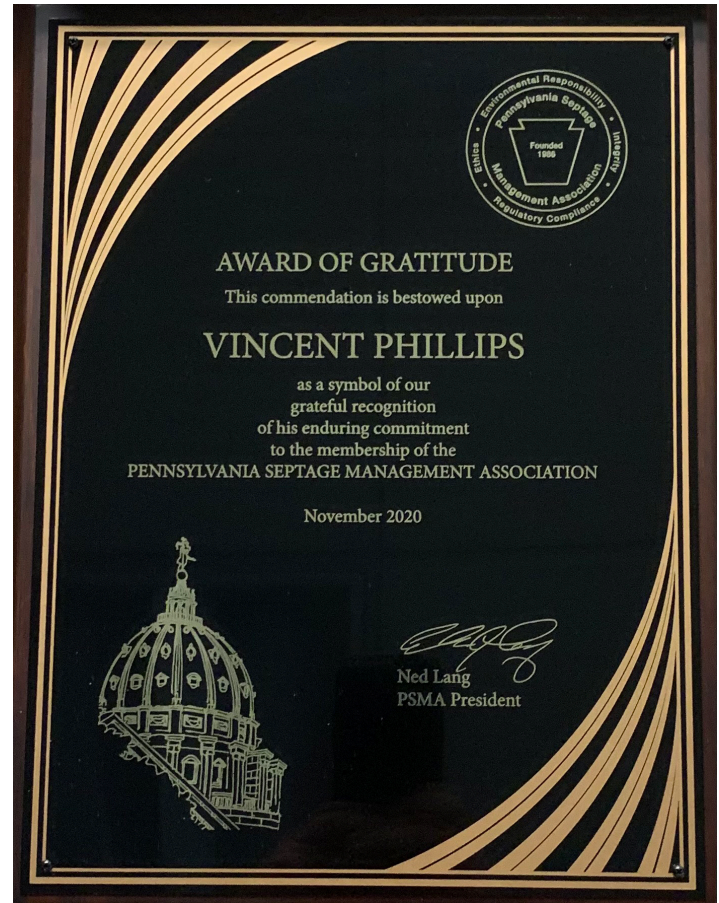
“I have enjoyed every moment that I have worked with Vince. He is a wealth of knowledge and class. Vince has lifted our organization to new levels and put PSMA on the map with our legislators in Harrisburg. He will be dearly missed.”

- **Susan Glackin Miller**
Dale Miller & Son, Inc.



“I remember when we had just hired Vince and he invited me to walk along with him to visit Representatives in Harrisburg and while we walked around the capitol meeting people everyone knew Vince and you could tell they respected him. We stopped at one Rep’s office and the person at the desk asked if we had an appointment and that the Rep was extremely busy and Vince replied no but we just wanted to say ‘Hi’ and the Rep then heard Vince and came out to bring us back to his office himself. He gave us his last 5 minutes before needing to go back to the floor for a vote. Vince has a way of making people feel at ease and they would listen to him and our point of view about issues. That is when I figured out that PSMA had hired the right person to represent us in Harrisburg.”

- **Steve Walters**
Walters Environmental Services



LOBBYIST SEARCH CMTE

The entire PSMA organization wishes Vince Phillips the best of fortunes in his upcoming retirement. As difficult as transition can be, our association still needs to be positioned to respond to government affairs related challenges within our industry.

PSMA’s Executive Committee has formed a Lobbyist Search Committee to identify a replacement to Phillips Associates. The Committee developed and advertised a Request For Proposals (RFP) for state government affairs services and has received several high-quality responses from lobbying firms in the Harrisburg area.

As of the writing of this article, the Committee is in the process of evaluating the responses submitted. The objective is to have the new firm start on January 1st so that the first month of their service can overlap with the last month of Phillips Associates thereby providing for a smooth transition.

NJDEP AMENDMENTS TO INDIVIDUAL SUBSURFACE SEWAGE DISPOSAL SYSTEMS' STANDARDS

The NJDEP has proposed an amendment to the Standards for Individual Subsurface Sewage Disposal Systems (N.J.A.C. 7:9A) to remove the requirement that an authorized installer of advanced wastewater pretreatment devices, products in lieu of laterals and/or filter material, and drip dispersal technologies possess a National Environmental Health Association (NEHA) Certified Installer of Onsite Wastewater Treatment Systems (CIOWTS) Advanced Level certification.

The proposal was published in the New Jersey Register on June 15, 2020, at 52 N.J.R. 1261(a). The comment period for the proposal was originally scheduled to close on August 14, 2020. However, the Department subsequently extended the comment period until September 14, 2020.

NJDEP is proposing an amendment to the Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A (Standards), which govern the location, design, construction, installation, alteration, repair, and operation of individual subsurface sewage disposal systems, commonly known as “septic systems,” to remove the requirement that an authorized installer of proprietary technologies possess a National Environmental Health Association (NEHA) Certified Installer of Onsite Wastewater Treatment Systems (CIOWTS) Advanced Level certification.

Under the existing rule at N.J.A.C. 7:9A-3.17, an authorized installer is required to possess a NEHA CIOWTS Advanced Level certification for the installation of advanced wastewater pretreatment devices, products in lieu of laterals or filter material, and drip dispersal pursuant to N.J.A.C. 7:9A-8.3, 9.8, and 10.8, respectively.

The primary purpose of the NEHA CIOWTS certification was to set a standard of practice and create a baseline of knowledge for nonproprietary onsite

wastewater system installations. The NEHA CIOWTS exam encompassed three subject areas including Plan Assessment, Job Staging, and Site Development/Installation.

While the NEHA CIOWTS certification covered basic installation knowledge, it was never intended to ensure that the installer had sufficient knowledge to install specific proprietary technologies. Instead, the standards at N.J.A.C. 7:9A-3.17 ensure that these specialized proprietary technologies are properly installed by requiring the manufacturer of the specific technology to certify that the installer has sufficient knowledge to install that manufacturer’s proprietary technology.

On July 13, 2017, P.L. 2017, c. 112 was enacted in New Jersey. This legislation invalidated the requirement at N.J.A.C. 7:9A-9.8 that installers possess the NEHA CIOWTS Advanced Level certification in order to install products in lieu of laterals and/or filter material. However, the new statute did not alter the requirement that installers possess the certification in order to install advanced pretreatment and drip dispersal systems.

While installers of advanced pretreatment and drip dispersal systems continue to be required to possess the NEHA CIOWTS certification, effective December 2017, the NEHA Board of Directors’ Credentialing Committee discontinued offering the CIOWTS examination. Since that time, installers who had not already received the NEHA CIOWTS Advanced Level Certification to install advanced wastewater pretreatment devices, products in lieu of laterals and/or filter material, and drip dispersal systems have been unable to obtain the required certification.

Therefore, the Department proposes to amend the Standards to remove the requirement for a valid CIOWTS Advanced Level certification from NEHA.

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TAILGATE SAFETY MEETINGS



Tailgate Safety Meetings, tailgate safety talks or “toolbox talks” are informal “at-the-jobsite” discussions with employees about safety issues. The purpose of these meetings is to keep employees informed about workplace hazards, work-related

accidents and illnesses. The tailgate format allows supervisors to draw on the experiences of workers and use their experience to remind all employees, particularly newer ones, on the dangers of specific processes, tools, equipment, or materials. The goal is to get employees to think about safety and the safe way to do the job. Tailgate meetings should address real safety issues workers face on the job. They should be held periodically and on an as-needed basis.

OSHA (29 CFR 1926.21) requires that employers instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to the work environment to control or eliminate any hazards or other exposure to illness or injury. A tailgate safety meeting can be a very efficient way to meet this OSHA requirement.



A successful safety meeting needs to be well planned, timed and executed. It must engage all the workers and provide relevant info for the hazards that will be faced.

Meeting Leader’s “What to Do”

Be sure to limit the meeting to a single topic. Conduct the meeting in 15 minutes.

1. Use a checklist to inspect the job site for hazards related to your topic
 - a.) Refer to your sample safety walk around inspection checklist
2. Prepare for the Tailgate meeting
 - a.) Know your topic
 - b.) Know relevant company policies and standards or regulations pertaining to your meeting topic
 - c.) Anticipate questions employees may ask
 - d.) Decide on topic theme, slogan or “punchline” to spark interest
3. Conduct the meeting
 - a.) Open meeting with the topic theme, slogan, or “punchline”
 - b.) Read brief introduction to topic
 - c.) Ask employees questions
 - d.) Facilitate discussion among employees
 - e.) Provide examples, suggestions, ideas from your own personal experience
 - f.) Review information noted on checklist
 - g.) Summarize main points
 - h.) Ask for employee feedback
 - i.) Solicit volunteer for assisting with next meeting -- choose topic, do walk around, help lead meeting
4. Document the meeting
 - a.) Have employees sign the roster
 - b.) Prepare/submit report to safety office/ headquarters

Tips for Getting Employees Involved

Ask questions, don’t lecture employees. Ask employees a question to introduce each new point you want to make. After the question, allow time for them to think. Don’t answer the questions for them; call on a volunteer to answer. Use the answer(s) to stimulate

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further discussion on the topic. Be sure to always answer the four key questions for each work assignment. Identify the:

1. Error-likely situations
2. Critical steps and by whom
3. Worst thing that can happen
4. Defenses in place

If you do not get an immediate answer to your question, try rephrasing the question. Try and make it more direct and personal, less abstract. Ask if anyone has had a personal experience that can help the team figure out the answer. For example, suppose no one has an answer for the question “what are the health effects of breathing asbestos?” A more personal approach would be to ask “do yo know of anyone who got sick from working with asbestos? What kind of symptoms/illness did they have?”

Find the complete safety guide at: www.pa1call.org/

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This will create consistency with State law with reference to products in lieu of laterals and/or filter material and eliminate the regulatory requirement that can no longer be met.

However, the requirement that authorized installers provide proof from the device manufacturer that they have been certified to install the proprietary technology will remain. This will continue to ensure that any potential risk to the environment as a result of improper system installations will continue to be minimal.

This rule proposal may be viewed or downloaded from the Department’s website at <https://www.nj.gov/dep/rules/notices.html>.

The proposal is currently pending adoption.

sourceLibrary/Resource/Index

Let PSMA Pay Your PA One Call Fee!



Do you currently use the **Pennsylvania One Call System**, the non-profit organization that helps protect underground facilities from excavation? Just maintain your PSMA membership and submit your invoice to PSMA’s office.

PSMA will take care of the payment.



NEW OVERTIME RULE FOR SALARIED EMPLOYEES TAKES EFFECT IN PA

Pennsylvania Department of Labor & Industry (L&I) Secretary Jerry Oleksiak announced that Pennsylvania's new overtime rule has become effective as a final, approved regulation when it was published in the PA Bulletin on Saturday, October 3, 2020.

L&I updates the Minimum Wage Act's regulations to expand eligibility for overtime and strengthen protections for Pennsylvanians.

The final rule updates the salary threshold to reflect current wages paid to Pennsylvanians working in executive, administrative, and professional occupations. It also ensures that the duties tests for executive, administrative and professional workers more closely align to those in the Fair Labor Standards Act's (FLSA) federal overtime regulations.

The FLSA regulations update that took effect on January 1, 2020, raised the federal overtime salary threshold to \$35,568. While Pennsylvania's overtime rule aligns more closely with the FLSA, L&I has set the minimum salary threshold at \$45,500 and the increase will be phased in three steps:

- \$684 per week, \$35,568 annually (per federal rule), on January 1, 2020;
- \$780 per week, \$40,560 annually on October 3, 2021; and
- \$875 per week, \$45,500 annually on October 3, 2022.

Starting in 2023, the salary threshold will adjust automatically every three years.

Pennsylvania's new overtime rules also allow up to 10 percent of the salary threshold to be satisfied by nondiscretionary bonuses, incentives, and commissions that are paid annually, quarterly or more frequently.

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 the salary threshold regardless of their job duties
- Most salaried employees who do NOT perform executive, administrative, or professional duties, regardless of how much they are paid

Not Eligible for Overtime

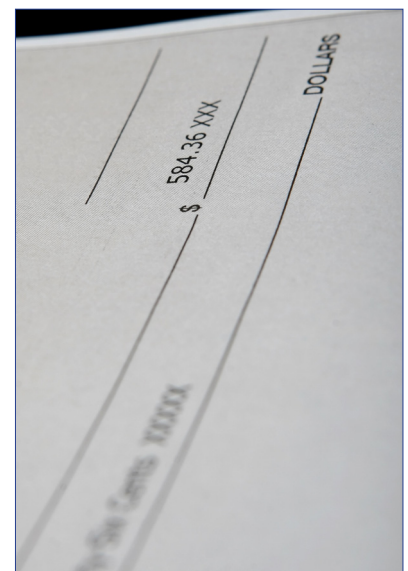
- Salaried employees who perform executive, administrative, or professional duties and make more than the salary threshold per year
- Other occupations exempted by the Minimum Wage Act

Exemptions

The Pennsylvania Minimum Wage Act Exemption requires employers to pay their employees at a rate of not less than \$7.25 an hour for all hours worked and an overtime rate of 1.5 times the employee's regular rate of pay for all hours worked above 40 in a workweek.

However, the Minimum Wage Act provides an exemption from both minimum wage and overtime pay for employees employed in a bona fide executive, administrative, or professional capacity. To qualify for the exemption, employees must meet certain tests regarding their salary and their job duties.

L&I notified businesses operating in Pennsylvania of the new overtime rule. More information can be found on L&I's website at www.dli.pa.gov.



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