

PENNSYLVANIA BULLETIN

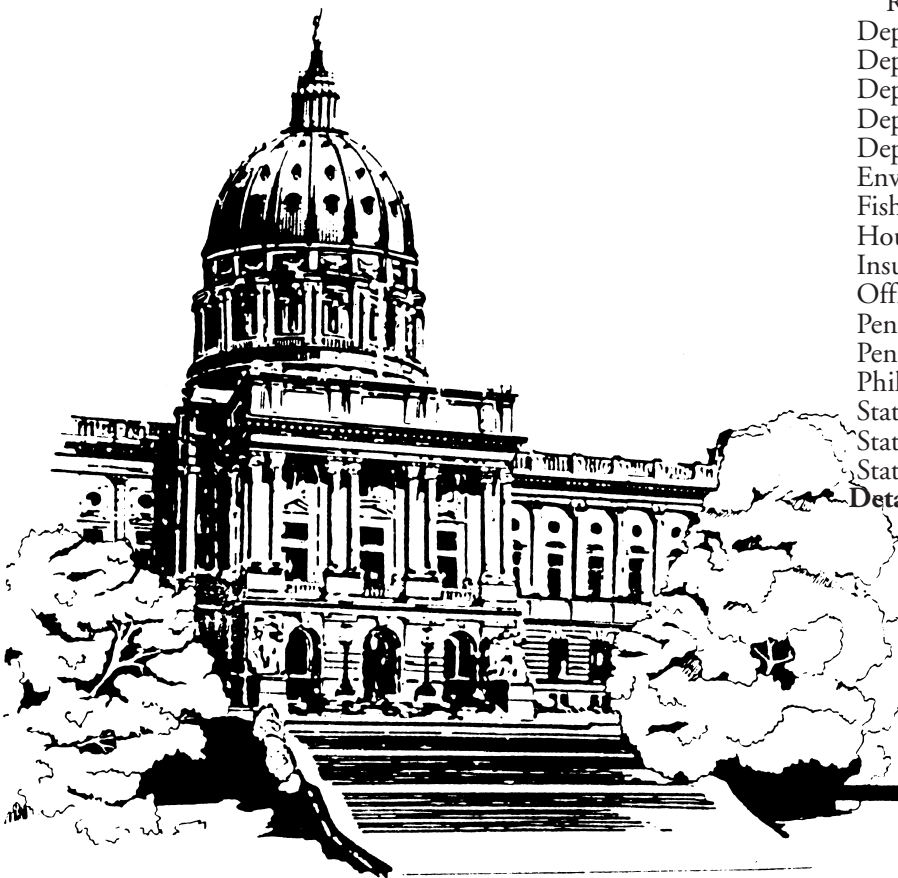
Volume 52
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Pages 7491—7688

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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 577, December 2022

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Pennsylvania Bulletin

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published weekly. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. It is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations, Statewide court rules, and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, rescission, repeal or emergency action, must be published in the *Pennsylvania Bulletin*.

The following documents are published in the *Pennsylvania Bulletin*: Governor's Executive Orders; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Pennsylvania Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

Adoption, Amendment or Repeal of Regulations

Generally an agency wishing to adopt, amend or rescind regulations must first publish in the *Pennsylvania Bulletin* a Proposed Rulemaking. There are limited instances when the agency may omit the proposal step; it still must publish the adopted version.

The Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. A Final Rulemaking must be published in the *Pennsylvania Bulletin* before the changes can take effect. If the agency wishes to adopt changes to the Proposed Rulemaking to enlarge the scope, it must repropose.

Citation to the *Pennsylvania Bulletin*

Cite material in the *Pennsylvania Bulletin* by volume number, a page number and date. Example: Volume 1, *Pennsylvania Bulletin*, page 801, January 9, 1971 (short form: 1 Pa.B. 801 (January 9, 1971)).

Pennsylvania Code

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies, Statewide court rules and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes when they are adopted. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code* § 1.1 (short form: 10 Pa. Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government.

How to Find Rules and Regulations

Search for your area of interest in the *Pennsylvania Code*. The *Pennsylvania Code* is available at www.pacodeandbulletin.gov.

Source Notes give the history of regulations. To see if there have been recent changes not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

A chronological table of the history of *Pennsylvania Code* sections may be found at www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde_index.cfm.

A quarterly List of *Pennsylvania Code* Sections Affected lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

The *Pennsylvania Bulletin* is available at www.pacodeandbulletin.gov.

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Printing Format

Rules, Regulations and Statements of Policy in Titles 1—107 of the Pennsylvania Code

Text proposed to be added is printed in **underscored bold face**. Text proposed to be deleted is enclosed in brackets [] and printed in **bold face**.

Proposed new chapters and sections are printed in regular type to enhance readability. Final rulemakings and statements of policy are printed in regular type.

Ellipses, a series of five asterisks, indicate text that is not amended.

In Proposed Rulemakings and proposed Statements of Policy, existing text corresponds to the official codified text in the *Pennsylvania Code*.

Court Rules in Titles 201—246 of the Pennsylvania Code

Added text in proposed and adopted court rules is printed in **underscored bold face**. Deleted text in proposed and adopted court rules is enclosed in brackets [] and printed in **bold face**.

Proposed new chapters and rules are printed in regular type to enhance readability.

Ellipses, a series of five asterisks, indicate text that is not amended.

Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires the Governor's Budget Office to prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions and authorities receiving money from the State Treasury. The fiscal note states whether the action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions. The fiscal note is required to be published in the *Pennsylvania Bulletin* at the same time as the change is advertised.

A fiscal note provides the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the 5 succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the 5 succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; and (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years. In item (8) the recommendation, if any, made by the Secretary of the Budget is published with the fiscal note. "No fiscal impact" means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended. See 4 Pa. Code Chapter 7, Subchapter R (relating to fiscal notes).

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THE COURTS

Title 255—LOCAL COURT RULES

LEHIGH COUNTY

Amended Rule of Civil Procedure; No. 2022-J-0158

Administrative Order

And Now, this 21st day of November, 2022;

It Is Ordered that the following Lehigh County Rule of Civil Procedure 1308 is hereby *Adopted*, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

It Is Further Ordered that the Court Administrator of Lehigh County shall:

1. File one (1) copy of the Order and the Amended Lehigh County Rule of Civil Procedure 1308 with the Administrative Office of Pennsylvania Courts.

2. File two (2) copies, and other copies that comply with the requirement of 1 Pa. Code Section 13.11(b) as necessary, with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) copy with the Lehigh County Clerk of Judicial Records—Civil Division for public inspection and copying.

4. Publish a copy of the amended local rule on the court's website.

5. Compile the amended local rule within the complete set of local rules no later than thirty (30) days following publication in the *Pennsylvania Bulletin*.

By the Court

J. BRIAN JOHNSON,
President Judge

Amended Lehigh County Rule of Civil Procedure 1308. Appeals from Arbitration.

All appeals from compulsory arbitration must be timely filed with the Clerk of Judicial Records—Civil Division accompanied by payment in the amount of \$750.00 or 50% of the amount in controversy, whichever is less. Appellant shall contemporaneously provide a copy of the appeal to the Court Administrator's office.

[Pa.B. Doc. No. 22-1890. Filed for public inspection December 9, 2022, 9:00 a.m.]

Title 255—LOCAL COURT RULES

SOMERSET COUNTY

Administrative Order; AD 11 of 2022

Administrative Order

And Now, this 9 day of November 2022, pursuant to Rule 103 of the Pennsylvania Rules of Criminal Procedure, it is hereby ordered that this Administrative Order is hereby adopted to read as follows hereto.

The Court Administrator's office is directed as follows:

(1) Distribute two (2) copies and CD-ROM of the Local Rule shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(2) Email copy to the Administrative Office of Pennsylvania Courts: adminrules@pacourts.us.

(3) One certified copy shall be sent to the Somerset County Law Library and the Editor of the *Somerset Legal Journal*.

(4) Publish a copy of the local Rule on the County Website.

By the Court

D. GREGORY GEARY,
President Judge

Assignment of Traffic Cases Arising on the Pennsylvania Turnpike within the Boundaries of Somerset Township, Somerset County, Pennsylvania; Administrative Order No. 11-2022

Administrative Order

And Now, this 9 day of November, 2022, pursuant to the administrative authority granted president judges by Rule 605(A)(5) of the Pennsylvania Rules of Judicial Administration, *It Is Ordered*, effective January 1, 2023 at 12:01 a.m., all traffic citations filed as a result of violations occurring on the Pennsylvania Turnpike within the boundaries of Somerset Township, Somerset County, Pennsylvania shall be filed in Magisterial District 16-3-05. This is a reassignment of a class of cases from Magisterial District 16-3-03 to Magisterial District 16-3-05, to remain in effect pending further order of Court.

By the Court

D. GREGORY GEARY,
President Judge

[Pa.B. Doc. No. 22-1891. Filed for public inspection December 9, 2022, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

Rule of Civil Procedure W1303, "Hearing" and Accompanying Form; No. 3 of 2022

Order of Court

And Now, this 27th day of October, 2022, it is hereby *Ordered* that the revised form that corresponds to Westmoreland County Rule of Civil Procedure W1303, "Hearing," is hereby adopted and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

RITA DONOVAN HATHAWAY,
President Judge

In The Court of Common Pleas of Westmoreland County, Pennsylvania

CIVIL ACTION-LAW
CERTIFICATE OF READINESS FOR ARBITRATION

Case No. _____

Plaintiff

v

WILL THE HEARING TAKE LONGER THAN
2 HOURS?

YES _____ NO _____

If "YES"

ESTIMATED TIME FOR HEARING _____ HRS.

Defendant

Additional Defendant

TO THE COURT ADMINISTRATOR:

I hereby certify that the above-captioned case is ready for Arbitration. Please
place the above captioned case on the next available Arbitration List.

Plaintiff's Attorney Firm Address Phone No.

Defendant's Attorney Firm Address Phone No.

Add'l. Defendant's Attorney Firm Address Phone No.

Attorney Filing Praecept

Check Appropriate Box:

- Plaintiff Counsel
Defendant's Counsel
Add'l. Defendant Counsel

A COPY OF THIS CERTIFICATE MUST BE PROVIDED TO THE CIVIL COURT
ADMINISTRATOR AND SHALL BE SERVED ON ALL OTHER PARTIES. PLEASE NOTIFY THE
COURT ADMINISTRATOR OF ANY SPECIAL SCHEDULING NEEDS.

WHITE-Prothonotary YELLOW-Counsel PINK-Court Administrator

[Pa.B. Doc. No. 22-1892. Filed for public inspection December 9, 2022, 9:00 a.m.]

Title 255—LOCAL COURT RULES

YORK COUNTY

Amendment of Local Rules of Judicial Administration and Civil Procedure; CP-67-AD-69-2022; 2022-MI-000380; 6722-1132

Administrative Order Rescinding York County Rule of Judicial Administration 509.1 and Amending York County Rule of Civil Procedure 5090

And Now, this 23rd day of November, 2022, it is *Ordered* that York County Local Rule of Judicial Administration 509.1 is rescinded and York County Local Rule of Civil Procedure 5090 is amended as indicated, effective January 1, 2023.

The District Court Administrator shall publish this order as may be required.

By the Court

MARIA MUSTI COOK,
President Judge

[Rule 5090. Proceedings under Right to Know Law.

Proceedings under the Right to Know law or similar public access legislation shall be as provided in the York County Rules of Judicial Administration.]

Rule 5090. Appeals from Determination of Open Records Appeals Officer.

(1) This Rule applies to appeals filed in response to the determination of appeals officer relating to a decision of a local agency. See 65 P.S. § 67.1302.

(2) The party seeking to appeal shall file a timely Petition for Review which shall contain the following:

(a) The name(s) and address(es) of the party filing the appeal;

(b) The name(s) and address(es) of the local agency upon whom the initial request was served;

(c) The date of the determination by the appeals officer;

(d) A copy of the written determination issued by the appeals officer; and

(e) A concise statement of the reasons for appeal.

(3) A copy of the Petition for Review shall be served upon the local agency and the appeals officer by the appellant via certified United States postage, return receipt requested, postage prepaid. The appellant shall file proof of service within 10 days of filing the Petition for Review. If no proof of service has been filed within 10 days, the Court shall issue a Rule to Show Cause providing appellant 10 days to either file the required proof of service or show good cause as to why the proof of service could not be filed. Appellant's failure to comply with the Rule to Show Cause shall result in the decision of the appeals officer being affirmed.

(4) Upon the filing of a Petition for Review controlled by this Rule, the Administrative Office of York County Courts shall immediately assign the Petition for Review to a judge assigned to the Civil Division.

(5) The local agency, Office of Open Records and/or requestor, as appropriate, may, but is not required to file a response to the Petition for Review. Any response filed shall comply with the requirements of York R.Civ.P. 205.2(a) and may contain a concise statement in response to the concise statement set forth in the Petition for Review.

(6) The local agency shall file the record set forth in 65 P.S. § 67.1303 of record within 20 days of being served with the Petition for Review. A local agency may request an extension of time for filing the record upon good cause shown. The failure of the local agency to file the record as directed herein may subject the local agency to sanctions as set forth in 65 P.S. § 67.1304(c) and/or § 67.1305(b).

(7) The Court shall issue its decision in accordance with 65 P.S. § 67.1302(a) within 30 days of the later of: a) the filing of the proof of service as set forth in section (3), above; or b) the filing of the record as set forth in section (6), above. In complex matters, the Court may extend the time for issuing its decision for an additional 30 days, but must include the complexities which necessitated the extension as part of its decision. If the Court has not issued a decision within this timeframe, the appeal shall be deemed denied by operation of law.

[Pa.B. Doc. No. 22-1893. Filed for public inspection December 9, 2022, 9:00 a.m.]

PROPOSED RULEMAKING

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Licensure by Endorsement and Reactivation

The State Board of Nursing (Board) proposes to amend §§ 21.30a and 21.156a (relating to continued competency) regarding reactivation and add Subchapter K (relating to licensure by endorsement under 63 Pa.C.S. § 3111) to read as set forth in Annex A.

Effective Date

This proposed rulemaking will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

The amendments relating to reactivation are proposed under the authority of section 2.1(k) of the Professional Nursing Law (63 P.S. § 212.1(k)) and section 17.6 of the Practical Nurse Law (63 P.S. § 667.6), which provide the Board with general authority to establish standards for the practice of professional and practical nursing, respectively, and the practice of dietetics-nutrition.

The provisions of 63 Pa.C.S. § 3111 (relating to licensure by endorsement) require licensing boards and commissions to issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth provided the applicant meets the following criteria: holds a current license, certificate, registration or permit from another state, territory or country whose licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth; demonstrates competency; has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; and the applicant pays fees, as established by regulation. Additionally, 63 Pa.C.S. § 3111 authorizes boards and commissions to issue a provisional license, certificate, registration, or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration. The new provisions in Subchapter K are proposed under 63 Pa.C.S. § 3111.

The act of July 1, 2020 (P.L. 575, No. 53) added 63 Pa.C.S. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) (repealed) into Title 63, Chapter 31 (relating to powers and duties). The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41).

Background and Need for the Amendments

This proposed rulemaking is needed to effectuate 63 Pa.C.S. § 3111, which requires the Board to issue a

license or certificate to applicants who meet the requirements for licensure by endorsement as set forth in 63 Pa.C.S. § 3111. Under 63 Pa.C.S. § 3111(a)(1), the Board must determine whether the jurisdiction's standards for licensure or certification are substantially equivalent to or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111(a)(2) requires the Board to determine the methods of competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application. Under 63 Pa.C.S. § 3111(b)(2), the Board must establish, by regulation, the expiration of the provisional endorsement license. This proposed rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license. In § 21.1104 (relating to licensure by endorsement fee), this proposed rulemaking sets forth the applicable fee for licensure by endorsement applications under 63 Pa.C.S. § 3111. The proposed fees are identical to existing licensure by endorsement fees by licensure classification.

Licensure by endorsement under 63 Pa.C.S. § 3111 is an alternate pathway for licensure and certification than that delineated under section 7 of the Professional Nursing Law (63 P.S. § 217), section 6 of the Practical Nurse Law (63 P.S. § 656) and §§ 21.28 and 21.155 (relating to licensure by endorsement). Under these provisions, applicants for registered nurse (RN), licensed practical nurse (LPN) or licensed dietitian-nutritionist (LDN) licenses must graduate from a Pennsylvania-equivalent program in another jurisdiction and pass a Pennsylvania-equivalent licensure examination. Similarly, applicants for certification as a certified registered nurse practitioner (CRNP) or as a clinical nurse specialist (CNS) must hold an RN license, graduate from a Pennsylvania-equivalent program in another jurisdiction and possess current National certification, as applicable. Under the proposed regulations and 63 Pa.C.S. § 3111, the Board reviews the other jurisdiction's law and determines whether it is substantially equivalent to current licensure standards for the profession.

Because the Board proposes methods in § 21.1102(a)(2) (relating to licensure by endorsement under 63 Pa.C.S. § 3111) to demonstrate competency by means of practice in another jurisdiction under 63 Pa.C.S. § 3111, the Board believes that it is also appropriate to clarify and make consistent similar provisions in §§ 21.30a(a)(3) and 21.156a(a)(3), which provide the competency provisions for RNs and LPNs seeking reactivation who practiced in other states.

Description of the Proposed Amendments

Sections 21.30a(a) and 21.156a(a) provide three reactivation options for licensees whose licenses have lapsed or placed on inactive status for 5 or more years. Subsection (a)(3) in each provision requires practice "at some period of time" within the last 5 years. Because the Board is quantifying specific practice time in proposed § 21.1102(a)(2) and to make these provisions consistent, the Board proposes to amend §§ 21.30a(a)(3) and 21.156a(a)(3) by requiring the same 3,600 hours of active engagement in the profession during the last 5 years.

The Board also proposes to amend Chapter 21 (relating to State Board of Nursing) by adding Subchapter K. Proposed § 21.1101 (relating to definitions) defines the term “jurisdiction” consistent with 63 Pa.C.S. § 3111. Proposed § 21.1102(a) requires an applicant to satisfy eight criteria required for licensure by endorsement under 63 Pa.C.S. § 3111. The first criterion, as set forth in proposed § 21.1102(a)(1), requires an applicant to have a current license or certification in good standing to practice in another jurisdiction whose standards are substantially equivalent to those established by the Board under section 6(a) and (c) of the Professional Nursing Law (63 P.S. § 216(a) and (c)) and § 21.21 (relating to application for examination) pertaining to RNs; section 8.1 of the Professional Nursing Law (63 P.S. § 218.1) and § 21.271 (relating to certification requirements) pertaining to CRNPs; section 6(b) and (c) of the Professional Nursing Law and § 21.721 (relating to qualifications for licensure) pertaining to LDNs; section 8.5 of the Professional Nursing Law (63 P.S. § 218.5) and § 21.811 (relating to qualifications for initial certification) pertaining to CNSs; and section 5 of the Practical Nurse Law (63 P.S. § 655) and § 21.151 (relating to application for examination) pertaining to LPNs. Proposed § 21.1102(a)(1)(i) further requires an applicant to submit a copy of the current applicable law, regulation or other rule governing licensure, certification registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit. Proposed § 21.1102(a)(1)(iii) would also require that the copy of the applicable law, regulation or other rule include the enactment date. Additionally, because 63 Pa.C.S. § 3111 is applicable to territories and other countries that speak languages other than English, where the applicable law, regulation or other rule is in a language other than English, the Board would require in § 21.1102(a)(1)(ii), at the applicant’s expense, translation of the applicable law, regulation or other rule by a professional translation service.

Proposed subsection (a)(2) requires demonstration of competency. Under paragraph (2)(i), an applicant must demonstrate either 1,800 hours of active engagement in the profession for at least 2 of the last 5 years (full-time employment) immediately preceding the filing of the application, under a license, certificate, registration or permit in a substantially equivalent jurisdiction, or jurisdictions. Alternatively, an applicant must demonstrate under paragraph (2)(ii), 3,600 hours of active engagement during the 5 years (part-time employment) immediately preceding the filing of an application under a license, certificate, registration or permit in a substantially equivalent jurisdiction, or jurisdictions. Active engagement as used in this section refers to practice in the profession for which the license or certificate is being sought. This practice could be obtained at private practice offices, community healthcare settings and health systems, conducting research and teaching nursing or dietetics-nutrition in a nursing or dietetics-nutrition school. The Board believes that on average full-time nursing and dietetics-nutrition practice, excluding vacation, is composed of 50 35-hour weeks for a total of 1,800 hours per year. For nurses practicing full-time, the 3,600 hours can be achieved in 2 years. For nurses and dietitian-nutritionists practicing part-time or a combination of full-time and part-time, the 3,600 hours can be accomplished within 5 years.

Proposed subsection (a)(3) requires a demonstration of English language proficiency consistent with requirements set forth in §§ 21.23(e), 21.28(e), 21.151(d) and 21.155(e). For the same reasons the Board included English proficiency in its regulations pertaining to initial licensure, the Board includes English proficiency for licensure by endorsement under 63 Pa.C.S. § 3111. The Board believes that for proper patient care licensees must be proficient in English to fully understand the patient’s symptoms and concerns, effectuate the directions and instructions from other health professionals and relay the patient’s treatment to other nurses and health professionals. In addition, English language proficiency is a standard within the profession as evidenced by its inclusion in the criteria for multistate licensure under the Nursing Licensure Compact (NLC) enacted on July 1, 2021.

Ways to demonstrate proficiency include graduating from an education program taught in English, obtaining clinical or post-licensure experience in an English-speaking facility in any jurisdiction or having achieved the minimum passing score on a Board-approved English language proficiency examination. Versions of the Test of English as a Foreign Language (TOEFL), the International English Language Test System Academic Test (IELTS Academic), Pearson Test of English Academic Test (PTE Academic) and the Michigan English Language Assessment Battery with Speaking Test (MELAB with Speaking Test) are currently Board-approved at specific minimum composite and sub-part scores and posted on the Board’s web site at <https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Nursing/Documents/Board%20Documents/Board-Approved-English-Proficiency-Exams.pdf>. The list, including scores, is reviewed by the Board on a regular basis with the last review occurring at the Board’s December 9, 2021, meeting.

Proposed subsection (a)(4) and (5) incorporate the statutory prohibitions in 63 Pa.C.S. § 3111 pertaining to conduct that would constitute grounds for refusal, suspension or revocation of a license or certificate to practice the profession and prior discipline by the jurisdiction that issued the license, certificate, registration or permit. For applicants who have had criminal convictions, the Board reviews the convictions under 63 Pa.C.S. § 3113. For other prohibited acts or discipline, the Board is dutybound to apply the caselaw and other applicable laws. See, *Secretary of Revenue v. John’s Vending Corp.*, 453 Pa. 488, 309 A.2d 358 (1973); *Betha-Tumani v. Bureau of Professional and Occupational Affairs, State Board of Nursing*, 993 A.2d 921 (Pa. Cmwlth. 2010). A part of that analysis the Board may consider the facts and circumstances surrounding the prohibited act or disciplinary action, increase in age or maturity of the individual since the date of the prohibited act or disciplinary action, disciplinary history or lack of disciplinary history before and after the date of the prohibited act or disciplinary action, successful completion of education and training activities relating to the prohibited act or disciplinary action and any other information relating to the fitness of the individual for licensure.

Proposed subsection (a)(6) provides for payment of an application fee of \$120 contained in proposed § 21.1104, as required by 63 Pa.C.S. § 3111(a)(5). Next, proposed subsection (a)(7) requires applicants to apply for licensure in accordance with this chapter in the manner and format prescribed by the Board.

Finally, proposed subsection (a)(8) requires completion of 3 hours of training in child abuse recognition and reporting, which is mandatory continuing education for all applicants under 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training) of the Child Protective Services Law (CPSL) and Subchapter E of Chapter 21 (relating to child abuse reporting requirements).

In proposed § 21.1102(b), the Board may require a personal interview or additional information to assist the Board in determining eligibility and competency. When a personal interview is necessary, the applicant may request the interview to be conducted by video teleconference for good cause shown.

Consistent with 63 Pa.C.S. § 3111(a)(4) and (5), proposed § 21.1102(c) authorizes the Board, in its discretion, to determine that an act prohibited under section 14(a) of the Professional Nursing Law (63 P.S. § 224(a)), section 16(a) of the Practical Nurse Law (63 P.S. § 666(a)) and §§ 21.18 and 21.148 (relating to standards of nursing conduct) or disciplinary action by a jurisdiction are not impediments to the granting of a license or certificate under 63 Pa.C.S. § 3111.

Consistent with section 63 Pa.C.S. § 3111(b), proposed § 21.1103 (relating to provisional endorsement license) provides that the Board, in its discretion, may issue a provisional endorsement license while an applicant is satisfying remaining requirements under 63 Pa.C.S. § 3111 and proposed § 21.1102. Proposed § 21.1103(b) sets the expiration of a provisional endorsement license at 1 year, unless the Board determines that an expiration date of less than 1 year is appropriate. Additionally, upon a written request, the Board may extend the term of the license upon a showing of good cause. Proposed § 21.1103(c) sets forth reasons for which a provisional endorsement license will be terminated by the Board, including when the Board denies or grants a license, or the provisional endorsement licensee fails to comply with the terms of a provisional endorsement license. Finally, proposed § 21.1103(d) clarifies that while an individual may reapply for a license or certification by endorsement under proposed § 21.1102, the Board will not issue a subsequent provisional endorsement license to an applicant who previously held a provisional endorsement license that expired or was terminated.

Finally, proposed § 21.1104 delineates the \$120 fee for licenses/certifications under 63 Pa.C.S. § 3111.

Fiscal Impact and Paperwork Requirements

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The costs to the Board related to processing applications for licensure by endorsement under 63 Pa.C.S. § 3111 and applications for reactivation will be recouped through fees paid by applicants. Applicants for licensure by endorsement under 63 Pa.C.S. § 3111 will be impacted by the \$120 application fee. Applicants must complete child abuse recognition and reporting training, as required by section 6383(b)(3)(i) of the CPSL. There are free in-person and online child abuse recognition and reporting training options available; therefore, the Board does not anticipate a negative fiscal impact for this statutorily mandated training. If an applicant is unable to establish English proficiency by demonstrating that their education, training or examination was in English and they must take an

approved English language proficiency examination, the cost to the applicant is approximately \$200. There are no other costs associated with this regulation related to competency.

In addition to the costs being recouped, the Board does not anticipate that many applicants will avail themselves of this pathway. Under the Professional Nursing and Practical Nurse Laws, out-of-State RNs and PNs are permitted to practice in this Commonwealth on a temporary practice permit for 1 year and that timeframe may be extended for another without having to demonstrate competence. Additionally, although the NLC has yet to be implemented in this Commonwealth, upon implementation out-of-State nurses who hold active, unencumbered, multi-state licenses issued by members of the NLC may practice in any member state under their multi-state licenses without filing an endorsement application, meeting eligibility requirements, including competency, or receiving provisional licenses.

There are no additional costs or paperwork requirements associated with the proposed reactivation amendment.

Sunset Date

The Board continuously monitors the cost effectiveness of the Board's regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on November 28, 2022, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Judith Pachter Schulder, Board Counsel, P.O. Box 69523, Harrisburg, PA 17106-9523 or RA-STRegulatoryCounsel@pa.gov within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference 16A-5143 (Licensure by Endorsement and Reactivation), when submitting comments.

LINDA M. KMETZ, PhD, RN,
Chair

Fiscal Note: 16A-5143. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

LICENSEES

§ 21.30a. Continued competency.

(a) A registered nurse whose license has lapsed for 5 years or longer or has been placed on inactive status for 5 years or longer, as permitted in section 11(b) of the act (63 P.S. § 221(b)), may reactivate the license by doing one of the following:

* * * * *

(3) Providing evidence to the Board that the applicant has a current license and has practiced as a registered nurse in another jurisdiction [**at some period of time**] **for at least 3,600 hours** within the last 5 years.

* * * * *

Subchapter B. PRACTICAL NURSES

LICENSURE

§ 21.156a. Continued competency.

(a) A licensed practical nurse whose license has lapsed for 5 years or longer or has been placed on inactive status for 5 years or longer, as permitted in section 13.1(b) of the act (63 P.S. § 663.1(b)), may reactivate the license by doing one of the following:

* * * * *

(3) Providing evidence to the Board that the applicant has a current license and has practiced as a practical nurse in another jurisdiction [**at some period of time**] **for at least 3,600 hours** within the last 5 years.

* * * * *

(Editor's Note: The following subchapter is proposed to be added and is printed in regular type to enhance readability.)

Subchapter K. LICENSURE BY ENDORSEMENT UNDER 63 Pa.C.S. § 3111

Sec.

- 21.1101. Definitions.
 21.1102. Licensure by endorsement under 63 Pa.C.S. § 3111.
 21.1103. Provisional endorsement license.
 21.1104. Licensure by endorsement fee.

§ 21.1101. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Jurisdiction—A state, territory or country.

§ 21.1102. Licensure by endorsement under 63 Pa.C.S. § 3111.

(a) *Requirements for issuance.* To be issued a license by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement), an applicant must satisfy all of the following conditions:

(1) Have a current license, certification, registration or permit in good standing to practice the profession in another jurisdiction whose standards are substantially equivalent to or exceed those established under section 6(a) and (c) of the Professional Nursing Law (63 P.S.

§ 216(a) and (c) and § 21.21 (relating to application for examination) pertaining to registered nurses; section 5 of the Practical Nurse Law (63 P.S. § 655) and § 21.158 (relating to qualifications of application for examination) pertaining to licensed practical nurses; section 8.1 of the Professional Nursing Law (63 P.S. § 218.1) and § 21.271 (relating to certification requirements) pertaining to certified registered nurse practitioners; section 6(b) and (c) of the Professional Nursing Law (63 P.S. § 216(b) and (c)) and § 21.721 (relating to qualifications for licensure) pertaining to dietitians-nutritionists; and section 8.5 of the Professional Nursing Law (63 P.S. § 218.5) and § 21.811 (relating to qualifications for initial certification) pertaining to clinical nurse specialists. The following apply:

(i) An applicant must submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit.

(ii) If the applicable law, regulation or other rule is in a language other than English, at the applicant's expense, the applicable law, regulation or other rule shall be translated by a professional translation service and verified to be complete and accurate.

(iii) The copy of the applicable law, regulation or other rule must include the enactment date.

(2) Demonstrate competency for the license or certificate being sought by one of the following:

(i) Experience in the profession by demonstrating, at a minimum, that the applicant has actively engaged in 1,800 hours per year in the practice of the profession under a license, certificate, registration or permit in a substantially equivalent jurisdiction, or jurisdictions, for at least 2 of the 5 years immediately preceding the filing of the application with the Board.

(ii) Experience in the profession by demonstrating, at a minimum, that the applicant has actively engaged in a total of 3,600 hours in the practice of the profession under a license, certificate, registration or permit in a substantially equivalent jurisdiction, or jurisdictions, during the 5 years immediately preceding the filing of the application with the Board.

(3) Demonstrate English language proficiency by one of the following:

(i) The applicant's educational program was taught in English.

(ii) The applicant's clinical experience was obtained at an English-speaking facility.

(iii) The applicant's post-licensure experience in paragraph (2) was obtained at an English-speaking facility.

(iii) The applicant has achieved the passing score on a Board-approved English language proficiency examination.

(4) Have not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice the profession under section 14(a) of the Professional Nursing Law (63 P.S. § 224(a)), section 16(a) of the Practical Nurse Law (63 P.S. § 666(a)) and §§ 21.18 and 21.148 (relating to standards of nursing conduct).

(5) Have not been disciplined by the jurisdiction that issued the license, certificate, registration or permit.

(6) Have paid the fee as required by § 21.1104 (relating to licensure by endorsement fees).

(7) Have applied for licensure in accordance with this chapter in the manner and format prescribed by the Board.

(8) Complete 3 hours of training in child abuse recognition and reporting from a provider approved by the Department of Human Services as required under 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training) and Subchapter E of Chapter 21 (relating to child abuse reporting requirements).

(b) *Interview and additional information.* An applicant may be required to appear before the Board for a personal interview and may be required to submit additional information, including supporting documentation relating to competency and experience. The applicant may request the interview to be conducted by video teleconference for good cause shown.

(c) *Prohibited acts and discipline.* Notwithstanding subsection (a)(4) and (5), the Board may, in its discretion, determine that an act prohibited under section 14(a) of Professional Nursing Law, section 16(a) of the Practical Nurse Law and §§ 21.18 and 21.148 or disciplinary action by a jurisdiction is not an impediment to licensure or certification by endorsement under 63 Pa.C.S. § 3111.

§ 21.1103. Provisional endorsement license.

(a) *Provisional endorsement license.* The Board may, in its discretion, issue a provisional endorsement license, to an applicant while the applicant is satisfying remaining requirements for licensure by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement) and § 21.1102 (relating to licensure by endorsement under 63 Pa.C.S. § 3111).

(b) *Expiration of a provisional endorsement license.*

(1) An individual holding a provisional endorsement license may practice for up to 1 year after issuance of the provisional endorsement license. The Board, in its discretion, may determine that an expiration date of less than 1 year is appropriate.

(2) Upon a written request and a showing of good cause, the Board may grant an extension of no longer than 1 year from the expiration date of the provisional endorsement license.

(c) *Termination of a provisional endorsement license.* A provisional endorsement license terminates if any of the following occurs:

(1) When the Board completes its assessment of the applicant and denies or grants the license.

(2) When the holder of the provisional license fails to comply with the terms of the provisional endorsement license.

(d) *Reapplication.* An individual may apply for licensure by endorsement or certification under § 21.1102 after expiration or termination of a provisional endorsement license; however, the individual may not be issued a subsequent provisional endorsement license.

§ 21.1104. Licensure by endorsement fee.

An applicant for licensure by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement) shall pay a fee of \$120.

[Pa.B. Doc. No. 22-1894. Filed for public inspection December 9, 2022, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CHS. 57, 59, 61, 65 AND 101]

Rulemaking to Review Cyber Security Self-Certification Requirements and the Criteria for Cyber Attack Reporting; Advance Notice of Proposed Rulemaking

Public Meeting held
November 10, 2022

Commissioners Present: Gladys Brown Dutrieuille, Chairperson; Stephen M. DeFrank, Vice Chairperson; Ralph V. Yanora; Katie L. Zerfuss; John F. Coleman, Jr.

Rulemaking to Review Cyber Security Self-Certification Requirements and the Criteria for Cyber Attack Reporting, L-2022-3034353

Advance Notice of Proposed Rulemaking Order

By the Commission:

The Pennsylvania Public Utility Commission (PUC) enters this Advance Notice of Proposed Rulemaking Order (ANOPR) to review its current regulations relating to cybersecurity.¹ These regulations fall into two groups: (1) cyber attack² reporting regulations and (2) self-certification regulations (collectively, “existing regulations”).

Cyber attack reporting regulations include:

- 52 Pa. Code §§ 57.11 (relating to accidents) for electricity public utilities,
- 59.11 (relating to accidents) for gas public utilities,
- 61.11 (relating to accidents) for steam utilities, and
- 65.2 (relating to accidents) for water public utilities.

Self-certification regulations include:

- 101.1—101.7 (Chapter 101, relating to public utility preparedness through self certification) for jurisdictional utilities.
- 61.45 (relating to security planning and emergency contact list) for steam utilities.

The PUC seeks comments from interested stakeholders, including members of the regulated industry, statutory advocates, the public, and any other interested parties about whether the existing regulations are sufficient or if they need to be revised to ensure that they address public utility fitness in the current and anticipated future cybersecurity threat landscapes. Throughout this ANOPR, any proposed changes, consolidations, deletions, and additions to the existing regulations shall be referred to as “revisions.”

Background

The PUC’s Self-Certification Regulations

The self-certification regulations were first promulgated in 2005 to require “all jurisdictional utilities to develop and maintain written physical, cyber security, emergency response and business continuity plans to protect the Commonwealth’s infrastructure and ensure safe, continu-

¹ The Commission’s existing regulations use “cyber security” in lieu of the widely accepted “cybersecurity.” For purposes of this ANOPR, “cybersecurity” shall be used, except when quoting directly from the existing regulations.

² The Commission’s prior orders use “cyber attack” whereas its existing regulations use “cyber-attack.” For purposes of this ANOPR, “cyber attack” shall be used, except when quoting directly from the existing regulations.

ous and reliable utility service.”³ These regulations grew out of the PUC’s efforts to coordinate its security efforts with the Pennsylvania Office of Homeland Security and thereby to develop a security self-certification process for all jurisdictional utilities.⁴ The PUC endeavored not to replicate regulations that were already in place and required by the Federal government or other agencies but acknowledged its duty to identify and secure critical utility infrastructure and key assets within the Commonwealth.⁵

In summary, 52 Pa. Code § 101.1 (relating to purpose) requires every “jurisdictional utility” to “develop and maintain” a cybersecurity plan “to protect this Commonwealth’s infrastructure and ensure safe, continuous and reliable utility service.”⁶ To ensure compliance, a jurisdictional utility annually submits a Self-Certification Form (SCF) stating that it has a cybersecurity plan in place which the PUC may review upon request.⁷ Per 52 Pa. Code § 101.2 (relating to definitions), “jurisdictional utility” is defined to include only those utilities which file annual reports under the following provisions:

- 52 Pa. Code §§ 27.10 (relating to accounts, records and reports) for air transportation utilities,
- 29.43 (relating to assessment reports) for motor vehicle common carriers,
- 31.10 (relating to assessment reports) for motor common carriers of property,
- 33.103 (relating to reports) for railroad carriers,
- 57.47 (relating to filing of annual financial reports) for electricity public utilities,
- 59.48 (relating to filing of annual financial reports) for gas public utilities,
- 61.28 (relating to filing of annual financial reports) for steam utilities,
- 63.36 (relating to filing of annual financial reports) for telecommunications public utilities, and
- 65.19 (relating to filing of annual financial reports) for water public utilities.

By contrast, certain public utilities and licensed entities under the PUC’s supervision do not qualify as a “jurisdictional utility” under Section 101.2 and are thus not subject to the existing self-certification regulations, including but not limited to electric generation suppliers (EGS), natural gas suppliers (NGS), transportation network companies (TNCs) and wastewater public utilities.

The PUC’s Existing Cyber Attack Reporting Regulations

The PUC promulgated cyber attack reporting regulations for electric, gas and water public utilities in 2011, as part of a broader effort to “establish a more uniform approach to reportable accidents involving utility facilities and operations.”⁸ These regulations resulted from consumer dissatisfaction with electric public utilities’ service restoration and public notice practices in the wake of

Hurricane Ike, which swept through Pennsylvania in 2008, interrupting electric service to more than 450,000 customers.⁹

As it relates to cybersecurity, the PUC broadened the scope of the previously existing cyber attack reporting regulations for electric, gas and water public utilities to include “an occurrence of an unusual nature that is a physical or cyber-attack, including attempts against cyber security measures as defined in Chapter 101 that causes an interruption of service or over \$50,000 in damages, or both.”¹⁰ Section 101.2 defines “cyber security” as “[t]he measures designed to protect computers, software and communications networks that support, operate or otherwise interact with the company’s operations.”

The PUC reasoned that since it “only requires reporting if the cyber attack causes an interruption of service and/or over \$50,000 in damages, . . . the reporting requirement will be less burdensome than reporting any cyber attack.”¹¹ The PUC further reasoned that “the \$50,000 threshold is high enough to prevent reporting minor everyday occurrences but still allows the PUC to have knowledge of incidences that result in a significant expense.”¹²

The PUC’s Existing Cybersecurity Regulations for Steam Utilities

Self-certification and cyber attack reporting regulations relative to steam utilities were added in 2017 as part of a broader initiative “to modernize and update its existing steam heat regulations and to add steam heat safety regulations. . . .”¹³ This initiative resulted from a 2007 steam pipeline explosion in New York City and inquiries into steam pipeline safety in the Commonwealth by members of the General Assembly.

As they relate to cybersecurity, the steam utilities rulemaking resulted in two new sets of obligations. First, steam public utilities were required to report accidents involving “[a]n occurrence of an unusual nature that is a physical or cyber-attack, including an attempt to interfere with a steam utility’s computers, software and communication networks that support, operate or otherwise interact with the steam utility’s operation.”¹⁴ Notably, this cyber attack reporting requirement differs significantly from the requirement for electric, gas and water public utilities. For example, there is no reference to interruption of service or \$50,000 in damages.

Second, steam utilities were required to “develop and maintain written plans for physical and cyber security, emergency response and business continuity in accordance with § 101.3 (relating to plan requirements).”¹⁵

Statutory Basis for New or Revised Cybersecurity Regulations

The statutory bases for both the cyber attack reporting regulations and the self-certification regulations are Sections 501, 504, 505, 506, and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 505, 506 and 1501.¹⁶

Section 501 (relating to general powers) grants the PUC the “general administrative power and authority to supervise and regulate all public utilities doing business

³ Revised Final Rulemaking Order, Rulemaking re Public Utility Security Planning and Readiness, Pa. PUC Docket No. L-00040166 (entered Mar. 10, 2005) at 1, 35 Pa.B. 3299 (June 11, 2005) (Chapter 101 Order).

⁴ Id. at 2.

⁵ Id. at 24.

⁶ Section 101.1 also requires jurisdictional utilities to develop and maintain plans for physical security, emergency response and business continuity.

⁷ See generally 52 Pa. Code §§ 101.1—101.7 (relating to public utility preparedness through self-certification) (Chapter 101).

⁸ Final Rulemaking Order, Proposed Rulemaking for Revision of 52 Pa. Code Chapters 57, 59, 65 and 67 Pertaining to Utilities’ Service Outage Response and Restoration Practices, Pa. P.U.C. Docket No. L-2009-2104274 (order entered Sept. 23, 2011) at 3, 42 Pa.B. 9 (Jan. 7, 2012) (Outage Response Order).

⁹ Id. at 2.

¹⁰ See 52 Pa. Code §§ 57.11(b)(4), 59.11(b)(5) and 65.2(b)(4).

¹¹ Outage Response Order at 10.

¹² Id.

¹³ Final Rulemaking Order, Final Rulemaking Re Steam Heat Distribution System Safety Regulations, 52 Pa. Code Chapters 61 and 67, Pa. P.U.C. Docket No. L-2015-2498111 at 3 (Order entered Aug. 3, 2017), 47 Pa.B. 48 (Dec. 2, 2017) (Steam Utilities Order).

¹⁴ 52 Pa. Code § 61.11(b)(6).

¹⁵ 52 Pa. Code § 61.45(a).

¹⁶ Chapter 101 Order at 29; Outage Response Order at 36.

within this Commonwealth” and to “make such regulations, not inconsistent with law, as may be necessary or proper in the exercise of its powers or for the performance of its duties.”

Section 504 (relating to reports by public utilities), in pertinent part, authorizes the PUC to:

[R]equire any public utility to file periodical reports, at such times, and in such form, and of such content, as the commission may prescribe, and special reports concerning any matter whatsoever about which the commission is authorized to inquire, or to keep itself informed, or which it is required to enforce. . . [and to] . . . require any public utility to file with it a copy of any report filed by such public utility with any Federal department or regulatory body.

Section 505 (relating to duty to furnish information to commission; cooperation in valuing property) requires that:

Every public utility shall furnish to the commission, from time to time, and as the commission may require, all accounts, inventories, appraisals, valuations, maps, profiles, reports of engineers, books, papers, records, and other documents or memoranda, or copies of any and all of them, in aid of any inspection, examination, inquiry, investigation, or hearing, or in aid of any determination of the value of its property, or any portion thereof, and shall cooperate with the commission in the work of the valuation of its property, or any portion thereof, and shall furnish any and all other information to the commission, as the commission may require, in any inspection, examination, inquiry, investigation, hearing, or determination of such value of its property, or any portion thereof.

Section 506 (relating to inspection of facilities and records), in pertinent part, empowers the PUC:

[T]o enter upon the premises, buildings, machinery, system, plant, and equipment, and make any inspection, valuation, physical examination, inquiry, or investigation of any and all plant and equipment, facilities, property, and pertinent records, books, papers, accounts, maps, inventories, appraisals, valuations, memoranda, documents, or effects whatsoever, of any public utility, or prepared or kept for it by others, and to hold any hearing for such purposes [. . . and . . .] have access to, and use any books, records, or documents in the possession of, any department, board, or commission of the Commonwealth, or any political subdivision thereof.

Section 1501 (relating to character of service and facilities), in pertinent part, provides that:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.

The cyber attack reporting regulations also rely on 66 Pa.C.S. § 3009(b) and (d).¹⁷ However, Section 3009 was repealed by Section 1 of the act of November 30, 2004 (P.L. 1398) and replaced by 66 Pa.C.S. § 3019 (relating to additional powers and duties).

¹⁷ Outage Response Order at 36.

The regulations for steam utilities are authorized by Sections 501 and 1501.¹⁸

Discussion

The PUC faces several considerations in preparing to potentially update and revise its existing cybersecurity regulations.

Updating Terms and Concepts

Section 101.2 defines “cyber security” as “[t]he measures designed to protect computers, software and communications networks that support, operate or otherwise interact with the company’s operations” and “cyber security plan” as “[a] written plan that delineates a jurisdictional utility’s information technology disaster plan.”

The PUC’s industry-specific cyber attack reporting regulations do not contain definitions of their own but instead rely on Chapter 101. For example, Section 57.11(b)(4), applicable to electric public utilities, defines “reportable accident,” in pertinent part, as “[a]n occurrence of an unusual nature that is a physical or cyber attack, including attempts against cyber security measures as defined in Chapter 101 (relating to public utility preparedness through self certification) that causes an interruption of service or over \$50,000 in damages, or both.”

Contemporary definitions of these and similar terms have evolved greatly since 2005 and incorporate now-standard concepts such as the “CIA Triad.”¹⁹ For example, the National Institute of Standards and Technology (NIST) defines “cybersecurity” as “[p]revention of damage to, protection of, and restoration of computers, electronic communications systems, electronic communications services, wire communication, and electronic communication, including information contained therein, to ensure its availability, integrity, authentication, confidentiality, and nonrepudiation.”²⁰

Similarly, in contemporary parlance, “cybersecurity plan” could refer to either or both of the following:

- A document that sets forth the organization’s overall strategy to identify the desired level of cybersecurity fitness and address cybersecurity gaps.
- An operational plan which details the precise measures to be implemented to address specific cybersecurity objectives.

Additionally, a document that sets forth the organization’s overall strategy to identify the desired level of cybersecurity fitness and address cybersecurity gaps may be referred to as a “cybersecurity program.”

Finally, the existing regulations include terms such as “cyber attack” and “cyber security measures,” without clearly defining them or distinguishing them from related, commonly used terms such as “cyber incident” and “cyber risk.”²¹

The PUC seeks comment on whether and how to update the terms and concepts used in the existing regulations to better reflect the current cybersecurity landscape, Federal and industry standards and any revisions which may be adopted in this rulemaking.

¹⁸ Steam Utilities Public Order at 22.

¹⁹ CIA Triad refers to the concept of designing cybersecurity measures and systems to protect the confidentiality, integrity, and availability of information.

²⁰ NIST, Computer Security Resource Center (CSRC), Glossary, available online at: <https://csrc.nist.gov/glossary/term/cybersecurity> (last accessed on Oct. 24, 2022).

²¹ Id., available online at: https://csrc.nist.gov/glossary/term/cyber_incident and https://csrc.nist.gov/glossary/term/cyber_risk (last accessed on Oct. 24, 2022).

Exploring Approaches to Ensuring Cybersecurity Fitness in Public Utilities

The overriding purpose of the PUC's existing self-certification regulations is "to protect this Commonwealth's infrastructure and ensure safe, continuous and reliable utility service."²² However, the existing regulations' central cybersecurity plan requirement, 52 Pa. Code § 101.4, focuses on just four basic security controls: (1) identifying "[c]ritical functions requiring automated processing"; (2) "[a]ppropriate backup for application software and data"; (3) "[a]lternative methods for meeting critical functional responsibilities in the absence of information technology capabilities"; and (4) "[a] recognition of the critical time period for each information system before the utility could no longer continue to operate."

Since the self-certification regulations were first drafted by the PUC in 2005, cyber threats have continuously evolved and increased in number, type, and sophistication. Today, ransomware attacks prevail as a leading form of cyber threat. Ransomware is a type of malware, or malicious software, that encrypts a victim's data or computing device and threatens to keep it encrypted unless the victim pays the attacker a ransom. Ransomware can severely impact business processes and leave organizations without the data they need to operate and deliver mission-critical services. Ransomware attacks have, in recent years, increasingly targeted critical infrastructure and government agencies.²³

Another growing cyber threat is the potential for attacks on public utilities' operational technology (OT), the hardware and software that control the physical equipment and systems with which utilities provide service. Public utilities have been working hard to integrate information technology (IT) and OT systems as part of grid modernization. This IT-OT interdependence creates business, environmental and operational benefits but also increases cyber risk. Cyber attacks on OT are intended to disrupt operations, damage critical equipment, and even inflict bodily harm.²⁴

The steady rise in the creativity, number and severity of cyber attacks raises the bar for cybersecurity. Industry and government have continuously reviewed, expanded and improved cybersecurity standards for entities of all kinds. At the federal level, the National Institute for Standards and Technology (NIST) has led the way in the advancement of cybersecurity standards. NIST's Cybersecurity Framework, with its five-functions approach (identify, protect, detect, respond and recover) provides a model and a process to increase cybersecurity maturity in any organization.²⁵

Taking a more granular approach, NIST Special Publication 800-82 (Guide to Industrial Control Systems (ICS) Security) provides guidance on how to secure Industrial Control Systems (ICS), including Supervisory Control and Data Acquisition (SCADA) systems, Distributed Control Systems (DCS), and other control system configurations such as Programmable Logic Controllers (PLC), while addressing their unique performance, reliability, and safety requirements. NIST 800-82 provides an overview of ICS and typical system topologies, identifies typical

threats and vulnerabilities to these systems, and provides recommended security countermeasures to mitigate the associated risks.²⁶

At the most prescriptive end of the spectrum, the North American Electric Reliability Corporation Critical Infrastructure Protection Standards (CIP Reliability Standards) are designed to address the evolving nature of cyber-related threats to the bulk power system. Although called "standards", the CIP Reliability Standards are developed by NERC and become mandatory and enforceable after approval the Federal Energy Regulatory Commission (FERC) and apply to users, owners and operators of the bulk power system, as set forth in each of the thirteen (13) current standards. The CIP Reliability Standards require certain users, owners, and operators of the bulk power system to comply with specific requirements to safeguard critical cyber assets. These standards are results-based and do not specify a technology or method to achieve compliance, instead leaving it up to the utility to decide how best to comply with the standards.²⁷

Based on the variety of approaches taken by regulators at the Federal level, it appears that the PUC has, at a minimum, five potential regulatory approaches to ensure that public utilities have adequate cybersecurity plans in place to respond to cyber threats:

- Similar to the existing regulations, require a public utility to self-certify that it has a plan, a program, or both, that complies with criteria set forth in the PUC's regulations and to report annually to the PUC that such plans and/or programs exist and are updated and tested annually.
- Require a public utility to self-certify that it has a plan, a program, or both, that complies with an appropriate Federal or industry standard and to report annually to the PUC that such plans and/or programs exist and are updated and tested annually.
- Require a public utility to provide a third-party expert certification that the public utility has a plan, a program, or both, in place that comply with a relevant Federal or industry standard appropriate to that utility and to report annually to the PUC that such plans and/or programs exist and are updated and tested annually.
- Integrate an onsite review of cybersecurity measures, plans, and programs into the PUC's public utility management audit process and examine cybersecurity measures, plans, and programs in place as a part of the management audit function.
- Require a public utility to file a confidential copy of its cybersecurity plans and programs with the PUC and enable the PUC to directly review and comment on the adequacy of such plans and programs and, where deficiencies exist, require conformance with regulatory standards.

The PUC seeks comment on the relative merits and weaknesses of each of the above approaches and which of these approaches, some combination of these approaches, or some other approach, provides the PUC, the public utility and its ratepayers with the greatest potential assurance that the utility is adequately prepared to

²² 52 Pa. Code § 101.1 (relating to purpose).

²³ Cybersecurity & Infrastructure Security Agency, Ransomware Guide, available online at: <https://www.cisa.gov/stopransomware/ransomware-guide> (last accessed Oct. 25, 2022).

²⁴ Forbes, Defending Against Cyberattacks on Operational Technology, by Ryan Moody (Oct. 28, 2021), available online at: <https://www.forbes.com/sites/forbestechcouncil/2021/10/28/defending-against-cyberattacks-on-operational-technology/?sh=7418675c5e76> (last accessed Oct. 25, 2022).

²⁵ NIST, Cybersecurity Framework, available online at: <https://www.nist.gov/cyberframework> (last accessed Oct. 24, 2022).

²⁶ NIST, Special Publication 800-82, Rev. 2, Guide to Industrial Control Systems (ICS) Security—Supervisory Control and Data Acquisition (SCADA) systems, Distributed Control Systems (DCS), and other control system configurations such as Programmable Logic Controllers (PLC), (May 2015), available online at: <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-82r2.pdf> (last accessed Oct. 25, 2022).

²⁷ FERC, Cybersecurity Incentives Policy White Paper (June 2020), at 4—8, available online at: <https://www.ferc.gov/sites/default/files/2020-06/notice-cybersecurity.pdf> (last accessed Oct. 25, 2022).

address cybersecurity threats. Similarly, the PUC welcomes comments describing the approaches taken by other state public utility commissions to address public utilities' cybersecurity fitness and evaluating their respective costs and benefits.

Section 101.3 requires that “[a] jurisdictional utility shall develop and maintain written physical and cyber security, emergency response and business continuity plans.” This ANOPR focuses on the cybersecurity component of this rule. However, it is possible that changes to the cybersecurity aspect of this regulation could impact the physical security, emergency response, or business continuity requirements of Section 101.3 or any of the rest of Chapter 101. The PUC seeks comment on the nature and extent of such foreseeable impacts and ways to address those impacts.

Section 101.2 applies to jurisdictional public utilities, including many classes of certificated public utilities under the PUC's jurisdiction, but does not apply to other entities under the PUC's supervision, such as EGS, NGS and TNC entities. The PUC seeks comment on whether the self certification regulations, or revisions thereto, should be applied to additional types of entities that are subject to the PUC's supervision.

Conversely, the PUC's current self-certification regulations apply equally to widely disparate types of public utilities, some of which are highly sophisticated corporate conglomerates which operate first-tier critical infrastructure and others of which are sole proprietorships and small businesses offering a limited class of service that does not implicate critical infrastructure. The PUC seeks comment as to whether there are public utility types which should be wholly or partially exempt from the self-certification, based on easing the regulatory burden on small businesses, or for other reasons.

Improving the Self-Certification Form (SCF) Process

Since the initial promulgation of the self-certification regulations, the PUC has experienced issues regarding the SCF: how it is processed, confidentiality of the information collected, and impact on smaller utilities. Concerns have also emerged with respect to the self-certification form's value to assessing and ensuring public utilities' cybersecurity fitness.

Processing the SCF is a complex matter. Section 101.5 states that an SCF filed at the PUC “is not a public document or record and is deemed confidential and proprietary.” Further, the information contained in an SCF may constitute Confidential Security Information (CSI), which means that SCFs must be submitted on paper and filed with the Secretary's Bureau to ensure their receipt and storage comply with Pennsylvania's CSI law²⁸ and the PUC's implementing regulations.²⁹

Treating the SCFs as CSI impacts how the information on the form is stored, accessed, and validated once filed. These additional security protocols lead to delays and an increase in the workload for PUC staff. Adding to the complexity of processing the form, Section 101.4(a) requires that some public utilities file this form at the same time they file their Annual Financial Report, which is due annually at the end of April, while Section 101.4(b) directs other public utilities to file the form with their Annual Assessment Report, which is due annually at the end of March.

²⁸ Public Utility Confidential Security Information Disclosure Protection Act, 35 P.S. §§ 2141.1—2141.6.

²⁹ See, e.g., 52 Pa. Code § 102.3 (relating to filing procedures) (“The Commission does not authorize the use of e-mail or any other electronic mail system to transmit records containing confidential security information.”).

The PUC seeks comment on ways to streamline and otherwise improve the filing, handling, and storage of SCFs.

The self-certification regulations apply the same standards to almost all public utilities, including more than 7,500 transportation public utilities including Amish ride services, taxis, limousines, ambulance companies, towing services, and moving companies. PUC staff routinely receives questions from transportation public utilities questioning why they are receiving the form and looking for guidance on how the regulations apply to small companies without an IT department. Small transportation public utilities also ask why they need to have a cybersecurity plan, a disaster recovery plan, and a business continuity plan when their core business function is transporting individuals, small groups, or commodities.

Thus, it may be that, in the case of some public utility types, the administrative costs of maintaining the existing self-certification regulations may exceed any cybersecurity benefit the existing regulations may impart. Alternatively, it might be preferable for the PUC to apply the existing regulations, or revisions thereto, in a granular manner, applying different reporting requirements for public utilities that meet certain criteria.

The PUC seeks comment on whether and how to streamline the self-certification form, plan, and reporting requirements to better calibrate the benefits of the existing regulations against the burdens they place on regulated entities, especially smaller utilities, and on PUC staff.

Updating Cyber Attack Reporting Regulations

The PUC promulgated regulations in 2011 that require Pennsylvania's regulated electric, natural gas and water public utilities to report physical or cyber attacks that cause either or both an interruption of service or \$50,000 in damages.³⁰ These standards focus on interruption of service as a criterion for reporting, thereby implicating the facilities that provide service to customers, otherwise known as OT.

However, since 2011, the afore-mentioned convergence of IT and OT in the utility industry increases the risk of cyber threats arising in the IT environment threatening OT. In colloquial terms, the “air gap” which once existed between OT systems which provide service and the IT systems which monitor, and control OT, is disappearing.

An IT incident can escalate quickly and lead to service outages that may trigger a response by the PUC and other critical infrastructure stakeholders such as the Pennsylvania Emergency Management Agency (PEMA), Pennsylvania Army National Guard (PANG), Pennsylvania State Police (PSP) and Pennsylvania Governor's Office of Homeland Security (GOHS). These government agencies stand ready assist Commonwealth residents with access to critical services like water, electricity, natural gas, food, and shelter until the incident is resolved. The PUC is also a stakeholder affecting any public utility service in Pennsylvania and therefore needs to have advance warning of threats emerging in the IT environment.

The PUC seeks comment on potential ways to revise the reporting criteria in its existing regulations, including the potential addition of new requirements for reporting incidents involving IT.

Another cyber attack reporting issue to explore is whether the \$50,000 criterion should be revised. The

³⁰ See, e.g., 52 Pa. Code § 57.11(b)(4).

existing regulations do not address how a public utility should attribute damages to a cyber attack, what costs should be considered as damages, whether the availability of insurance is relevant or when the damages calculation should be performed. This ambiguity may lead public utilities to spend inordinate efforts attempting to perform the calculation or conversely even not reporting serious incidents at all simply because there is no clearly defined financial impact.

The PUC seeks comment with respect to the continuing efficacy of the \$50,000 reporting threshold.

Merging the Self-Certification and Cyber Attack Reporting Regulations

Given the growth in cybersecurity as an area of concern, it may be preferable that all the PUC's cybersecurity regulations be handled in the same chapter of the PUC's regulations. Further, there does not appear to be a compelling reason to maintain different reporting thresholds for steam public utilities as is applied to the other public utilities for which reporting is required. Finally, there is an open question as to whether the reporting requirements should remain limited to water, electric, gas and steam public utilities, or be broadened to include any of the following: other certificated public utilities, such as wastewater and telecommunications public utilities, and licensed entities such as those providing EGS, NGS and TNC services.

For ease of reference and clarity of purpose, the current cyber attack reporting regulations could be removed from the various industry-specific provisions of the PUC's regulations where they are currently located and consolidated in a new chapter or as a new section within Chapter 101. The PUC seeks comment on the pros and cons of merging the self-certification and cyber incident reporting regulations into a single chapter of the Code, and otherwise eliminating unintended or unjustified inconsistencies in the existing regulations.

Cost-Benefit Analysis

Any revisions to the existing regulations must be deemed to be in the public interest in order to be approved prior to promulgation. Under the Regulatory Review Act, 71 P.S. §§ 745.1, et seq., the statutory criteria to evaluate if a regulation is in the public interest are:

(1) Economic or fiscal impacts of the regulation, which include the following:

(i) Direct and indirect costs to the Commonwealth, to its political subdivisions and to the private sector.

(ii) Adverse effects on prices of goods and services, productivity or competition.

(iii) The nature of required reports, forms or other paperwork and the estimated cost of their preparation by individuals, businesses and organizations in the public and private sectors.

(iv) The nature and estimated cost of legal, consulting or accounting services which the public or private sector may incur.

(v) The impact on the public interest of exempting or setting lesser standards of compliance for individuals or small businesses when it is lawful, desirable and feasible to do so.

(2) The protection of the public health, safety and welfare and the effect on this Commonwealth's natural resources.

(3) The clarity, feasibility and reasonableness of the regulation to be determined by considering the following:

(i) Possible conflict with or duplication of statutes or existing regulations.

(ii) Clarity and lack of ambiguity.

(iii) Need for the regulation.

(iv) Reasonableness of requirements, implementation procedures and timetables for compliance by the public and private sectors.

(v) Whether acceptable data is the basis of the regulation.

(4) Whether the regulation represents a policy decision of such a substantial nature that it requires legislative review.

(5) Comments, objections or recommendations of a committee.

(6) Compliance with the provisions of this act or the regulations of the commission in promulgating the regulation.

(7) Whether the regulation is supported by acceptable data.

(8) Whether a less costly or less intrusive alternative method of achieving the goal of the regulation has been considered for regulations impacting small business.

The PUC seeks comment on how best to justify revisions to the existing regulations under the Regulatory Review Act standards. In particular, the PUC seeks comment on how the costs and benefits associated with its existing regulations, and any revisions thereto, can be objectively quantified and evaluated.

Eliminating Regulatory Duplication and Overlap

The PUC's existing cybersecurity regulations do not exist in a vacuum. Federal and state cybersecurity, incident reporting, and data privacy laws and regulations have proliferated over the last decade or more since the PUC's regulations were first promulgated. The process of deconflicting regulations that duplicate, contradict or overlap each other has become an art unto itself.

Section 101.6(d) currently addresses this deconfliction. First, it provides that a public utility "that has developed and maintained a cyber security, physical security, emergency response or business continuity plan under the directive of another state or Federal entity that meets the requirements of § 101.3 (relating to plan requirements) may utilize that plan for compliance with this subpart, upon the condition that a [PUC] representative be permitted to review the cyber security, physical security, emergency response or business continuity plan."

Second, Section 101.7 by its own terms "does not apply to an entity regulated by the Federal Railroad Safety Act (FRSA) (49 U.S.C. §§ 20101—20153) and the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. §§ 5101—5127), if by August 10, 2005, it submits a certification to the [PUC] indicating that it has its own written physical and cyber security, emergency response and business continuity plans in place and is in compliance with the FRSA and HMTA."

In the realm of cyber incident reporting, the PUC notes Congress' recent enactment of the Federal Cyber Incident Reporting for Critical Infrastructure Act of 2022

(CIRCIA).³¹ CIRCIA provides for critical infrastructure operators to report covered cybersecurity incidents to the Federal Cybersecurity and Infrastructure Security Agency (CISA). CIRCIA reflects a comprehensive, state-of-the-art approach to critical infrastructure cybersecurity. CIRCIA's focus on the interaction between and among IT, OT and third-party supply chains may serve as a model for the PUC's cyber incident reporting regulations. Further, depending on the outcome of its rulemakings, CISA may designate any or all critical infrastructure sectors, including communications, energy and water and wastewater systems sectors as covered by CIRCIA's reporting requirements.

The PUC seeks comment on the potential for conflict, overlap, redundancy, or other bases warranting review in the interplay between the PUC's cybersecurity regulations (and revisions thereto) and Federal initiatives, including but not limited to CIRCIA.

Other Matters

Finally, the PUC seeks comments as to any additional considerations that parties may wish to raise at this time relating to PUC oversight and regulation of public utilities and licensed entities as it relates to their cybersecurity fitness.

Conclusion

Due to the breadth of topics addressed in this rulemaking and the potential complexity of the regulations which are open for review, interested parties will have sixty (60) days from the date of publication of the ANOPR in the *Pennsylvania Bulletin* for the submission of comments. Comments should be clearly delineated as responding to one or more of the numbered topics listed in Appendix A to this ANOPR. Comments should include, where appropriate, a numerical reference to the existing regulation or regulations which the comments address, the proposed language for revision, and a clear explanation for the recommendation. Matters not responding to a numbered topic in Appendix A or to an existing regulation should be clearly delineated as new subjects. The PUC is committed to completing any revisions to its regulations in a timely fashion; *Therefore*,

It Is Ordered:

1. That an advance notice of a proposed rulemaking proceeding is hereby initiated at this docket to consider whether and how the existing regulations in Title 52 of the *Pennsylvania Code* relating to cybersecurity should be revised.

2. That this Advance Notice of Proposed Rulemaking shall be served on all public utilities enrolled in the Public Utility Commission's e-Filing system and that a Secretarial Letter providing notice of this proceeding shall be served by mail on all motor vehicle carriers.

3. That the Secretary shall serve this Advance Notice of Proposed Rulemaking Order on the Office of Consumer Advocate and the Office of Small Business Advocate.

4. That the Law Bureau shall deliver this Advance Notice of Proposed Rulemaking Order to the Governor's Office of the Budget.

5. That the Law Bureau shall deposit this Advance Notice of Proposed Rulemaking Order with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

³¹ Consolidated Appropriations Act of 2022 (Pub.L. No. 117-103) (Mar. 15, 2022). Division Y of this act is the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (6 U.S.C. §§ 681, et seq.)

6. That, after this Advance Notice of Proposed Rulemaking has been published in the *Pennsylvania Bulletin*, interested parties may submit written comments, referencing Docket No. L-2022-3034353, within sixty (60) days from the date this Advance Notice of Proposed Rulemaking Order is published in the *Pennsylvania Bulletin*. Comments may be filed either through the Public Utility Commission's e-Filing system or by mail.

7. Parties to proceedings pending before the Public Utility Commission may open and use an e-filing account through the Commission's website, or you may submit your filing by overnight delivery. If a filing contains confidential or proprietary material, the filing must be submitted by overnight delivery. Filing information can be found on the Commission's website at <https://www.puc.pa.gov/filing-resources/efiling/>.

8. The contact persons for this matter are Colin Scott, Assistant Counsel, Law Bureau, (717) 783-5949, colin.scott@pa.gov; Chris Van de Verg, Assistant Counsel, Law Bureau, (717) 783-3459, cvandeverg@pa.gov; Daniel Searfoorce, Manager—Water, Reliability and Emergency Preparedness Division, Bureau of Technical Utilities Services, (717) 783-6159, dsearfoorc@pa.gov; and Michael Holko, Director, Office of Cybersecurity Compliance and Oversight, (717) 425-5327, miholko@pa.gov. Karen Thorne, Law Bureau, kathorne@pa.gov, is the Regulatory Review Assistant for this matter.

9. That copies in Word®-compatible format of all filings at this docket shall be provided by email to the contact persons for this matter.

ROSEMARY CHIAVETTA,
Secretary

ORDER ADOPTED: November 10, 2022

ORDER ENTERED: November 10, 2022

Appendix A

Topics for Comment

Introduction

1. The PUC seeks comments from interested stakeholders, including members of the regulated industry, statutory advocates, the public, and any other interested parties about whether the existing regulations are sufficient or if they need to be revised to ensure that they address public utility fitness in the current and anticipated future cybersecurity threat landscapes. See ANOPR at 2.

Updating Terms and Concepts

2. The PUC seeks comment on whether and how to update the terms and concepts used in the existing regulations to better reflect the current cybersecurity landscape, Federal and industry standards and any revisions which may be adopted in this rulemaking. See ANOPR at 9.

Exploring Approaches to Ensuring Cybersecurity Fitness in Public Utilities

3. The PUC seeks comment on the relative merits and weaknesses of each of the approaches within the heading "Exploring Approaches to Ensuring Cybersecurity Fitness in Public Utilities" and which of these approaches, some combination of these approaches, or some other approach, provides the PUC, the utility and its ratepayers with the greatest potential assurance that a utility is adequately prepared to address cyber security threats. See ANOPR at 13.

4. The PUC welcomes comments describing the approaches taken by other state public utility commissions to address public utilities' cybersecurity fitness and evaluating their respective costs and benefits. See ANOPR at 13.

5. Would changes to the cybersecurity aspect of 52 Pa. Code § 101.3 impact the physical security, emergency response and/or business continuity aspects of the rule and/or Chapter 101 generally? The PUC seeks comment on the nature and extent of such foreseeable impacts and ways to address those impacts. See ANOPR at 13.

6. The PUC seeks comment on whether the self-certification regulations should be applied to additional types of entities that are subject to the PUC's supervision? See ANOPR at 13.

7. The PUC seeks comment as to whether there are public utility types which should be wholly or partially exempt from the self-certification, based on easing the regulatory burden on small businesses, or for other reasons. See ANOPR at 14.

Improving the Self-Certification Form (SCF) Process

8. The PUC seeks comment on ways to streamline and otherwise improve the filing, handling, and storage of SCFs. See ANOPR at 15.

9. The PUC seeks comment on whether and how to streamline the self-certification form, plan and reporting requirements to better calibrate the benefits of the existing regulations against the burdens they place on regulated entities, especially smaller utilities, and on PUC staff. See ANOPR at 15-16.

Updating Cyber Attack Reporting Regulations

10. The PUC seeks comment on potential ways to revise the reporting criteria in its existing regulations, including the potential addition of new requirements for reporting incidents involving IT. See ANOPR at 17.

11. The PUC seeks comment with respect to the continuing efficacy of the \$50,000 reporting threshold. See ANOPR at 17.

Merging the Self-Certification and Cyber Attack Reporting Regulations

12. The PUC seeks comment on the pros and cons of merging the self-certification and cyber incident reporting regulations into a single chapter of the Code, and otherwise eliminating unintended or unjustified inconsistencies in the existing regulations. See ANOPR at 18.

Cost-Benefit Analysis

13. The PUC seeks comment on how best to justify revisions to the existing regulations under the Regulatory Review Act standards. In particular, the PUC seeks comment on how the costs and benefits associated with

its existing regulations, and any revisions thereto, can be objectively quantified and evaluated. See ANOPR at 19.

Eliminating Regulatory Duplication and Overlap

14. The PUC seeks comment on the potential for conflict, overlap, redundancy, or other bases warranting review in the interplay between the PUC's cybersecurity regulations (and revisions thereto) and Federal initiatives, including but not limited to the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCA). See ANOPR at 21.

Other Matters

15. Finally, the PUC seeks comments as to any additional considerations that parties may wish to raise at this time relating to PUC oversight and regulation of public utilities and licensed entities as it relates to their cybersecurity fitness. See ANOPR at 21.

[Pa.B. Doc. No. 22-1895. Filed for public inspection December 9, 2022, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petition for Study

On November 15, 2022, the Environmental Quality Board accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). The petition, submitted by the Brodhead Watershed Association, requests the amendment of 25 Pa. Code § 93.9c (relating to Drainage List C) to redesignate a section of Brodhead Creek in Monroe County, from the Middle Branch headwater to the confluence with Paradise Creek, from high quality cold water fishes, migratory fishes to exceptional value, migratory fishes.

Under 25 Pa. Code § 93.4d(a) (relating to processing of petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) is required to publish a notice of intent to assess candidate waters. The Department's assessment notice for this rulemaking petition will appear in a future issue of the *Pennsylvania Bulletin*.

The previously-referenced petition is available to the public by contacting the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, and is accessible on the Department's web site at www.dep.pa.gov (select "Public Participation," "Environmental Quality Board," "2022 Meetings," then "Meeting Agendas/Minutes/Handouts; November 15, 2022: In-Person/WebEx Meeting").

RAMEZ ZIADEH, P.E.,
Acting Chairperson

[Pa.B. Doc. No. 22-1896. Filed for public inspection December 9, 2022, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING AND SECURITIES

Actions on Applications

The Department of Banking and Securities (Department), under the authority in the Banking Code of 1965 (7 P.S. §§ 101—2204), the Department of Banking and Securities Code (71 P.S. §§ 733-1—733-1203) and 17 Pa.C.S. (relating to Credit Union Code), has taken the following actions on applications received for the week ending November 29, 2022.

Under section 503.E of the Department of Banking and Securities Code (71 P.S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file comments in writing with the Department of Banking and Securities, Bank Supervision or Credit Union and Trust Supervision (as applicable), 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, for banks (717) 783-8240 and for credit unions and trust companies (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
11-28-2022	CNB Bank Clearfield Clearfield County	28029 Chagrin Boulevard Woodmere Cuyahoga County, OH	Opened
11-29-2022	1st Summit Bank Johnstown Cambria County	5150 Route 30 Greensburg Westmoreland County	Approved
11-29-2022	CNB Bank Clearfield Clearfield County		Opened
	Application to establish one mobile branch in New York to service the following proposed geographic locations: Niagara Falls, Niagara County Buffalo, Erie County		

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
11-19-2022	First Columbia Bank & Trust Co. Bloomsburg Columbia County	100 Lunger Drive Bloomsburg Columbia County	Closed

CREDIT UNIONS

No activity.

The Department's web site at www.dobs.pa.gov includes public notices for more recently filed applications.

RICHARD VAGUE,
Secretary

[Pa.B. Doc. No. 22-1897. Filed for public inspection December 9, 2022, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Community Development Block Grant-Disaster Recovery; Notice of Action Plan for Addressing Unmet Needs of Hurricane Ida

On September 11, 2021, President Joseph Biden declared a major disaster for this Commonwealth because of

the effects of Hurricane Ida from August 31, 2021, to September 5, 2021. As a result of the declaration, funding was made available through the United States Department of Housing and Urban Development (HUD), through Pub.L. 117-43, known as the Extending Government Funding and Delivering Emergency Assistance Act, to provide disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization and mitigation in the most impacted and distressed areas resulting from a qualifying disaster in 2020 or 2021.

Under Pub.L. 117-43, the Commonwealth was allocated a total of \$23.152 million and is required to expend at least \$18,521,600 in Delaware and Montgomery Counties, which have been identified by HUD as the most impacted and distressed areas.

The Commonwealth is required to develop an Action Plan (Action Plan) which details how the funds will be used. The Action Plan must include the criteria for eligibility, and how the use of the funds will address long-term recovery and restoration of infrastructure and housing, economic revitalization and mitigation in the most impacted and distressed areas.

An in-person public meeting will be held on Wednesday, December 14, 2022, from 6:30 p.m. to 8 p.m. at the Montgomery Township Community and Recreation Center, 1030 Horsham Road, Montgomeryville, PA 18936. The purpose of the meeting will be to review the Action Plan and seek public comment on the Action Plan.

The meeting will be shortened if there is no one to testify or there is minimal response.

Persons with disability or limited English proficiency who wish to participate in the public hearing should contact David Grey at dgrey@pa.gov, (717) 214-5341 or TDD at (717) 346-0308 to discuss how the Department can accommodate their requests.

NEIL WEAVER,
Acting Secretary

[Pa.B. Doc. No. 22-1898. Filed for public inspection December 9, 2022, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Governor's Advisory Council for Hunting, Fishing and Recreation Public WebEx Meeting

The Governor's Advisory Council for Hunting, Fishing and Recreation (Council) to the Department of Conservation and Natural Resources (Department) will hold a public WebEx meeting on December 15, 2022, at 1 p.m. The WebEx meeting can be accessed through a link found on the Council's web site prior to the public WebEx meeting at www.dcnr.pa.gov/Conservation/GovernorsAdvisoryCouncil/Pages/default.aspx.

Questions concerning this public WebEx meeting or agenda items can be directed to Derek Eberly, Governor Sportsmen's Advisor at (717) 317-0028. For public comment to be considered at the public WebEx meeting, follow the instructions on the Council's web site by submitting comments in writing to deberly@pa.gov.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Aara Vinsh directly at (717) 787-9306 or through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

CINDY ADAMS DUNN,
Secretary

[Pa.B. Doc. No. 22-1899. Filed for public inspection December 9, 2022, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

APPLICATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS UNDER THE CLEAN STREAMS LAW AND FEDERAL CLEAN WATER ACT

This notice provides information about persons who have applied to the Department of Environmental Protection (DEP) for a new, renewed, or amended NPDES or WQM permit, or a permit waiver for certain stormwater discharges, or have submitted a Notice of Intent (NOI) for coverage under a General Permit. The applications and NOIs concern, but are not limited to, effluent discharges from sewage treatment facilities and industrial facilities to surface waters or groundwater; stormwater discharges associated with industrial activity (industrial stormwater), construction activity (construction stormwater), and municipal separate storm sewer systems (MS4s); the application of pesticides; the operation of Concentrated Animal Feeding Operations (CAFOs); and the construction of sewage, industrial waste, and manure storage, collection and treatment facilities. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376). More information on the types of NPDES and WQM permits that are available can be found on DEP's website (visit www.dep.pa.gov and select Businesses, Water, Bureau of Clean Water, Wastewater Management, and NPDES and WQM Permitting Programs).

<i>Section</i>	<i>Category</i>
I	Individual and General WQM Permit Applications/NOIs Received, General NPDES Permit NOIs Received, and All Transfer and Minor Amendment Applications/NOIs Received
II	Individual NPDES Permits—New, Renewal, and Major Amendment Applications and Draft Permits for Discharges Relating to Sewage, Industrial Waste, Industrial Stormwater, MS4s, Pesticides and CAFOs
III	Individual NPDES Permit Applications for Discharges of Stormwater Associated with Construction Activity

Section I identifies the following applications and NOIs that have been received by DEP:

- Individual and General WQM Permit Applications Received—DEP provides a 15-day public comment period for Individual WQM Permit Applications for new and reissued permits. There is no public comment period for General WQM Permit NOIs.
- General Chapter 92a NPDES Permit NOIs Received—There is no public comment period for General NPDES NOIs received.
- All Transfer and Minor Amendment Applications/NOIs Received—Transfer and Minor Amendment Applications/NOIs received for Individual and General WQM Permits and Individual and General NPDES Permits, excluding PAG-01 and PAG-02, are identified but do not have public comment periods. DEP provides a 15-day public comment period for Individual WQM Permit Applications for amendments.

Additional information on these applications and NOIs may be reviewed by generating the “Applications and NOIs without Comment Periods Report” or, for Individual WQM Permit Applications, the “Applications Received with Comment Periods Report” on DEP’s website at www.dep.pa.gov/CWPublicNotice.

Section II identifies individual NPDES permit applications received and draft permits indicating DEP’s tentative determination relating to sewage, industrial waste, industrial stormwater, MS4s, pesticides and CAFOs. A 30-day public comment period applies to these applications and draft permits, except when a site-specific water quality criterion is used to establish effluent limitations, in which case a 45-day public comment period applies. The period for comment may be extended at the discretion of DEP for one additional 15-day period. Additional information, including links to draft permits and fact sheets that explain the basis for DEP’s tentative determinations may be reviewed by generating the “Applications Received with Comment Periods Report” on DEP’s website at www.dep.pa.gov/CWPublicNotice. Notification of 15-day extensions for comment will be provided in the “Applications Received with Comment Periods Report” (Comments column).

Section III provides notice of applications and draft individual permits for stormwater discharges associated with construction activities. Where indicated, DEP has made tentative determinations, based on preliminary review, to issue permits subject to proposed effluent limitations consisting of best management practices identified in the erosion and sediment control (E&S) plans and post-construction stormwater management (PCSM) plans submitted with the applications, as well as other terms and conditions based on the permit applications. A 30-day public comment period applies to these applications.

Applications, NOIs and draft permits, where applicable, may be reviewed at the DEP office that received the application or NOI. Members of the public are encouraged to use DEP’s website to obtain additional information as discussed previously.

Comments received within the appropriate comment periods for WQM and NPDES permit applications will be retained by DEP and considered in the final determinations regarding the applications. A comment submittal should include the name, address and telephone number of the writer and a concise statement to inform DEP of the exact basis of a comment and the relevant facts upon which it is based.

DEP office contact information to review applications and NOIs and to submit comments for those applications, when applicable, is as follows:

DEP Southeast Regional Office (SERO)—2 E. Main Street, Norristown, PA 19401-4915. File Review Coordinator: 484-250-5910. Email: RA-EPNPDES_SERO@pa.gov for permits in Sections I & II; RA-EPWW-SERO@pa.gov for permits in Section III.

DEP Northeast Regional Office (NERO)—2 Public Square, Wilkes-Barre, PA 18701-1915. File Review Coordinator: 570-826-5472. Email: RA-EPNPDES_NERO@pa.gov for permits in Sections I & II; RA-EPWW-NERO@pa.gov for permits in Section III.

DEP Southcentral Regional Office (SCRO)—909 Elmerton Avenue, Harrisburg, PA 17110. File Review Coordinator: 717-705-4732. Email: RA-EPNPDES_SCRO@pa.gov for permits in Sections I & II; RA-EPWW-SCRO@pa.gov for permits in Section III.

DEP Northcentral Regional Office (NCRO)—208 W. Third Street, Suite 101, Williamsport, PA 17701. File Review Coordinator: 570-327-3693. Email: RA-EPNPDES_NCRO@pa.gov for permits in Sections I & II; RA-EPWW-NCRO@pa.gov for permits in Section III.

DEP Southwest Regional Office (SWRO)—400 Waterfront Drive, Pittsburgh, PA 15222. File Review Coordinator: 412-442-4286. Email: RA-EPNPDES_SWRO@pa.gov for permits in Sections I & II; RA-EPWW-SWRO@pa.gov for permits in Section III.

DEP Northwest Regional Office (NWRO)—230 Chestnut Street, Meadville, PA 16335. File Review Coordinator: 814-332-6078. Email: RA-EPNPDES_NWRO@pa.gov for permits in Sections I & II; RA-EPWW-NWRO@pa.gov for permits in Section III.

DEP Bureau of Clean Water (BCW)—400 Market Street, Harrisburg, PA 17105. File Review Coordinator: 717-787-5017. Email: RA-EPNPDES_Permits@pa.gov.

DEP Regional Permit Coordination Office (RPCO)—400 Market Street, Harrisburg, PA 17105. File Review Coordinator: 717-772-5987. Email: RA-EPREGIONALPERMIT@pa.gov.

DEP will also accept requests or petitions for public hearings on applications. The request or petition must indicate the interest of the party filing and the reasons why a hearing is warranted. A hearing will be held if DEP determines that there is a significant public interest. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. DEP will postpone its final determination until after a public hearing is held.

Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

I. Individual and General WQM Permit Applications/NOIs Received, General NPDES Permit NOIs Received, and All Transfer and Minor Amendment Applications/NOIs Received.

<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
5215401	Individual	Amendment	Pocono Lakefront, LLC 40 Warren Street Paterson, NJ 07524	Palmyra Township Pike County	NERO
4511401	Individual	Amendment	Arrowhead Sewer Company, Inc. HC 88 Box 305 Pocono Lake, PA 18347	Tobyhanna Township Monroe County	NERO
PAD090075	Chapter 102 Individual NPDES Permit	Transfer	Chatham Creek, LLC 404 N Sumneytown Pike Suite 200 North Wales, PA 19454-2537	Milford Township Bucks County	SERO
1713801	Joint DEP/PFBC Pesticides Permit	Renewal	Dubois City Clearfield County 16 W Scribner Avenue Dubois, PA 15801-2210	DuBois City Clearfield County	NCRO
2813809	Joint DEP/PFBC Pesticides Permit	Renewal	Chambersburg Country Club P.O. Box 159 Scotland, PA 17254-0159	Greene Township Franklin County	SCRO
3522803	Joint DEP/PFBC Pesticides Permit	New	Matrone Alphonse 136 Carbondale Road Waverly Township, PA 18414-8902	Waverly Township Lackawanna County	NERO
4522805	Joint DEP/PFBC Pesticides Permit	New	Mason Paul 46 Columbia Boulevard East Stroudsburg, PA 18302-8980	Middle Smithfield Township Monroe County	NERO
4617813	Joint DEP/PFBC Pesticides Permit	Renewal	Blue Bell Golf Course Management Co. 1800 Tournament Drive Blue Bell, PA 19422-1299	Whitpain Township Montgomery County	SERO
5413801	Joint DEP/PFBC Pesticides Permit	Renewal	Schuylkill Haven Borough Schuylkill County 333 Center Avenue Schuylkill Haven, PA 17972-1007	Schuylkill Haven Borough Schuylkill County	NERO
5813802	Joint DEP/PFBC Pesticides Permit	Renewal	Acre Lake Improvement Association 248 Nancy Drive Scranton, PA 18505-2943	Lenox Township Susquehanna County	NERO
5813825	Joint DEP/PFBC Pesticides Permit	Renewal	Lake Walter Water Co. P.O. Box 75 Springville, PA 18844-0075	Springville Township Susquehanna County	NERO
5822801	Joint DEP/PFBC Pesticides Permit	New	Stafursky Kimberly 3 Export Lane Archbald, PA 18403-1957	Clifford Township Susquehanna County	NERO
5822802	Joint DEP/PFBC Pesticides Permit	New	Lake Side Cottages Association 16070 Dimock to Nicholson Road Hop Bottom, PA 18824-7774	Lathrop Township Susquehanna County	NERO
6416801	Joint DEP/PFBC Pesticides Permit	Renewal	Honesdale Country Club 109 Elizabeth Avenue Honesdale, PA 18431-1117	Oregon Township Wayne County	NERO

NOTICES

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<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
6513803	Joint DEP/PFBC Pesticides Permit	Renewal	Simonds Juliet 300 Grant Street Suite 1900 Pittsburgh, PA 15219	Ligonier Township Westmoreland County	SWRO
6613801	Joint DEP/PFBC Pesticides Permit	Renewal	Saddle Lake POA 21 W Lake Shore Drive Tunkhannock, PA 18657-7773	Tunkhannock Township Wyoming County	NERO
4506408	Land Application and Reuse of Sewage Individual WQM Permit	Amendment	Franconia Mennonite Camp Association, Inc. 5389 Route 447 Canadensis, PA 18325-9795	Barrett Township Monroe County	NERO
2007404	Major Sewage Treatment Facility Individual WQM Permit	Amendment	Conneaut Lake Joint Municipal Authority Crawford County P.O. Box 277 9888 Highway 285 Conneaut Lake, PA 16316-0277	Sadsbury Township Crawford County	NWRO
2286407	Major Sewage Treatment Facility Individual WQM Permit	Amendment	Highspire Borough Authority Dauphin County 640 Eshelman Street Highspire, PA 17034-1610	Highspire Borough Dauphin County	SCRO
PA0246760	Minor Industrial Waste Facility without ELG Individual NPDES Permit	Transfer	The York Water Co. 5000 Letterkenny Road Suite 230 Chambersburg, PA 17201-8384	Greene Township Franklin County	SCRO
2804201	Minor and Non-NPDES Industrial Waste Treatment Facility Individual WQM Permit	Transfer	The York Water Co. 5000 Letterkenny Road Suite 230 Chambersburg, PA 17201-8384	Greene Township Franklin County	SCRO
1392401	Minor and Non-NPDES Sewage Treatment Facility Individual WQM Permit	Transfer	Applegreen PA Welcome Center LLC 208 Harristown Road Glen Rock Glen Rock, NJ 07452	Penn Forest Township Carbon County	NERO
1772402	Minor and Non-NPDES Sewage Treatment Facility Individual WQM Permit	Amendment	Municipal Sewer Authority of Houtzdale Borough 116 Sterling Avenue Houtzdale, PA 16651-1748	Woodward Township Clearfield County	NCRO
3695407	Minor and Non-NPDES Sewage Treatment Facility Individual WQM Permit	Amendment	Sun Comm, Inc. 27777 Franklin Road Southfield, MI 48034	Brecknock Township Lancaster County	SCRO
NNOEXSC18	No Exposure Certification	Renewal	Bayer Healthcare, LLC 400 W Stoeber Avenue Myerstown, PA 17067-1418	Myerstown Borough Lebanon County	SCRO
NOEX10502	No Exposure Certification	Renewal	United Parcel Service, Inc. 1821 S 19th Street Harrisburg, PA 17104-3206	Rush Township Schuylkill County	NERO
NOEXNE009	No Exposure Certification	Renewal	Nelipak Healthcare Packaging 5235 West Coplay Road Whitehall, PA 18052	Whitehall Township Lehigh County	NERO
NOEXNW077	No Exposure Certification	Renewal	Klein Plating Works, Inc. 2020 Greengarden Road Erie, PA 16502-2194	Erie City Erie County	NWRO

<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
NOEXNW171	No Exposure Certification	Renewal	Marshall Offstein d/b/a Marshall Offstein Auto Sales & Towing P.O. Box 213 Butler, PA 16003-0213	Center Township Butler County	NWRO
PAR803697	PAG-03 NPDES General Permit for Industrial Stormwater	Amendment	Fedex Corp 3620 Hacks Cross Road Building B 3rd Floor Memphis, TN 38125-8800	Swatara Township Dauphin County	SCRO
PAG133747	PAG-13 NPDES General Permit for MS4s	Renewal	Berwick Township Adams County 85 Municipal Road Hanover, PA 17331	Berwick Township Adams County	SCRO
PAG136386	PAG-13 NPDES General Permit for MS4s	Renewal	Parks Township Armstrong County 26 Jackson Avenue Vandergrift, PA 15690	Parks Township Armstrong County	NWRO
0322402	Pump Stations Individual WQM Permit	New	Cowanshannock Township Municipal Authority Armstrong County P.O. Box 168 Nu Mine, PA 16244-0168	Cowanshannock Township Armstrong County	NWRO
1522405	Pump Stations Individual WQM Permit	New	Utilities Inc. of PA 570 Hallet Road East Stroudsburg, PA 18301-7274	West Bradford Township Chester County	SERO
9662	Pump Stations Individual WQM Permit	Amendment	Oakmont Borough Allegheny County 767 5th Street Oakmont, PA 15139-1524	Oakmont Borough Allegheny County	SWRO
PA0276219	Single Residence STP Individual NPDES Permit	Transfer	Heron Hill Hunt Club, LLC 361 Stalker Road Equinunk, PA 18417-3522	Damascus Township Wayne County	NERO
PA0284921	Single Residence STP Individual NPDES Permit	Transfer	Sherry Jason 850 Loyal Way Pittsburgh, PA 15210-1653	Smith Township Washington County	SWRO
0522402	Single Residence Sewage Treatment Plant Individual WQM Permit	New	8418 Properties, LLC 1539 W Graceville Road Everett, PA 15537-5652	Broad Top Township Bedford County	SCRO
2522438	Single Residence Sewage Treatment Plant Individual WQM Permit	New	Buntic Aleksandar 3420 Alpine Drive Erie, PA 16506-2464	Greene Township Erie County	NWRO
6322402	Single Residence Sewage Treatment Plant Individual WQM Permit	Transfer	Sherry Jason 850 Loyal Way Pittsburgh, PA 15210-1653	Smith Township Washington County	SWRO
6419401	Single Residence Sewage Treatment Plant Individual WQM Permit	Transfer	Heron Hill Hunt Club, LLC 361 Stalker Road Equinunk, PA 18417-3522	Damascus Township Wayne County	NERO

<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
2022415	Small Flow Treatment Facility Individual WQM Permit	New	Anna Mary and Benuel Fisher 23306 Hilltop Road Springboro, PA 16435-2412	Spring Township Crawford County	NWRO
WQG02062203	WQG-02 WQM General Permit	New	Bern Township Municipal Authority Berks County 1069 Old Bernville Road Reading, PA 19605-9311	Bern Township Berks County	SCRO
WQG02252203	WQG-02 WQM General Permit	New	Summit Township Sewer Authority Erie County 68 Port Access Road Erie, PA 16507-2204	Erie City Erie County	NWRO
WQG02672103	WQG-02 WQM General Permit	Transfer	The York Water Co. 2412 Baltimore Pike Hanover, PA 17331-9612	West Manheim Township York County	SCRO

II. Individual NPDES Permits—New, Renewal, and Major Amendment Applications and Draft Permits for Discharges Relating to Sewage, Industrial Waste, Industrial Stormwater, MS4s, Pesticides and CAFOs.

Northeast Regional Office

PA0064131, Sewage, SIC Code 4212, **Raceway Truck Stop**, 2227 Scranton Carbondale Highway, Scranton, PA 18508-1151. Facility Name: Raceway Truckstop. This existing facility is located in Tremont Township, **Schuylkill County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream(s), Swatara Creek (CWF, MF), is located in State Water Plan watershed and is classified for Cold Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .015 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	XXX	Report

The proposed effluent limits for Outfall 001 are based on a design flow of .015 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	3.0	XXX	XXX	XXX
			Inst Min			
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.50	XXX	1.16
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	Report	Report	XXX	25.0	40.0	50.0
Total Suspended Solids	Report	Report	XXX	30.0	45.0	60.0
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean 200	XXX	1,000
Nitrate-Nitrite as N	Report	Report	XXX	Geo Mean	Report	XXX
Total Nitrogen	Report	Report	XXX	Report	Report	XXX
Ammonia-Nitrogen	Report	Report	XXX	Report	Report	XXX
Total Kjeldahl Nitrogen	Report	Report	XXX	Report	Report	XXX
Total Phosphorus	Report	Report	XXX	Report	Report	XXX
Zinc, Total (ug/L)	Report	Report	XXX	Report	Report	XXX

In addition, the permit contains the following major special conditions:

- Stormwater prohibition; Necessary property rights; Residuals management; Planning; Chlorine minimization; Notification of responsible operator; Notification if new connection; Chesapeake Bay Nutrient definition; Solids management.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-826-5472.

The EPA Waiver is in effect.

Northeast Regional Office

PA0061727 A-1, Sewage, SIC Code 4952, **Priestly Fraternity St Peter**, 450 Venard Road, South Abington Twp, PA 18411. Facility Name: St Gabriels Retreat House. This existing facility is located in South Abington Township, **Lackawanna County**.

Description of Existing Activity: The application is for a transfer of an NPDES permit for an existing discharge of treated sewage.

The receiving stream(s), Unnamed Tributary of Leggetts Creek (CWF, MF), is located in State Water Plan watershed 5-A and is classified for Cold Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .00825 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Average Monthly	Maximum	
E. Coli (No./100 ml)	XXX	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N	XXX	XXX	XXX	Daily Max	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Annl Avg	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX
				Annl Avg		

The proposed effluent limits for Outfall 001 are based on a design flow of .00825 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	Inst Min	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	4.0	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	Daily Min	25.0	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30.0	XXX	60
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean	XXX	1,000
				200		
Ammonia-Nitrogen				Geo Mean		
Nov 1 - Apr 30	XXX	XXX	XXX	Report	XXX	XXX
May 1 - Oct 31	XXX	XXX	XXX	12.0	XXX	24

In addition, the permit contains the following major special conditions:

- Stormwater prohibition; Necessary property rights; Residuals management; Planning.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-826-5472.

The EPA Waiver is in effect.

Northeast Regional Office

PA0012092, Industrial, SIC Code 2813, 4231, **Messer LLC**, 200 Somerset Corporate Boulevard, Suite 700, Bridgewater, NJ 08807. Facility Name: Messer LLC Bethlehem. This existing facility is located in Bethlehem City, **Northampton County**.

Description of Existing Activity: The application is for a renewal/amendment of an NPDES permit for an existing discharge of treated industrial waste stormwater. All wastewater is now directed to local Public Owned Treatment Works. Only IW stormwater is now discharged from facility.

The receiving stream(s), Unnamed Tributary to Lehigh Coal and Navigation Canal (CWF, MF), is located in State Water Plan watershed 2-C and is classified for Cold Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for (stormwater only) Outfall Nos. 002—005 are based on a design flow of 0 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Average Monthly	Maximum	
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	XXX	Report
Total Suspended Solids	XXX	XXX	XXX	XXX	XXX	Report
Oil and Grease	XXX	XXX	XXX	XXX	XXX	30.0
Nitrate-Nitrite as N	XXX	XXX	XXX	XXX	XXX	Report
Total Phosphorus	XXX	XXX	XXX	XXX	XXX	Report
Aluminum, Total	XXX	XXX	XXX	XXX	XXX	Report
Iron, Total	XXX	XXX	XXX	XXX	XXX	Report
Lead, Total	XXX	XXX	XXX	XXX	XXX	Report
Zinc, Total	XXX	XXX	XXX	XXX	XXX	Report

In addition, the permit contains the following major special conditions: Stormwater outfalls and authorized non-stormwater discharges; Best Management Practices (BMPs); Routine inspections; Preparedness, Prevention and Contingency (PPC) Plan; Stormwater monitoring requirements; Necessary property rights; and Residuals management.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-826-5472.

The EPA Waiver is in effect.

Southcentral Regional Office

PA0261556, Sewage, SIC Code 6514, **Whispering Hope East dba Conestoga Retreat**, 881 Crooked Lane, Ephrata, PA 17522-8642. Facility Name: Conestoga Retreat STP. This existing facility is located in West Earl Township, **Lancaster County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated SFTF sewage.

The receiving stream(s), Conestoga River (WWF), is located in State Water Plan watershed 7-J and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .0012 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	25.0	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30.0	XXX	60
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	XXX
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is in effect.

Southcentral Regional Office

PA0291617, Sewage, SIC Code 6514, **Linda Coy**, 255 Thompson Hollow Road, Shippensburg, PA 17257-9568. Facility Name: Linda Coy Res. This proposed facility is located in Southampton Township, **Cumberland County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SRSTP sewage.

The receiving stream(s), Thomson Creek (CWF, MF), is located in State Water Plan watershed 7-B and is classified for Cold Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .0004 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Annual Average</i>	<i>Maximum</i>	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	Annl Avg XXX	XXX	5.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is in effect.

Southeast Regional Office

PA0021512, Sewage, SIC Code 0100, 4952, **PA American Water Co.**, 852 Wesley Drive, Mechanicsburg, PA 17055-4436. Facility Name: Borough of Royersford STP. This existing facility is located in Upper Providence Township, **Montgomery County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream(s), Schuylkill River (WWF, MF), is located in State Water Plan watershed 3-D and is classified for Warm Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.7 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0 Inst Min	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.2
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	117	175	XXX	20.0	30.0	40
Carbonaceous Biochemical Oxygen Demand (CBOD ₅) Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Biochemical Oxygen Demand (BOD ₅) Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Suspended Solids	117	175	XXX	20.0	30.0	40
Total Suspended Solids Raw Sewage Influent	Report	XXX	XXX	Report	XXX	XXX
Total Dissolved Solids	XXX	XXX	XXX	1,000.0	2,000.0 Daily Max	2,500
Fecal Coliform (No./100 ml) Oct 1 - Apr 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Total Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen	35	XXX	XXX	6.0	XXX	12
Total Phosphorus	12	XXX	XXX	2.0	XXX	XXX
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	XXX	Report
PCBs Dry Weather Analysis (pg/L)	XXX	XXX	XXX	Report Daily Max	XXX	XXX

In addition, the permit contains the following major special conditions:

- I. Other Requirements
 - A. No stormwater
 - B. Property Rights

- C. Sludge Removal
- D. Act 537 Abandon Use
- E. TRC Minimization
- F. Operator Notification
- G. O&M Development
- H. DRBC 10% Fecal Coliform
- II. PCB Pollutant Minimization Plan and Monitoring

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is not in effect.

Southwest Regional Office

PA0284998, Sewage, SIC Code 8800, **Richard Fanning**, 24 Fanning Drive, Claysville, PA 15323-1301. Facility Name: Fanning Properties SRSTP. This proposed facility is located in Donegal Township, **Washington County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SRSTP sewage.

The receiving stream(s), Unnamed Tributary to Dutch Fork (HQ-WWF), is located in State Water Plan watershed 20-E and is classified for High Quality Waters—Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .0004 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Annual Average	Maximum	
Flow (MGD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min XXX	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	15.0	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 412-442-4000.

The EPA Waiver is in effect.

III. Individual NPDES Permit Applications for Discharges of Stormwater Associated with Construction Activity.

Application Number	Application Type	Applicant Name & Address	Municipality, County	Office
PAD350034	New	JBAR Realty, Inc. 457 North Main Street Moscow, PA 18444-9009	Moscow Borough Lackawanna County	NERO
PAD210086	New	Harlan O. Reiff 240 Mountain View Road Shippensburg, PA 17257-9635	South Newton Township Cumberland County	SCRO
PAD280016	New	Flohr Pools, Inc. Carrera Dr. and Falling Springs Road Chambersburg, PA 17202-3083	Guilford Township Franklin County	SCRO
PAD410013	Major Amendment	Pennsylvania General Energy Upper Rynearson Road and Fire Tower Road Muncy, PA 17756	Mill Creek Township Plunketts Creek Township Lycoming County	NCRO
PAD480181	New	Hanover Township 3630 Jacksonville Road Bethlehem, PA 18017	Hanover Township Northampton County	NERO
PAD390101	Renewal	Wedgewood Land, LP 1235 Westlakes Drive Suite 300 Berwyn, PA 19312	Upper Saucon Township Lehigh County	NERO

<i>Application Number</i>	<i>Application Type</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAD520045	New	Kevin and Danielle Alexander 39 Adams Avenue Middletown, NY 10940	Milford Township Pike County	NERO
PAD510222	New	BP Point Breeze, LLC 6310 W. Passyunk Avenue Philadelphia, PA 19153-3517	City of Philadelphia Philadelphia County	SERO
PAD670073	New	334 Hospitality, LLC 2841 East Prospect Road York, PA 17402-9213	Springettsbury Township York Township York County	SCRO
PAD390249	New	PPL Electric Utilities Corporation (PPL EU) 1639 Church Road Allentown, PA 18104	Macungie Borough Lower Macungie Township Lower Milford Township Upper Milford Township Lehigh County	NERO
PAC110098	New	Flair of Country Catering & Event Planning, LLC 1020 Pomona Drive Johnstown, PA 15904	Richland Township Cambria County	SWRO
PAC560074	New	Brian Ferg 218 North Fairway Road Central City, PA 15926	Shade Township Somerset County	SWRO
PAC630082	New	Donegal Land Partners, LLC 2543 Washington Road Pittsburgh, PA 15241	Peters Township Washington County	SWRO
PAC630080	New	Lewis Keith 597 Bedillion Road Washington, PA 15301	North Franklin Township Washington County	SWRO
PAD10025	New	Williamsport Area School District 153 Hayes Lane Williamsport, PA 17701	Loyalsock Township Lycoming County	NCRO
PAC180003 A-1	Renewal	Wayne Township Landfill P.O. Box 209 McElhatten, PA 17748	Wayne Township Clinton County	NCRO

PUBLIC WATER SUPPLY PERMITS

Under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17), the following parties have applied for Public Water Supply (PWS) permits to construct or substantially modify public water systems.

Individuals wishing to comment on permit applications are invited to submit statements to the office listed before the application within 30-days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding an application. A comment should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (DEP) the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, DEP will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and related documents are on file at the office listed before the application and available

for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

SAFE DRINKING WATER

Application(s) Received Under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17).

Northeast Region: Safe Drinking Water Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: Terri Yench, Clerical Assistant 2, 570-830-3048.

Application No. 6422502, Construction, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc.
Address	762 Lancaster Avenue Bryn Mawr, PA 19010
Municipality	Canaan Township
County	Wayne County

Responsible Official Michael Convery
Project Manager
Aqua Pennsylvania, Inc.
762 Lancaster Avenue
Bryn Mawr, PA 19010

Consulting Engineer Michael McAloon, P.E.
Suburban Consulting
Engineers, Inc.
96 US Highway 206
Suite 101
Flanders, NJ 07836

Application Received November 4, 2022

Description Applicant proposes to construct a new Well No. 7 complete with all necessary piping, appurtenances, and treatment including 4-log disinfection and treatment for arsenic.

Southcentral Region: Safe Drinking Water Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Thomas Filip, Environmental Engineer, 717-705-4708.

Application No. 2222521, Construction, Public Water Supply.

Applicant **PA American Water**

Address 852 Wesley Drive
Mechanicsburg, PA 17055

Municipality Steelton Borough

County **Dauphin County**

Responsible Official Bruce Aiton
852 Wesley Drive
Mechanicsburg, PA 17055

Consulting Engineer GHD, Inc.
225 Grandview Avenue
Suite 403
Camp Hill, PA 17011

Application Received October 21, 2022

Description Modifications to the existing Steelton WTP including filter backwash improvements, filter-to-waste, chemical feed improvements and disinfection change from gas chlorine to sodium hypochlorite.

Application No. 3822509, Construction, Public Water Supply.

Applicant **PA Dept of Military and Veteran Affairs**

Address Fort Indiantown Gap
Building O-11
Annville, PA 17003

Municipality East Hanover Township

County **Lebanon County**

Responsible Official Donald Paul
Fort Indiantown Gap
Building O-11
Annville, PA 17003

Consulting Engineer James R. Holley & Assoc., Inc.
18 South George Street
Suite 300
York, PA 17401

Application Received October 24, 2022

Description Addition of caustic soda for LCR corrosion control.

MINOR AMENDMENT

Application(s) Received Under the Pennsylvania Safe Drinking Water Act.

Southcentral Region: Safe Drinking Water Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Thomas Filip, Environmental Engineer, 717-705-4708.

Application No. 3822510, Construction, Minor Amendment, Public Water Supply.

Applicant **Sparkling Clear Water**

Address 165 Lawn Road
Palmyra, PA 17078

Municipality North Londonderry Township
and Hummelstown Borough

County **Lebanon County and Dauphin County**

Responsible Official Kurt Yordy
165 Lawn Road
Palmyra, PA 17078

Consulting Engineer James R. Holley & Associates, Inc.
18 South George Street
Suite 300
York, PA 17401

Application Received November 15, 2022

Description Construction permit for two existing EPs with some modifications to equipment. These EPs were previously permitted under a Permit-By-Rule approval.

WATER ALLOCATIONS

Application(s) Received Under the Act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) Relating to the Acquisition of Rights to Divert Waters of the Commonwealth.

Southwest Region: Safe Drinking Water Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Renee Diehl, Program Director, ra-epswwd@pa.gov.

WA04-724D, Water Allocations. **North Sewickley Township Water Authority**, 893 Mercer Road, Beaver Falls, PA 15010, North Sewickley Township, **Beaver County**. Right to purchase up to 700,000 gallons of water per day from the Beaver Falls Municipal Authority. Application received: October 24, 2022.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995 PREAMBLE 1

Acknowledgment of Notice(s) of Intent to Remediate Submitted Under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (DEP) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent (NOI) to Remediate. An acknowledgment of the receipt of a NOI to Remediate is used to identify a site where an individual proposes to, or has been required to, respond to a release of a regulated substance at a site. Individuals intending to use the background standard, Statewide health standard, the site-specific standard, or who intend to remediate a site as a special industrial area, must file a NOI to Remediate with DEP. A NOI to Remediate filed with DEP provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site, and a description of the intended future use of the site. An individual who demonstrates attainment of one, or a combination of the cleanup standards, or who receives approval of a special industrial area remediation identified under the Act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by DEP. Furthermore, an individual shall not be subject to citizen suits or other contribution actions brought by responsible individuals not participating in the remediation.

Under Sections 304(n)(1)(ii) and 305(c)(2) of the Act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the NOI to Remediate is published in a newspaper of general circulation in the area of the site. For the following identified site(s), proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30-days of the following specified date. During this comment period the municipality may request that the following identified individual, as the remediator of the site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of the site.

For further information concerning plans or reports, please contact the Regional Office Program Manager previously listed in the notice.

Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

The DEP has received the following Notice(s) of Intent to Remediate.

Southcentral Region: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Environmental Cleanup & Brownfields Program Manager, 717-705-4705.

Jeff and Elizabeth McCracken Residence, Primary Facility ID # **862523**, 3018 Colonial Road, Harrisburg, PA 17111, Susquehanna Township, **Dauphin County**. Environmental Maintenance Co., Inc., 1420 East Mermaid Lane, Glenside, PA 19038, on behalf of Mr. Jeff McCracken, 3018 Colonial Road, Harrisburg, PA 17111, submitted a Notice of Intent to Remediate soil contaminated with No. 2 Fuel Oil. The site will be remediated to the Statewide health standard. Future use of the site remains for residential purposes. The Notice of Intent to Remediate was published in *The Patriot News* on November 1, 2022. Application received: November 14, 2022.

Blettner Avenue Development, Primary Facility ID # **862486**, 293-295 North Blettner Avenue, Hanover, PA 17331, Conewago Township, **Adams County**. August Mack Environmental, 806 Fayette Street, Conshohocken, PA 19428, on behalf of MA Warehime Properties, LLC, 416 Sprenkle Avenue, Hanover, PA 17331, submitted a Notice of Intent to Remediate soil contaminated with Lead. The site will be remediated to the Statewide health standard. Future use of the site will be commercial. The Notice of Intent to Remediate was published in *York-Hanover Evening Sun* on November 10, 2022. Application received: November 14, 2022.

Southwest Region: Environmental Cleanup & Brownfields Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Kam Miseikyte, Clerical Assistant 2, 412-442-4091.

Penn Avenue and Center Street, Primary Facility ID # **862461**, 775-799 Penn Avenue and 750-754 Wallace Avenue, Wilkinsburg, PA 15221, Wilkinsburg Borough, **Allegheny County**. KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110, on behalf of North Side Industrial Development Co., Inc., 700 River Avenue, Suite 531, Pittsburgh, PA 15219, submitted a Notice of Intent to Remediate. Potential site contamination is related to historical usage of the property (Parcel 232-N-123) as an Esso gas station with 3 underground storage tanks (USTs) from the 1940s to circa 1952, and which was owned by the adjoining Penn-Lincoln Hotel (Parcel 232-N-122), which was present from 1927 to 2014. A two-story parking garage (Parcel 232-N-105) was also present on the property from circa 1964 to circa 2016. Suspected primary contaminants to be addressed include petroleum products (i.e., leaded and unleaded gasoline, diesel fuel, and used motor oil). As such, volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), and lead will be investigated in soil and groundwater. The intended future use of the property is for mixed residential and commercial purposes. The future remediation will be performed to SIA standards, although the measures are currently unknown as the site has not yet been characterized, however they could include local soil excavation/disposal, risk assessment, and exposure pathway elimination via engineering controls (e.g., vapor barrier) and institutional controls (e.g., vapor barrier requirement and groundwater use restriction on deed via

environmental covenant). The Notice of Intent to Remediate was published in *The Tribune-Review* on November 10, 2022. Application received: November 15, 2022.

Elmer W and Nancy Geiger Trust Property, Primary Facility ID # **862463**, 580 Mayer Street, Bridgeville, PA 15017, Collier Township, **Allegheny County**. American Geosciences, Inc., 3925 Reed Boulevard, Suite 400, Murrysville, PA 15668, on behalf of Mayer Street Partners, LLC, 4251 Old New England Road, Allison Park, PA 15101, submitted a Notice of Intent to Remediate. The subject property consists of one approximately 6.6-acre parcel identified by Allegheny County map, block, and lot number 196-S-1. Several contiguous buildings are present on approximately half of the property as depicted on Figure 1 (Site Map). Historically, the site and the existing buildings were owned and/or used by American Vanadium Company and Flannery Bolt Company (circa 1907 to circa 1924), Flannery Bolt Company (circa 1924 to unknown), Cyclops Corporation (unknown to 1991), and A&E Rental (1991 to 2006). In 2006, the property was conveyed to Elmer W. Geiger and Nancy L. Geiger and then Trust U/W of Elmer W. Geiger in 2014. Soil and groundwater samples collected during Phase II ESAs identified soil impacted by polynuclear aromatic hydrocarbons and heavy metals, and groundwater impacted by volatile organic compounds and heavy metals. The identified impacts are presumed to be associated with historical industrial activities. Remediation options will be evaluated in a Remedial Investigation Report. However, at this time it is envisioned that pathway elimination through activity and use limitations will be used to demonstrate attainment of the site-specific standard. The Notice of Intent to Remediate was published in *The Pittsburgh Post-Gazette* on November 10, 2022. Application received: November 16, 2022.

HAZARDOUS WASTE TREATMENT, STORAGE & DISPOSAL FACILITIES

Applications Received Under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101–6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401, 484.250.5960.

PAR000538058. Energy Transfer Marketing & Terminals, L.P (formerly Sunoco Partners Marketing & Terminals, L.P), Marcus Hook Terminal, 100 Green Street, Marcus Hook, PA 19061, Borough of Marcus Hook, **Delaware County**. This Part B permit renewal application of the Solid Waste Permit No. PAR000538058 is to continue operation at the Marcus Hook Terminal, a captive hazardous waste storage facility. The application was received on November 2, 2022.

Comments and more information concerning the application should be directed to the Pennsylvania Department of Environmental Protection (DEP) Waste Management Program Manager, Southeast Regional Office, 2 East Main Street, Norristown, PA 19401-4915, 484-250-5960. TDD users may contact the DEP through the Pennsylvania Hamilton Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Application(s) Received Under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101–6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101–4000.1904); and Residual Waste Regulations for Determination of Applicability for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other than Coal Ash.

Northeast Region: Waste Management Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: Roger Bellas, Environmental Program Manager, 570-826-2201.

WMGR123-NE010, SWN Production Company, LLC, 917 State Route 92 North, Tunkhannock, PA 18657, New Milford Township, **Susquehanna County**. An application for determination of applicability for coverage under general permit WMGR123 for the processing, transfer and beneficial use of oil and gas liquid waste at the Odell Water Transfer facility. Application received: November 10, 2022. Deemed administratively complete: November 21, 2022.

Comments or questions concerning the application should be directed to Roger Bellas, Environmental Program Manager, 570-826-2201, Northeast Region, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511. TDD users may contact the Department through the Pennsylvania Hamilton Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application(s) Received Under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101–6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101–4000.1904); and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southcentral Region: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: John Oren, Waste Management Permits Section Chief, 717-705-4907.

100346. FR&S Inc., 727 Red Lane Road, Birdsboro, PA 19508, Exeter Township, **Berks County**. Permit renewal application for Pioneer Crossing Landfill. Application received: November 2, 2022. Deemed administratively complete: November 17, 2022.

Comments or questions concerning the application should be directed to John Oren, Waste Management Permits Section Chief, 717-705-4907, Southcentral Region, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700. TDD users may contact the Department through the Pennsylvania Hamilton Relay Service, (800)

654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

Southwest Region: Waste Management Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Waste Management Program Manager.

300558. LBR Aquisition Company, LLC, 2105 West 1800 North, Far West, UT 84404, Green Township, Grant District, **Beaver County, Hancock County**, West Virginia. A permit reissuance application to transfer the Little Blue Run Residual Waste Disposal Impoundment permit from Energy Harbor Generation LLC to LBR Acquisition Company, LLC. Application received: October 7, 2022. Deemed administratively complete: November 28, 2022.

Comments or questions concerning the application should be directed to RA-EP-EXTUPLSWRO@pa.gov, Southwest Region, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000. TDD users may contact the Department through the Pennsylvania Hamilton Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

101676. ABC-EZ Moving Company, Inc., 1000 Island Avenue, McKees Rocks, PA 15136, Stowe Township, **Allegheny County**. Renewal of a municipal waste permit for continued operation of the ABC-EZ Construction and Demolition Waste Transfer Station. Application received: August 2, 2022. Deemed administratively complete: November 22, 2022.

Comments or questions concerning the application should be directed to RA-EP-EXTUPLSWRO@pa.gov, Southwest Region, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000. TDD users may contact the Department through the Pennsylvania Hamilton Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

301390. 5D Field Services, LLC, 3866 Millers Run Road, McDonald, PA 15057, Cecil Township, **Washington County**. An application for a permit for a residual waste transfer facility. Application received: August 22, 2022. Deemed administratively complete: November 4, 2022.

Comments or questions concerning the application should be directed to Waste Management Program Manager, 412-442-4000, Southwest Region, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000. TDD users may contact the Department through the Pennsylvania Hamilton Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

DETERMINATION OF APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

Application(s) Received Under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for Determination of Applicability for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.

Southcentral Region: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Anthony L. Rathfon, Program Manager.

WMGM030SC002. Derry Township, 600 Clearwater Road, Hershey, PA 17033, Derry Township, **Dauphin County**. This application is for coverage under WMGM030 which authorizes the composting of yard waste including leaf waste, grass clippings, garden residue, tree trimmings, chipped shrubbery and other vegetative material; and the beneficial use of the compost produced for distribution as soil substitute, soil conditioner, soil amendment, fertilizer or mulch. Application received: October 14, 2022. Deemed administratively complete: October 28, 2022.

Questions concerning the application should be directed to Anthony L. Rathfon, Program Manager, Southcentral Region, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700. TDD users may contact the Department through the Pennsylvania Hamilton Relay Service, (800) 654-5984.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

The Department of Environmental Protection (DEP) has developed an integrated plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for DEP, the regulated community and the general public. This approach allows the owner or operator of a facility to submit permitting documents relevant to its application for all sources related to a facility or a proposed project, affords an opportunity for public input, and provides for a decision on the issuance of the necessary permits.

The DEP received applications for Plan Approvals or Operating Permits from the following facilities. Copies of the application, DEP's analysis, all pertinent documents used in the evaluation of the application and subsequently prepared proposed plan approvals/operating permits are available for public review during normal business hours at the appropriate DEP Regional Office. Appointments for scheduling a review must be made by calling the appropriate DEP Regional Office. The address and telephone number of the Regional Office is listed before the application notices.

Individuals wishing to file a written protest or provide comments or additional information, which they believe should be considered prior to the issuance of a permit, may submit the information to the DEP's Regional Office. A 30-day comment period from the date of this publication will exist for the submission of comments, protests and information. Each submission must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Plan Approval/Operating Permit including the permit number and a concise statement regarding the relevancy of the information or objections to issuance of the permit.

Any individual wishing to request a hearing may do so during the 30-day comment period. A public hearing may be held, if DEP, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper, the *Pennsylvania Bulletin* or by telephone,

when DEP determines this type of notification is sufficient. Requests for a public hearing and any relevant information should be directed to the appropriate DEP Regional Office.

Permits issued to the owners or operators of sources subject to 25 Pa. Code Chapter 127, Subchapter D or E, or located within a Title V facility or subject to 25 Pa. Code § 129.51(a) or permits issued for sources with limitations on their potential to emit used to avoid otherwise applicable Federal requirements may be submitted to the United States Environmental Protection Agency for review and approval as a revision to the State Implementation Plan. Final Plan Approvals and Operating Permits will contain terms and conditions to ensure that the sources are constructed and operating in compliance with applicable requirements in the Air Pollution Control Act (35 P.S. §§ 4001—4015), 25 Pa. Code Chapters 121—145, the Federal Clean Air Act (42 U.S.C.A. §§ 7401—7671q) and regulations adopted under the Federal Clean Air Act.

Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

PLAN APPROVALS

Notice of Intent to Issue Plan Approval(s) and Notice of Intent to Issue or Amend Operating Permit(s) Under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These Actions May Include the Administrative Amendments of an Associated Operating Permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, 814-332-6945.

Contact: Dave Balog, New Source Review Chief, 814-332-6328.

62-00181B: Ellwood National Forge—Warren Division, 1045 Fourth Avenue, Warren, PA 16365, City of Warren, **Warren County**. Application received: May 31, 2022.

The Department intends to issue this Plan Approval for the proposed construction of a surface coating operation and abrasive blasting operation. This is a State Only facility. The public notice is required for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450 or § 127.505, be incorporated into the facility operating permit at a later date.

Plan approval No 62-00181B is for the proposed construction of a surface coating operation and abrasive blasting operation. The facility previously had an operating permit that was rescinded in 2019 for these sources. This Plan Approval will contain emission restriction, testing, recordkeeping, work practice standard and additional requirement conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology (BAT) for the source including, but are not limited to, the following:

• **Source 125 [Turbine Coating Line]:**

• The company shall limit the emissions of volatile organic compounds to 8.5 tons in a 12-month rolling period, or less.

• The company shall limit the emissions of hazardous air pollutants to 7.2 tons in a 12-month rolling period, or less.

• Subject to 25 Pa. Code § 129.52d.

• The company shall monitor the pressure drop across the panel filters at least once per 8-hour shift.

• Sufficient data shall be recorded, in a format approved by the Department, so that compliance with the conditions in this Plan Approval can be determined. Records shall be kept for a minimum of five (5) years and shall be made available to the Department upon request.

• The company shall retain a copy of the manufacturer's specifications for the turbine coating line.

• The company shall keep a record of the required pressure drop readings across the panel filters.

• The company shall keep a monthly record of the emissions of volatile organic compounds in order to determine compliance with this plan approval.

• The company shall keep a monthly record of the emissions of hazardous air pollutants in order to determine compliance with this plan approval.

• The company shall maintain the pressure drop across the panel filter between 0.1 to 0.7 inch of water, gauge.

• The company shall install, operate, and maintain a magnehelic gauge, or equivalent, to measure the pressure drop across the panel filters.

• The company shall use a high volume-low pressure system to apply the coating to the turbine shaft. If the company wants to change the application method, prior approval from the Department must be obtained.

• The company shall observe the following work practices when handling VOC containing coatings or solvents:

• Virgin and waste coatings or solvents shall be stored in covered containers.

• The cover of the solvent container(s) shall be closed after the rag/applicator has been dipped in the solvent.

• All coating container(s) shall have a lid to minimize the surface area exposed to the air unless operationally impractical. The lids shall remain in place unless adding or removing coating to the container.

• Used solvent rags/applicators shall be stored in closed containers after use.

• Spillage and splashing during the transfer of coating or solvent from containers shall be minimized by all practical means.

• The operators shall be trained in the proper cleaning procedures and equipment use. The operators shall be given a periodic refresher course, when deemed necessary by the company.

• The company shall install, operate, and maintain the turbine coating line in accordance with the manufacturer's specifications as well as good air pollution control practices.

• **Source 129 [Empire Shot Blast Machine]:**

• The company shall limit the emissions of particulate matter from the control device to 0.02 grain per dry standard cubic foot, or less.

• The company shall monitor the pressure drop across the fabric filter at least once per 8-hour shift when the shot blasting machine is operating.

- Sufficient data shall be recorded, in a format approved by the Department, so that compliance with the conditions in this Plan Approval can be determined. Records shall be kept for a minimum of five (5) years and shall be made available to the Department upon request.

- The company shall retain a copy of the manufacturer's specifications for the Empire shot blast machine.

- The company shall keep a record of the required press drop readings across the fabric filter.

- The company shall install, operate, and maintain the Empire shot blasting machine in accordance with the manufacturer's specifications as well as good air pollution control practices.

- The company shall install, operate, and maintain a manometer, or equivalent, to measure the pressure drop across the fabric filter.

- The permittee shall maintain the pressure drop across the baghouse between 1 to 7 inches of water column.

In accordance with 25 Pa. Code § 127.44(f)(1), all the pertinent documents regarding this application (applications, review memos, and draft approvals) are also available for review from 8:00 a.m. to 4:00 p.m. at the Meadville Regional DEP office (Air Quality). Appointments for scheduling a review must be made by calling the DEP at (814) 332-6340.

In accordance with 25 Pa. Code § 127.44(f)(2), a 30-day comment period, from the date of publication, will exist for the submission of comments. Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to Regional Air Quality Program Manager, Pennsylvania Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335-3494 and must contain the name, address, and telephone number of the person submitting the comments, identification of the proposed plan approval [62-00181B] and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Regional Air Quality Program Manager, Pennsylvania Department of Environmental Protection, 230 Chestnut St., Meadville, PA 16335; 814-332-6940.

In accordance with 25 Pa. Code § 127.45, a person may oppose the proposed plan approval by filing a written protest with the Department's Northwest Region Air Quality Program Manager.

If a plan approval has not undergone the previously listed public notice process, the change to an operating permit must be treated as a significant modification. In these situations, the Department should follow the procedures described in §§ 127.421 to 127.431 for State Only Operating Permits or §§ 127.521 to 127.524 for Title V operating permits.

Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Thomas Bianca, PE, West Permit Section Chief, 717-705-4862.

67-03052C: Gelest, Inc., 158 Industrial Road, Glen Rock, PA 17327, Springfield Township, **York County**. Application received: August 5, 2022. For two new chemical reactors and modification of an existing reactor at the specialty chemical plant. Potential emissions from the reactors after control are estimated to be the following: 5.0 tpy of VOC and 5.0 tpy of HAPs. DEP's review of the information submitted by the applicant indicates that the air contamination sources as constructed or modified will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department proposes to issue a plan approval for the proposed operation. If, after the project has been implemented, the Department determines the sources are constructed and operated in compliance with the plan approval conditions and the specification of the application for plan approval, the requirements established in the plan approval will be incorporated into the facility Operating Permit pursuant to the provisions of 25 Pa. Code Chapter 127.

34-03005F: Energex American, Inc., 95 Energex Drive, Mifflintown, PA 17059, Walker Township, **Mifflin County**. Application received: August 29, 2022. For a biomass boiler at the wood pellet manufacturing plant. Potential emissions from the boiler after control are estimated to be the following: 7.88 tpy of CO, 6.44 tpy of NO_x, 3.77 tpy of PM₁₀, 0.33 tpy of SO₂, and 0.28 tpy of VOC. DEP's review of the information submitted by the applicant indicates that the air contamination sources as constructed or modified will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department proposes to issue a plan approval for the proposed operation. If, after the project has been implemented, the Department determines that the sources are constructed and operated in compliance with the plan approval conditions and the specification of the application for plan approval, the requirements established in the plan approval will be incorporated into the facility Operating Permit pursuant to the provisions of 25 Pa. Code Chapter 127.

OPERATING PERMITS

Notice of Intent to Issue Title V Operating Permit(s) Under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, 814-332-6945.

Contact: Matthew Williams, Facilities Permitting Chief, 814-332-6328.

CORRECTION—previously published on November 5, 2022.

37-00013, CEMEX Wampum Cement Plant, 2001 Portland Park, Wampum, PA 16157-3913, Wampum Borough, **Lawrence County**. Application received: September 1, 2021. In accordance with 25 Pa. Code §§ 127.441, 127.425 and 127.521, the Department is providing notice

that they intend to issue a renewed Title V Operating Permit for the facility. The facility is currently operating as a transfer station and is undergoing new source review for the reactivation of the cement operations (plan approval 37-00013G; issued October 6, 2022). The facility is a major facility due to the issuance of the Title V plan approval, in order to avoid backsliding. Potential emissions of the primary pollutants are as follows: 79.55 TPY PM₁₀, 37.25 TPY PM_{2.5}, and the rest of the pollutants less than 1 TPY. The renewal permit will contain emission restrictions, recordkeeping, work practices, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

Notice of Intent to Issue Operating Permit(s) Under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Northcentral Region: Air Quality Program, 208 W. 3rd Street, Suite 101, Williamsport, PA 17701-6448, 570-327-3636.

Contact: Muhammad Q. Zaman, Program Manager, 570-327-3648.

17-00069, Pennsylvania State University, 167 Outreach Building, University Park, PA 16802, Lawrence Township, **Clearfield County**. Application received: October 17, 2022. For the State Only Operating Permit renewal authorization regarding their WPSU Tower in Lawrence Township, Clearfield County. The source associated with the above is comprised of the existing diesel generator engine associated with Source ID P101. The type and quantity of pollutants estimated on a facility-wide potential emissions basis are, as follows: 0.32 tpy of PM/PM₁₀; 0.3 tpy of SO₂; 4.5 tpy of NO_x; 0.01 tpy of CO; 0.4 tpy of VOC; and 0.4 TPY of HAP. There are no new sources constructed at facility, nor any modifications, that are incorporated into the renewal permit. The diesel engine is subject to the Federal National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engine as codified in 40 CFR Part 63 Subpart ZZZZ. The renewal permit incorporates all applicable Federal and State regulatory requirements to the existing diesel engine associated with Source ID P101, including the appropriate testing, monitoring, recordkeeping, reporting, work practice and any other conditions necessary to verify compliance. The conditions are established pursuant to the applicable air quality regulatory provisions under 25 Pa. Code Article III, Chapters 121 and 145, relating to Air Resources. All pertinent documents used in the evaluation of the application are available for public review during normal business hours at the PA DEP's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling 570-327-3636.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, 814-332-6945.

Contact: Matthew Williams, Facilities Permitting Chief, 814-332-6940.

43-00324, John Flynn Funeral Home/Hermitage, 2630 East State Street, Hermitage, PA 16148, City of Hermitage, **Mercer County**. Application received: March 29, 2022. The Department intends to issue a Natural Minor State Only Operating Permit for the operation of a natural gas incinerator. The subject facility consists of a B&L Cremation Systems (model N-20AA) and has a 150-lb/hr cremation rate capacity. The potential emissions are of 1.93 TPY, 0.53 TPY, 0.48 TPY, and 0.04 TPY for

oxides of nitrogen (NO_x), carbon monoxide (CO), particulate matter (PM), and volatile organic compounds (VOC), respectively. The facility is subject to State regulations. The permit includes additional operation requirements, monitoring requirements, and recordkeeping requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

20-00268, Hatheway Tedesco Funeral Home & Crematory, 614 Baldwin Street, Meadville, PA 16335, City of Meadville, **Crawford County**. Application received: May 24, 2022. The Department is providing notice they intend to renew a State Only Natural Minor Operating Permit for the crematory. The primary sources at the facility include a human cremator and an animal cremator. Potential emissions are as follows: 0.105 TPY PM₁₀ and PM_{2.5}, 1.584 TPY NO_x, 1.330 TPY CO, 0.087 TPY VOC, 0.010 TPY SO_x, and 0.001 TPY Pb. The renewal permit will contain emission restrictions, recordkeeping, work practices, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, 484-250-5900.

Contact: Janine Tulloch-Reid, Facilities Permitting Chief, 484-250-5920.

46-00278, Tierpoint Pennsylvania Two LLC, 100 Adams Ave., Norristown, PA 19403, Lower Providence Township, **Montgomery County**. Application received: October 17, 2022. This action is for the renewal of a State Only Operating Permit for the operation of a data center and managed hosting facility. Permitted sources consist of nine (9) diesel-fired electric generator engines which provide emergency back-up power to the facility. The primary pollutant of concern is nitrogen oxides (NO_x) as a result of the combustion process. The facility is categorized as a synthetic minor facility. Operating restrictions in the permit will ensure that no major source thresholds are exceeded. The permit includes monitoring, recordkeeping and reporting requirements designed to address all applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Thomas Joseph, P.E., Facilities Permitting Chief, 412-442-4336.

04-00687, Swagelok Processing Corp., 7544 Route 18 N, Koppel, PA 16136, Big Beaver Borough, **Beaver County**. Application received: July 28, 2022.

In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) gives notice that they intend to issue a State Only Operating Permit (SOOP) renewal to Swagelok Processing Corp. to authorize the operation of their facility.

Manufacturing operations include cold drawing, straightening, annealing, cutting, cleaning and product inspection. Sources and control devices at this facility are a Boiler, Sulfuric Acid Pickle Tank, Salem (annealing) Furnace, Wet Abrasive Polishing, Parts Washers and mist eliminators. Facility-wide estimated potential emissions are 0.231 tpy of PM₁₀, 14.552 tpy of NO_x, 0.644 tpy of VOCs, 0.076 tpy of SO_x, 10.512 tpy of CO, 0.097 tpy H₂SO₄, 1.497 HNO₃, and 0.603 HF. The proposed SOOP contains emission restriction, testing, monitoring, recordkeeping, reporting and work practice standards derived from the applicable requirements of 25 Pa. Code Article III, Chapters 121—145.

A person may oppose the proposed State Only Operating Permit by filing a written protest with the Department through Noor Nahar via mail to Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

Each protest or set of written comments must contain the name, address and telephone number of the person submitting the comments, identification of the proposed State Only Operating Permit (04-00687) and a concise statement of the objections to the Operating Permit issuance and the relevant facts upon which the objections are based.

The application, DEP's Review Memorandum, and the proposed permit are available for public review during normal business hours at DEP's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. A file review can be scheduled through the DEP's website at <https://www.dep.pa.gov/Citizens/PublicRecords/Pages/Informal-File-Review.aspx> or by contacting Tom Joseph, Facilities Permitting Chief, directly.

All comments must be received prior to the close of business 30 days after the date of this publication.

30-00234, Equitrans, LP, 2200 Energy Drive, Canonsburg, PA 15317, Franklin Township, **Greene County**. Application received: December 9, 2021.

Intent to Issue SOOP:

In accordance with 25 Pa. Code §§ 127.424, 127.425 and 127.521, the Department is providing notice of intent to issue an initial natural minor State Only Operating Permit for a natural gas transmission station.

Equitrans, LP operates a natural gas compressor station with two compressor engines, one turbine, a dehydrator, and miscellaneous emissions and fugitive sources: microturbine gensets, piping components, storage tanks, liquids loading, pig launcher/receivers, blowdowns, and small combustion units. Piping and pigging equipment located at nearby Pratt Compressor Station is aggregated into this permit. One pig launcher/receiver at nearby Braden Run Interconnect is also included in this permit.

This facility has a potential to emit 61.8 tons/12-consecutive month period (12-cmp) of NO_x, 41.1 tons/12-cmp of CO, 1.9 tons/12-cmp of SO_x, 25.2 tons/12-cmp of VOCs, 11.6 tons/12-cmp of PM₁₀, 4.3 tons/12-cmp of formaldehyde, and 11.4 tons/12-cmp total HAPs.

The application, DEP's Review Memorandum, and the proposed permit are available for public review during normal business hours at DEP's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. A file review can be scheduled through the DEP's website at <https://www.dep.pa.gov/Citizens/PublicRecords/Pages/Informal-File-Review.aspx> or by contacting Tom Joseph, Facilities Permitting Chief, directly.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the State-Only Operating Permit may submit the information to Tom Joseph, Facilities Permit Chief, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Operating Permit (30-00234) and concise statements regarding the relevancy of the information or objections to issuance of the Operating Permit.

All comments must be received prior to the close of business 30 days after the date of this publication. A public hearing may be held in accordance with 25 Pa. Code § 127.429, if the Department, in its discretion, decides that such a hearing is warranted based on the information received. If a public hearing is held, all persons who have properly filed a protest under 25 Pa. Code § 127.426 may appear and give testimony. The Department is not required to hold a conference or hearing. The applicant, the protestant, and other participants will be notified of the decision to hold a hearing (and the time, place and purpose of such hearing) by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Tom Joseph, Facilities Permit Chief, at the previously listed address.

63-00642, Equitrans, 4111 Finleyville Elrama Rd, Finleyville, PA 15332, Union Township, **Washington County**. Application received: July 29, 2022. This is for the operation of a natural gas compressor station (Equitrans Hartson Station) in Union Township, Washington County. This is for a State-Only Permit. Potential air emissions from the facility are estimated at 7.26 tpy PM₁₀, 82.75 tpy NO_x, 79.71 tpy CO, 29.64 tpy VOC, 10.47 tpy Total HAPs, 6.57 tpy Single HAP (Formaldehyde), less than 1 tpy SO₂. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Title V Operating Permit may submit the information to Tom Joseph, Facilities Permit Chief, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. Written comments must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Operating Permit (11-00356) and concise statements regarding the relevancy of the information or objections to issuance of the Operating Permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the information received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Tom Joseph, Facilities Permit Chief, at the previously listed address.

All comments must be received prior to the close of business 30 days after the date of this publication. The application, DEP's Review Memorandum, and the proposed permit are available for public review during normal business hours at DEP's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. A file review can be scheduled through the DEP's website at <https://www.dep.pa.gov/Citizens/PublicRecords/Pages/Informal-File-Review.aspx> or by contacting Tom Joseph, Facilities Permitting Chief, directly.

PLAN APPROVALS

Receipt of Plan Approval Application(s) and Notice of Intent to Issue Plan Approval(s) and Notice of Intent to Issue or Amend Operating Permit(s) Under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B and Subchapter F. These Actions May Include the Administrative Amendments of an Associated Operating Permit.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: Shailesh Patel, Air Quality Engineer, 570-826-2341.

45-00004B, U.S. Department of Defense—Tobyhanna Army Depot, 11 Hap Arnold Boulevard, Tobyhanna, PA 18466, Coolbaugh Township, **Monroe County**. Application received: November 22, 2022.

Notice is hereby given in accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), that the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to U.S. Department of Defense—Tobyhanna Army Depot for their facility located in Coolbaugh Township, Monroe County. This Plan Approval No. 45-00004B will be incorporated into a Synthetic Minor Operating Permit through an administrative amendment at a later date.

Plan Approval No. 45-00004B is for the installation and operation of a packed-bed scrubber to control HCL and chromium compound emissions from the existing plating operations at the facility. The facility's Plating Shop (Source ID 240) is currently comprised of four (4) separate electroplating lines, each controlled by its own packed-bed scrubber. The new wet scrubber (PS-5) that is capable of an additional 18,000 CFM process exhaust will work in parallel with existing Plating Scrubbers PS-1 and PS-2. No new plating line or equipment or production increases are proposed. The new scrubber will reduce potential exposures of employees in the Plating Department to Cr+6 and Cr+3. This project will also increase the exhausts from existing PS-1 and PS-2 scrubbers from 40,000 CFM to 45,000 CFM and from 44,000 CFM to 45,000 CFM respectively. New packed bed scrubber can remove 98% of HCL acid mist before discharging into atmosphere. Estimated HCL acid emissions will be less than 0.13 ton/year from this new scrubber. De minimus chromium compound emissions are expected from the scrubber. The use of wet packed bed scrubber capable of removing 98% of emissions meets Department's BAT criteria for this type of process. The facility will operate the source and maintain the system in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered

prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit No. 45-00004B and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Environmental Engineering Manager, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511, within 30 days after publication date.

COAL & NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.31); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); the Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); the Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21).

Mining activity permits issued in response to such applications are also subject to applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (DEP). A copy of the application is available for inspection at the District Mining Office indicated above each application. Requests for 401 Water Quality Certifications are included in individual application only if noted.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or Local Government Agency or Authority to DEP at the address of the District Mining Office indicated above each application within 30-days of this publication, or within 30-days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences). Such comments or objections should contain the name, address and phone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform DEP on the basis of comment or objection and relevant facts upon which it is based.

In addition, requests for an informal conference, or a public hearing, as applicable, on a mining permit applica-

tion, as provided by 25 Pa. Code § 77.123 (relating to public hearing-informal conferences) or § 86.34 (relating to informal conferences), must also contain a brief summary of the issues to be raised by the requestor at the conference and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application is associated with an application for an NPDES permit. A separate notice will be provided for the draft NPDES permit.

Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Coal Applications

Effluent Limits—The following range of effluent limits (Table 1) will apply to NPDES permits issued in conjunction with the associated coal mining activity permit. Additional effluent limits will be listed as part of the publication of the draft NPDES permit.

Table 1

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l

pH must always be greater than 6.0; less than 9.0.

Alkalinity must always be greater than acidity.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Contact: RA-EPPottsvilleDMO@pa.gov.

Mining Permit No. 54860207. Keystone Anthracite, Inc., 259 North Second Street, Girardville, PA 17935, West Penn Township, **Schuylkill County**. Renewal for reclamation activities only of an anthracite coal refuse reprocessing operation affecting 8.6 acres. Receiving stream: Little Schuylkill River, classified for the following uses: CWF, MF. Application received: November 10, 2022.

Noncoal Applications

Effluent Limits—The following Table 2 effluent limits apply to NPDES permits issued in conjunction with a noncoal mining permit. Additional effluent limits will be listed as part of the publication of the draft NPDES permit.

Table 2

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l

Alkalinity must always exceed acidity

pH must always be greater than 6.0; less than 9.0.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931-4119, 814-472-1800.

Contact: Melanie Ford-Wigfield, 814.472.1900, ra-epcambria@pa.gov.

Mining Permit No. 32220401. NPDES No. PA0279862. Britt Energies, Inc., P.O. Box 515, Indiana, PA 15701, West Wheatfield Township, **Indiana County**. Commencement, operation and restoration of a large noncoal (industrial minerals) underground operation affecting 756.2 underground acres and 169.2 surface acres. Receiving stream(s): tributary to Roaring Run classified for the following use(s): CWF. The application includes a wetland encroachment to affect 0.47 acre of wetlands and a stream encroachment for a haul crossing. The application also includes a request for a Section 401 Water Quality Certification. Application received: November 2, 2022.

Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

Contact: Cayleigh Boniger, Clerical Supervisor 2, 814-797-0824.

Mining Permit No. 10210303. NPDES No. PA0280771. Allegheny Mineral Corporation, P.O. Box 1022, Kittanning, PA 16201, Marion Township, **Butler County**. Commencement, operation, and restoration of an industrial minerals mine. Application received: November 14, 2022.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

Contact: Cassie Stanton, Clerical Assistant 2.

Mining Permit No. 14060301. NPDES No. PA0256323. Glenn O. Hawbaker, Inc., 1952 Waddle Road, State College, PA 16803, Rush Township, **Centre County**. Application for a major revision to the permit to an existing large industrial minerals surface mining permit. A revision to the permit boundary is proposed to add 8.82 acres to the current 159.04-acre permit, increasing the total permit area to 167.86 acres. A variance is proposed to conduct mining and support activities within 100 feet of public road Dale Road (Township Road 317). Receiving stream(s): UNT leading to Moshannon Creek classified for the following use(s): CWF. Application received: November 29, 2022. Accepted: November 29, 2022.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Contact: RA-EPPottsvilleDMO@pa.gov.

Mining Permit No. 7274SM1. NPDES Permit No. PA0595161. Lehigh Asphalt Paving & Construction Co., P.O. Box 549, Tamaqua, PA 18252, West Penn Township, Schuylkill County. Renewal of an NPDES Permit on a quarry operation affecting 640.0 acres. Receiving stream: unnamed tributary to Lizard Creek, classified for the following uses: TSF, MF. Application received: November 14, 2022.

Mining Permit No. 7674SM1. NPDES Permit No. PA0613312. Pennsy Supply, Inc., 2400 Thea Drive, Suite 3A, Harrisburg, PA 17110, South Lebanon and Jackson Townships, Lebanon County. Renew NPDES Permit on a quarry operation affecting 461.0 acres. Receiving stream: Tulpehocken Creek, classified for the following use: CWF. Application received: November 14, 2022.

Mining Permit No. 8275SM5. NPDES Permit No. PA0226335. New Enterprise Stone & Lime Co., Inc., 3912 Brumbaugh Road, New Enterprise, PA 16664, East Cocalico Township, Lancaster County. New NPDES Permit on a quarry operation affecting 150.0 acres. Receiving stream: Stony Run, classified for the following use: WWF. Application received: November 17, 2022.

MINING ACTIVITY NPDES DRAFT PERMITS

This notice provides information about applications for a new, amended or renewed National Pollutant Discharge Elimination System (NPDES) permits associated with mining activity (coal or noncoal) permits. The applications concern industrial waste (mining) discharges to surface water and discharges of stormwater associated with mining activities. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

The Department of Environmental Protection (DEP) has prepared a draft NPDES permit and made a tentative determination to issue the NPDES permit in conjunction with the associated mining activity permit.

Effluent Limits for Coal Mining Activities

For coal mining activities, NPDES permits, when issued, will contain effluent limits that are the more stringent of technology-based (BAT) effluent limitations or Water Quality Based Effluent Limits (WQBEL).

The BAT limits for coal mining activities, as provided in 40 CFR Part 434 and 25 Pa. Code Chapters 87—90 are as follows:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (Total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH must always be greater than 6.0; less than 9.0.			
Alkalinity must always be greater than acidity.			

A settleable solids instantaneous maximum limit of 0.5 ml/l applies to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; mined areas backfilled and revegetated; and all other discharges and drainage (resulting from a precipitation event of greater than 1-year 24-hour to less than or equal to a 10-year 24-hour event) from coal refuse disposal piles. Similarly, modified BAT limits apply to iron, manganese and suspended solids in surface runoff, discharges and drainage resulting from these precipitation events and those of greater magnitude in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Exceptions to BAT effluent limits may be applicable in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Effluent Limits for Noncoal Mining Activities

The limits for noncoal mining activities as provided in 25 Pa. Code § 77.522 are pH 6 to 9 and other parameters DEP may require.

Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional water quality based effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description specifies the parameters.

Noncoal NPDES Draft Permits

New Stanton District Mining Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.

Contact: Tracy Norbert or RA-EPNEWSTANTON@pa.gov.

NPDES No. PA0203441. Mining Permit No. 26920401. Coolspring Mining, Inc., P.O. Box 1328, Uniontown, PA 15401, North Union Township, Fayette County. Application received: March 1, 2022.

Renewal of the NPDES permit in North Union Township, Fayette County, affecting 60.6 surface acres. Receiving streams: UNT to Coolspring Run, classified for the following use: WWF, within the Redstone Creek TMDL. The following treated stormwater outfalls discharge to UNT Coolspring Run:

<i>Outfall Number</i>	<i>New or existing</i>	<i>Type</i>	<i>Discharge Rate</i>
001	Existing	SWO	Precipitation Dependent
002	Existing	SWO	Precipitation Dependent
003	Existing	SWO	Precipitation Dependent

The proposed effluent limits for the previously listed outfalls are as follows:

<i>Parameter (unit)</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant Maximum</i>
pH (S.U.)	6.0			9.0
Iron, Total (mg/L)		3.0	6.0	7.0
Manganese, Total (mg/L)		2.0	4.0	5.0
Aluminum, Total (mg/L)		0.75	0.75	0.75
Total Suspended Solids (mg/L)		35	70	90
Net Alkalinity (as CaCO ₃ , mg/L)	0.0			
Alkalinity, Total (as CaCO ₃ , mg/L)				Report
Acidity, Total (as CaCO ₃ , mg/L)				Report
Flow (gpm)				Report
Temperature (°C)				Report
Specific Conductance (µmhos/cm)				Report
Sulfate, Total (mg/L)				Report

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (DEP). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341), requires the State to certify that the involved projects will not violate the applicable provisions of Sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317), as well as relevant State requirements. Individuals objecting to approval of a request for certification under Section 401 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit, or the approval of an Environmental Assessment must submit any comments, suggestions or objections within 30-days of the date of this notice, as well as any questions to the office noted above the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed, and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The DEP may schedule a fact-finding hearing or an informal conference in response to comments if deemed necessary. Maps, drawings and other data pertinent to the certification request are available for inspection between the hours of 8:00 a.m. and 4:00 p.m. on each working day at the office noted above the application.

Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Applications Received Under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27) and Section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and Requests for Certification Under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Eastern District: Oil and Gas Management Program, 208 West Third Street, Williamsport, PA 17701-6448.

Contact: RA-EPEASTERNOPRGR@pa.gov.

E4129222-014. EQT ARO LLC, 33 West Third Street, Suite 300, Williamsport, PA 17701, McNett Township, **Lycoming County**. U.S. Army Corps of Engineers Baltimore District. Application received: November 14, 2022.

To construct, operate and maintain one (1) 290' x 475' stone natural gas well pad and approximately 3,831 linear foot access road off McIlwain Road in McNett Township, Lycoming County. Additional disturbance will occur to construct diversion and infiltration berms to control stormwater from the well pads and access roads as part of the PCSM Plan. The total disturbance area, which includes the stormwater management and E&S BMPs is 13.59 acres.

Stream Impact Table:

<i>Resource Name</i>	<i>Municipality Quadrangle</i>	<i>Activity</i>	<i>Chap. 93</i>	<i>Listed Trout</i>	<i>Impact Length Temp. (LF)</i>	<i>Impact Area Temp. (SF)</i>	<i>Impact Length Perm. (LF)</i>	<i>Impact Area Perm. (SF)</i>	<i>Lat. Long.</i>
Pleasant Stream	McNett Grover	Access Road 64" x 43" Pipe Arch CMP	HQ; EV	Wild	16	195	16	207	41.538571° 76.799236°
TOTAL IMPACTS					16	195	16	207	

Wetland Impact Table:

Resource Name	Municipality Quadrangle	Activity	Cow. Class	Listed Trout	Impact Length Temp. (LF)	Impact Area Temp. (SF)	Impact Length Perm. (LF)	Impact Area Perm. (SF)	Lat. Long.
Wetland 3	McNett Grover	Access Road	PEM; EV	Wild	63	375	64	1,666	41.537740° 76.798555°
Wetland 5	McNett Grover	Access Road	PEM; EV	Wild	20	184	6	17	41.538576° 76.799150°
Wetland 6	McNett Grover	Access Road	PEM; EV	Wild	10	71	10	94	41.538510° 76.799260°
TOTAL IMPACTS					93	630	80	1,777	

Floodway Impact Table:

Resource Name	Municipality Quadrangle	Activity	Impact Length Temp. (LF)	Impact Area Temp. (SF)	Impact Length Perm. (LF)	Impact Area Perm. (SF)	Lat. Long.
Pleasant Stream	McNett Grover	Access Road 64' x 43' Pipe Arch CMP	16	195	16	207	41.538571° 76.799236°
TOTAL IMPACTS			16	195	16	207	

E5829222-013. Coterra Energy LLC, 2000 Park Lane, Suite 300, Pittsburgh, PA 15275, Lathrop Township, **Susquehanna County**. U.S. Army Corps of Engineers Baltimore District. Application received: October 27, 2022.

To construct, operate, and maintain: 1. Earth fill permanently impacting 8,636 square (0.20 acre) feet of a PEM wetland (Hop Bottom, PA Quadrangle; Lat.: 41.6517°, Long.: -75.8366°). Coterra Energy currently has three developed wells at the Kielar D. Well Site with intent to expand the well site surface for additional well development of the Marcellus Shale resource in Lathrop Township, Susquehanna County, PA. Impacts are located within previously disturbed lands and will result in the impact of 8,636 square feet (0.20 acre) PEM wetland impacts for the safe development of Marcellus Shale production and conveyance to markets.

CORRECTION—previously published on November 26, 2022

E5929221-006. Chesapeake Appalachia LLC, 14 Chesapeake Lane, Sayre, PA 18840, Osceola Township, **Tioga County**. U.S. Army Corps of Engineers Baltimore District. Application received: September 7, 2022.

Previously posted as E5929221-006. This is a correction to update permit number. To construct, operate and maintain an additional 9.15 acres of PFO, PSS and PEM wetland creation/enhancement will temporarily impact 6.14 acres of PEM and PFO wetlands at the Camp Brook Mitigation Site. (Elkland, PA Quadrangle, Latitude: 41.99200°, Longitude: -77.32750°). This project is in addition to impacts from permit number E5929221-006 which provides for 54.15 acres of wetland creation. This project is the mitigation site for the *Chesapeake Audit and Consent Decree United States, et al. v. Chesapeake Appalachia, LLC*, Civil Action No. 4:21-00538-MWB, all for the purpose of establishing a mitigation site for permanent wetland and stream impacts that occurred during well pad construction for Marcellus well development.

Northcentral Region: Waterways & Wetlands Program, 208 W. 3rd Street, Suite 101, Williamsport, PA 17701-6448, 570-327-3636.

Contact: James Cassidy, Senior Civil Engineer, 570-855-9764.

E4104222-011. Brian Pepperman, 82 McIntyre Road, Cogan Station, PA 17728, Lewis Township, **Lycoming County**. U.S. Army Corps of Engineers Baltimore District. Application received: September 19, 2022.

The project will involve elevating/raising vertically (no lateral movement) the existing Brian Pepperman home. Once elevated, this existing home will then be supported on a newly constructed elevated structural steel frame and reinforced concrete piers that will allow floodwaters to pass freely and unobstructed underneath. A new 5' wide elevated walkway all around the home, a new 9' x 24' elevated deck on the west side, and two new stairs leading down to finish grade will also be added. Latitude: 41.35°, Longitude: -77.089°.

Northeast Region: Waterways & Wetlands Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: RA-EPWW-NERO@pa.gov.

E3502222-012. Derek Mead, 143 Buck Hill Drive, Greentown, PA 18426, Madison Township, **Lackawanna County**. U.S. Army Corps of Engineers Philadelphia District. Application received: November 22, 2022.

To construct and maintain a private residence stream crossing conveying flow for Potter Creek (HQ-CWF, MF) consisting of a single 16.0-foot span, 14-foot long concrete wood deck bridge structure with upstream and downstream wingwalls, boulder streambank protection, and riprap scour protection. Approximately 0.02 acre of permanent EV wetland impacts are associated with this project. The project is located on the right of Quicktown Road approximately 0.5 mile northwest after the intersection with Madisonville Road (SR 690) (Sterling, PA Quadrangle Latitude: 41° 22' 18"; Longitude: -75° 27' 38") in Madison Township, Lackawanna County.

Northwest Region: Waterways & Wetlands Program, 230 Chestnut Street, Meadville, PA 16335-3481, 814-332-6945.

Contact: RA-EPWW-NWRO@pa.gov.

E4306222-005. Pennsylvania Power Company, 217 Three Springs Drive, Weirton, WV 26062, City of Hermitage, **Mercer County**. U.S. Army Corps of Engineers Pittsburgh District. Application received: November 14, 2022.

The applicant proposes to expand an existing Sharon Substation and access road to provide more reliable power supply to its customers. The project will permanently impact 0.12 acre of wetland (0.03 acre PEM, and 0.09 acre PSS), will have 0.15 acre of temporary impacts. The project will also impact 0.08 acre of two UNT's to Pine Hollow Run (WWF) that have a drainage area of less than 100 acres. Mitigation for impacts is proposed to be via contribution to Pennsylvania's PIECES fund. Latitude: 41.249311°, Longitude: -80.428765°.

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: 717-705-4802.

EA3603222-007. Elam Stoltzfus, 430 Cains Road, Gap, PA 17527-9732, Salisbury Township, **Lancaster County**. U.S. Army Corps of Engineers Baltimore District. Application received: November 7, 2022.

The applicant proposed to conduct a stream restoration project along approximately 2,200 feet of Indian Spring Run (CWF, MF) including the removal of existing structures and 1.) the installation and maintenance of 289 feet of rock toe protection; 2.) the construction and maintenance of five cross rock vanes; 3.) the construction and maintenance of twenty six log vanes; 4.) the construction and maintenance of twenty five mudsills totaling 838 feet in length; 5.) the construction and maintenance of a 12.0-foot wide by 30.0-foot long livestock crossing; 6.) the construction and maintenance of a 20.0-foot wide by 52.0-foot long equipment crossing; 7.) the construction and maintenance of a 12.0-foot wide by 30.0-foot long temporary equipment crossing; 8.) the construction and maintenance of twelve grade control riffles totaling 86 feet in length; 9.) the construction and maintenance of a 29.0-foot long brush mattress; 10.) the grading and maintenance of 1,601 feet of streambank, all impacting 0.01 acre of exceptional value, palustrine emergent wetlands and all for the purposes of reducing sediment loading to the stream and enhancing instream habitat. Wetland impacts are de minimus and replacement is not required. Latitude: 40.015023°, Longitude: -75.967435°.

Southwest Region: Oil and Gas Management Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: D. J. Stevenson, 412-442-4281.

E6307222-014. Sunoco Pipeline, LP, 5733 Butler Street, Pittsburgh, PA 15201, Mount Pleasant Township, **Washington County**. U.S. Army Corps of Engineers Pittsburgh District. Application received: November 10, 2022. Latitude: 40.345226°, Longitude: -80.304676°. To remediate a slope failure within the existing Mariner West Pipeline right-of-way and restore Cherry Run, a Warm Water Fishery (WWF). Slope repair will result in permanent impacts to two (2) Palustrine Emergent (PEM)

wetlands due to placement of fill and installation of drainage and temporary impacts to one (1) PEM wetland due to temporary construction access. Temporary and permanent impacts to Cherry Run and its 50' assumed floodway due to temporary stream crossing for construction access and installation of drainage and streambank protection including a riprap fill foundation key and reinforced soil slope. The project is located within Mount Pleasant Township, Washington County, Pittsburgh USACE District (40.345226, -80.304676), Sub-Basin 20D (Raccoon Creek), Quad Name: Midway. The project, as proposed, will result in permanent impacts to 56 linear feet of stream channel due to streambank stabilization and 0.03 acre of PEM wetland due to installation of fill and drainage. The project will temporarily impact 0.06 acre of wetland for construction access, and 110 linear feet of stream and 0.23 acre of floodway due to pump around and construction.

<i>Resource</i>	<i>Coordinates</i>	<i>Permanent</i>	<i>Temporary</i>
Wetland 1	40.345659, -80.304783	-	2,560 sf (0.06 ac)
Wetland 2	40.345091, -80.304841	104 sf (0.002 ac)	-
Wetland 3	40.345048, -80.304565	1350 sf (0.031 ac)	-
Cherry Run (WWF)	40.345165, -80.304803	56 LF (784 sf; 0.02 ac)	110 LF
Cherry Run Floodway	40.345165, -80.304803	(0.005 ac)	10,140 sf (0.23 ac)

ENVIRONMENTAL ASSESSMENTS

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: 717-705-4802.

EA3603222-007. Elam Stoltzfus, 430 Cains Road, Gap, PA 17527-9732, Salisbury Township, **Lancaster County**. U.S. Army Corps of Engineers Baltimore District. Application received: November 7, 2022.

The applicant proposed to conduct a stream restoration project along approximately 2,200 feet of Indian Spring Run (CWF, MF) including the removal of existing structures and 1.) the installation and maintenance of 289 feet of rock toe protection; 2.) the construction and maintenance of five cross rock vanes; 3.) the construction and maintenance of twenty six log vanes; 4.) the construction and maintenance of twenty five mudsills totaling 838 feet in length; 5.) the construction and maintenance of a 12.0-foot wide by 30.0-foot long livestock crossing; 6.) the construction and maintenance of a 20.0-foot wide by 52.0-foot long equipment crossing; 7.) the construction and maintenance of a 12.0-foot wide by 30.0-foot long temporary equipment crossing; 8.) the construction and maintenance of twelve grade control riffles totaling 86 feet in length; 9.) the construction and maintenance of a 29.0-foot long brush mattress; 10.) the grading and maintenance of 1,601 feet of streambank, all impacting 0.01 acre of exceptional value, palustrine emergent wetlands and all for the purposes of reducing sediment loading to the stream and enhancing instream habitat. Wetland impacts are de minimus and replacement is not required. Latitude: 40.015023°, Longitude: -75.967435°.

ACTIONS

THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT**FINAL ACTIONS TAKEN FOR NPDES PERMITS AND WQM PERMITS**

The Department of Environmental Protection (DEP) has taken the following actions on previously received applications for new, amended, and renewed National Pollutant Discharge Elimination System (NPDES) and Water Quality Management (WQM) permits, applications for permit waivers, and Notice of Intent (NOIs) for coverage under General Permits, as listed in the following tables. This notice of final action is published in accordance with 25 Pa. Code Chapters 91, 92a, and 102 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376). The official file for each listed action can be reviewed at the DEP or delegated County Conservation District (CCD) office identified in the table for the action. DEP/CCD office contact information is listed as follows for Section I and is contained within the table for Section II. Additional information for permits issued under 25 Pa. Code Chapters 91 and 92a and Individual permits under 25 Pa. Code Chapter 102, including links to Individual Chapter 92a NPDES and WQM Permits, may be reviewed by generating the “Final Actions Report” on DEP’s website at www.dep.pa.gov/CWPUBLICNOTICE.

DEP office contact information to review official files relating to the final actions in Section I is as follows:

DEP Southeast Regional Office (SERO)—2 E. Main Street, Norristown, PA 19401-4915. File Review Coordinator: 484-250-5910. Email: RA-EPNPDES_SERO@pa.gov for Chapter 91 & 92a permits; RA-EPWW-SERO@pa.gov for Chapter 102 permits.

DEP Northeast Regional Office (NERO)—2 Public Square, Wilkes-Barre, PA 18701-1915. File Review Coordinator: 570-826-5472. Email: RA-EPNPDES_NERO@pa.gov for Chapter 91 & 92a permits; RA-EPWW-NERO@pa.gov for Chapter 102 permits.

DEP Southcentral Regional Office (SCRO)—909 Elmerton Avenue, Harrisburg, PA 17110. File Review Coordinator: 717-705-4732. Email: RA-EPNPDES_SCRO@pa.gov for Chapter 91 & 92a permits; RA-EPWW-SCRO@pa.gov for Chapter 102 permits.

DEP Northcentral Regional Office (NCRO)—208 W. Third Street, Suite 101, Williamsport, PA 17701. File Review Coordinator: 570-327-3693. Email: RA-EPNPDES_NCRO@pa.gov for Chapter 91 & 92a permits; RA-EPWW-NCRO@pa.gov for Chapter 102 permits.

DEP Southwest Regional Office (SWRO)—400 Waterfront Drive, Pittsburgh, PA 15222. File Review Coordinator: 412-442-4286. Email: RA-EPNPDES_SWRO@pa.gov for Chapter 91 & 92a permits; RA-EPWW-SWRO@pa.gov for Chapter 102 permits.

DEP Northwest Regional Office (NWRO)—230 Chestnut Street, Meadville, PA 16335. File Review Coordinator: 814-332-6078. Email: RA-EPNPDES_NWRO@pa.gov for Chapter 91 & 92a permits; RA-EPWW-NWRO@pa.gov for Chapter 102 permits.

DEP Bureau of Clean Water (BCW)—400 Market Street, Harrisburg, PA 17105. File Review Coordinator: 717-787-5017. Email: RA-EPNPDES_Permits@pa.gov.

DEP Regional Permit Coordination Office (RPCO)—400 Market Street, Harrisburg, PA 17105. File Review Coordinator: 717-772-5987. Email: RA-EPREGIONALPERMIT@pa.gov.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law).

The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. Appeals must be filed with the Board within 30-days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board’s rules of practice and procedure may be obtained from the Board. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law. For individuals who wish to challenge an action, the appeal must reach the Board within 30-days. A lawyer is not needed to file an appeal with the Board. Individuals who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at 717-787-3483 for more information. The appeal form and the Board’s rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at 717-787-3483. Important legal rights are at stake, however, so individuals should contact a lawyer at once.

Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

For actions taken on applications for pipelines that are regulated by the Federal Energy Regulatory Commission (FERC).

Any person aggrieved by this action may challenge it in an appropriate legal forum. The State and Federal courts are currently split on whether the proper forum to challenge a Department permit, authorization or approval for a facility or activity subject to the Federal Natural Gas Act, 15 U.S.C.A. §§ 717 et seq., is the United States Court of Appeals for the Third Circuit or the Pennsylvania Environmental Hearing Board. See *Delaware Riverkeeper Network v. Sec’y, Dept of*

Envtl. Prot., 833 F.3d 360 (3d Cir. 2016); *Delaware Riverkeeper Network v. Sec'y, Dep't of Env'tl Prot.*, 903 F.3d 65 (3d Cir. 2018), cert. denied, 139 S. Ct. 1648, 203 L. Ed. 899 (2019) and *Cole v. Dep't. of Env'tl Prot.*, 1577 C.D. 2019 WL 2420667 (Pa. Cmwlth Ct. June 15, 2021) (Pet. for Allowance of Appeal pending); *West Rockhill Twp. v. Dep't of Env'tl. Prot.*, No. 1595 C.D. 2019 WL 2426014 (Pa. Cmwlth. June 15, 2021) (Pet. for Allowance of Appeal pending).

I. Final Action(s) on NPDES and WQM Permit Application(s) and NOIs for Sewage, Industrial Waste, Industrial Stormwater, MS4s, Pesticides, CAFOs and Individual Construction Stormwater.

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PA0266337	CAFO Individual NPDES Permit	Issued	Quality Livestock Farm Quest Joint Client 1250 Lincoln Road Lititz, PA 17543-7313	West Lampeter Township Lancaster County	SCRO
PAD150197	Chapter 102 Individual NPDES Permit	Issued	Ridgewall, LLC 227 Granite Run Drive Suite 100 Lancaster, PA 17601-6813	Wallace Township Chester County	SERO
PAD400058	Chapter 102 Individual NPDES Permit	Issued	Hall Jeffrey and Lauran 420 Cross Creek Road Shavertown, PA 18708-9508	Dallas Township Luzerne County	NERO
PAD450027	Chapter 102 Individual NPDES Permit	Issued	PA DOT Engineering District 50 476 Broadway Third Floor New York, NY 10013	Tunkhannock Township Monroe County	NERO
PAD460071	Chapter 102 Individual NPDES Permit	Issued	DP Spring Mill Developers LLC 967 E Swedesford Road Suite 400 Exton, PA 19341-2332	Whitemarsh Township Montgomery County	SERO
PAD480020	Chapter 102 Individual NPDES Permit	Issued	Vinart Realty Assoc 675 State Avenue Emmaus, PA 18049-3029	Lower Nazareth Township Northampton County	NERO
PAD670053	Chapter 102 Individual NPDES Permit	Issued	Red Mill Xing LLC 1737 W Main Street Ephrata, PA 17522-1101	Newberry Township York County	SCRO
PA0256005	Industrial Stormwater Individual NPDES Permit	Issued	Say Core Inc. 132 Block Road Portage, PA 15946-6905	Portage Township Cambria County	SWRO
0113803	Joint DEP/PFBC Pesticides Permit	Issued	Diversified Investments 1300 Hanover Road Gettysburg, PA 17325-7707	Straban Township Adams County	SCRO
0113806	Joint DEP/PFBC Pesticides Permit	Issued	Bross Tom 315 Round Hill Road East Berlin, PA 17316-9585	Reading Township Adams County	SCRO
0118805	Joint DEP/PFBC Pesticides Permit	Issued	New Age Assoc 126 Onyx Road New Oxford, PA 17350-8456	Littlestown Borough Adams County	SCRO
0218800	Joint DEP/PFBC Pesticides Permit	Issued	Traditions of American at Sewickley Ridge HOA P.O. Box 2225 Cranberry Township, PA 16066	Ohio Township Allegheny County	SWRO
0413800	Joint DEP/PFBC Pesticides Permit	Issued	Oleary David 360 River Road Beaver, PA 15009-2816	South Beaver Township Beaver County	SWRO
0413801	Joint DEP/PFBC Pesticides Permit	Issued	Seven Oaks CC 132 Lisbon Road Beaver, PA 15009-8559	Ohioville Borough Beaver County	SWRO
0418800	Joint DEP/PFBC Pesticides Permit	Issued	Bernadette Wolfe 2 Darlington Road Beaver Falls, PA 15010	Fallston Borough Beaver County	SWRO

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<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
0520801	Joint DEP/PFBC Pesticides Permit	Issued	Bowers Wayne 1504 Brewster Gate Road Crownsville, MD 21032-2223	Colerain Township Bedford County	SCRO
0613803	Joint DEP/PFBC Pesticides Permit	Issued	Andrews Katie 1285 Fairview Drive Leesport, PA 19533-9145	Bern Township Berks County	SCRO
2617800	Joint DEP/PFBC Pesticides Permit	Issued	Torbich Thomas 178 Edison Street Uniontown, PA 15401-2579	Wharton Township Fayette County	SWRO
3613809	Joint DEP/PFBC Pesticides Permit	Issued	Banzhof Jeff 1121 Pennsy Road Pequea, PA 17565-9748	Martic Township Lancaster County	SCRO
3613834	Joint DEP/PFBC Pesticides Permit	Issued	Perrefort Nick 320 W End Avenue Manheim, PA 17545-1735	Rapho Township Lancaster County	SCRO
4617813	Joint DEP/PFBC Pesticides Permit	Issued	Blue Bell Golf Course Management Co. 1800 Tournament Drive Blue Bell, PA 19422-1299	Whitpain Township Montgomery County	SERO
4621818	Joint DEP/PFBC Pesticides Permit	Issued	Center Square Villages c/o Toll Bros 1140 Virginia Drive Fort Washington, PA 19034	Worcester Township Montgomery County	SERO
5613807	Joint DEP/PFBC Pesticides Permit	Issued	Deer Valley YMCA Camp 254 Deer Valley Drive Fort Hill, PA 15540-2131	Elk Lick Township Somerset County	SWRO
5613808	Joint DEP/PFBC Pesticides Permit	Issued	Sherbine Marlin 2165 Highland Farms Road Somerset, PA 15501-7007	Somerset Township Somerset County	SWRO
5613814	Joint DEP/PFBC Pesticides Permit	Issued	Hidden Valley Foundation Inc. 777 Waterwheel Drive Seven Springs, PA 15622	Jefferson Township Somerset County	SWRO
6313801	Joint DEP/PFBC Pesticides Permit	Issued	Doran Lois 249 Lynn Haven Drive Pittsburgh, PA 15228-1820	South Franklin Township Washington County	SWRO
6313805	Joint DEP/PFBC Pesticides Permit	Issued	Charleroi Fishing Club 45 Fremont Road Charleroi, PA 15022-3608	Fallowfield Township Washington County	SWRO
6513800	Joint DEP/PFBC Pesticides Permit	Issued	Trafford Borough Westmoreland County P.O. Box 196 Trafford, PA 15085-0196	Trafford Borough Westmoreland County	SWRO
6513805	Joint DEP/PFBC Pesticides Permit	Issued	Wiggins Hollis 167 Chancery Lane Ligonier, PA 15658-1286	Ligonier Borough Westmoreland County	SWRO
6513809	Joint DEP/PFBC Pesticides Permit	Issued	Laurel Valley Golf Course P.O. Box 435 Ligonier, PA 15658-0435	Ligonier Township Westmoreland County	SWRO
6718802	Joint DEP/PFBC Pesticides Permit	Issued	Bomberger Timothy W 886 Siddonsburg Road Lewisberry, PA 17339-9106	Fairview Township York County	SCRO
1596401	Land Application and Reuse of Sewage Individual WQM Permit	Issued	Aqua PA Wastewater Inc. 762 W Lancaster Avenue Bryn Mawr, PA 19010-3402	East Brandywine Township Chester County	SERO
PA0026557	Major Sewage Facility with CSOs Individual NPDES Permit	Issued	Sunbury City Municipal Authority Northumberland County 462 S 4th Street Sunbury, PA 17801-3134	Sunbury City Northumberland County	NCRO

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PA0051632	Minor Industrial Waste Facility without ELG Individual NPDES Permit	Issued	Easton Suburban Water Authority P.O. Box 3819 3700 Hartley Avenue Easton, PA 18043-3819	Easton City Northampton County	NERO
PA0086894	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Issued	The York Water Co. P.O. Box 223 Spring Grove, PA 17362-0223	Washington Township York County	SCRO
PA0218448	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Issued	Whitethorn Homeowners Assoc 230 Shaw Court New Alexandria, PA 15670-2614	Salem Township Westmoreland County	SWRO
PA0028193	Minor Sewage Facility >= 0.05 MGD and < 1 MGD Individual NPDES Permit	Issued	McCandless Township Sanitary Authority Allegheny County 418 Arcadia Drive Pittsburgh, PA 15237-5557	Ross Township Allegheny County	SWRO
PA0043443	Minor Sewage Facility >= 0.05 MGD and < 1 MGD Individual NPDES Permit	Issued	Alexandria Borough and Porter Township Joint Sewer Authority Huntingdon County P.O. Box 113 5271 Grange Hall Road Alexandria, PA 16611-0113	Porter Township Huntingdon County	SCRO
PA0085511	Minor Sewage Facility >= 0.05 MGD and < 1 MGD Individual NPDES Permit	Issued	West Hanover Township Water & Sewer Authority Dauphin County 7901 Jonestown Road Harrisburg, PA 17112-9728	West Hanover Township Dauphin County	SCRO
6490406	Minor and Non-NPDES Sewage Treatment Facility Individual WQM Permit	Issued	Lakeview Estates Homeowners Association P.O. Box 687 Moscow, PA 18444	Lehigh Township Wayne County	NERO
6796405	Minor and Non-NPDES Sewage Treatment Facility Individual WQM Permit	Issued	The York Water Co. P.O. Box 223 Spring Grove, PA 17362-0223	Washington Township York County	SCRO
NOEXNE002	No Exposure Certification	Issued	Leggett & Platt Inc. 515 Salem Boulevard Berwick, PA 18603-6459	Salem Township Luzerne County	NERO
NOEXSC386	No Exposure Certification	Issued	CP Flexible Packaging 15 Grumbacher Road York, PA 17406-8417	Manchester Township York County	SCRO
NOEXSC388	No Exposure Certification	Issued	Pkg Corp of American 104 Commerce Street New Oxford, PA 17350-1702	New Oxford Borough Adams County	SCRO
NOEXSW229	No Exposure Certification	Issued	Addev Materials 1651 E Sutter Road Glenshaw, PA 15116-1700	Shaler Township Allegheny County	SWRO
PAR606154	PAG-03 NPDES General Permit for Industrial Stormwater	Issued	D & D Auto Salvage, LLC 6375 Avrr Pittsburgh, PA 15206-2113	Pittsburgh City Allegheny County	SWRO

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<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PAR803715	PAG-03 NPDES General Permit for Industrial Stormwater	Issued	Stuck Enterprises 1115 E High Street Waynesburg, PA 15370-1785	Snake Spring Township Bedford County	SCRO
PAG136360	PAG-13 NPDES General Permit for MS4s	Waived	Brownstown Borough Cambria County 350 Habicht Street Johnstown, PA 15906-3131	Brownstown Borough Cambria County	SWRO
0462S29	Sewer Extensions Individual WQM Permit	Issued	Allegheny County Sanitary Authority ALCOSAN 3300 Preble Avenue Pittsburgh, PA 15233-1025	North Versailles Township Allegheny County	SWRO
PA0065102	Single Residence STP Individual NPDES Permit	Issued	Anjum Sohail 369 Bossardsville Road Stroudsburg, PA 18360	Hamilton Township Monroe County	NERO
PA0263681	Single Residence STP Individual NPDES Permit	Issued	McGarvey Tina 4486 Hayes Road Ravenna, OH 44266-3710	Corydon Township McKean County	NWRO
PA0264407	Single Residence STP Individual NPDES Permit	Issued	Romeo Nicholas 316 Logan Road Valencia, PA 16059-3504	Penn Township Butler County	NWRO
PA0264717	Single Residence STP Individual NPDES Permit	Issued	Liszka Todd 1318 W 9th Street Erie, PA 16502-1023	Delaware Township Mercer County	NWRO
PA0264989	Single Residence STP Individual NPDES Permit	Issued	Woods Steven A 6533 Pine City Road Venus, PA 16364	Washington Township Clarion County	NWRO
PA0265861	Single Residence STP Individual NPDES Permit	Issued	Williams Naomi 3740 Spring Road Carlisle, PA 17013-8704	Middlesex Township Cumberland County	SCRO
PA0284980	Single Residence STP Individual NPDES Permit	Issued	Toth Brett W 66 Station Street Bulger, PA 15019-2017	Smith Township Washington County	SWRO
PA0291072	Single Residence STP Individual NPDES Permit	Issued	Darleen and Gerald Scutella 8416 Dougan Road North East, PA 16428-5530	Greenfield Township Erie County	NWRO
PA0291561	Single Residence STP Individual NPDES Permit	Issued	Spang Nina and Sellers Eric 690 Greenville Road Denver, PA 17517-9596	West Cocalico Township Lancaster County	SCRO
2113402	Single Residence Sewage Treatment Plant Individual WQM Permit	Issued	Williams Naomi 3740 Spring Road Carlisle, PA 17013-8704	Middlesex Township Cumberland County	SCRO
2522426	Single Residence Sewage Treatment Plant Individual WQM Permit	Issued	Darleen and Gerald Scutella 8416 Dougan Road North East, PA 16428-5530	Greenfield Township Erie County	NWRO

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
4210401	Single Residence Sewage Treatment Plant Individual WQM Permit	Issued	McGarvey Tina 4486 Hayes Road Ravenna, OH 44266-3710	Corydon Township McKean County	NWRO
6322404	Single Residence Sewage Treatment Plant Individual WQM Permit	Issued	Toth Brett W 66 Station Street Bulger, PA 15019-2017	Smith Township Washington County	SWRO

II. Final Action(s) on PAG-01 and PAG-02 General NPDES Permit NOIs.

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC460720	PAG-02 General Permit	Issued	Horsham Township 1025 Horsham Road Horsham, PA 19044	Horsham Township Montgomery County	Montgomery County Conservation District 143 Level Road Collegeville, PA 19426-3313 610-489-4506 x10 RA-EPNPDES_SERO@ pa.gov
PAC460660	PAG-02 General Permit	Issued	Verus Partners 155 North Wacker Drive Chicago, IL 60606	Towamencin Township Montgomery County	Montgomery County Conservation District 143 Level Road Collegeville, PA 19426-3313 610-489-4506 x10 RA-EPNPDES_SERO@ pa.gov
PAC460743	PAG-02 General Permit	Issued	Upper Dublin Township 801 Loch Alsh Avenue Fort Washington, PA 19034	Upper Dublin Township Montgomery County	Montgomery County Conservation District 143 Level Road Collegeville, PA 19426-3313 610-489-4506 x 10 RA-EPNPDES_SERO@ pa.gov
PAC400140A-1	PAG-02 General Permit	Issued	Mericle Construction Inc. Stephen Maakestad 100 Baltimore Drive Wilkes-Barre, PA 18702	Jenkins Township Luzerne County	Luzerne Conservation District 325 Smiths Pond Road Shavertown, PA 18708 570-674-7991 RA-EPWW-NERO@ pa.gov
PAC090543	PAG-02 General Permit	Issued	Buckingham Friends School 5684 York Road Box 159 Lahaska, PA 18931-0159	Buckingham Township Bucks County	Bucks County Conservation District 1456 Ferry Road Doylestown, PA 18901-5550 215-345-7577 x110 RA-EPNPDES_SERO@ pa.gov
PAC090533	PAG-02 General Permit	Issued	Foxlane Homes at Highpoint, LLC 1243 Easton Road Suite 205 Warrington, PA 18976	New Britain Township Bucks County	Bucks County Conservation District 1456 Ferry Road Doylestown, PA 18901-5550 215-345-7577 x110 RA-EPNPDES_SERO@ pa.gov
PAC090547	PAG-02 General Permit	Issued	DeLuca Warrington, LLC 370 E. Maple Avenue Suite 101 Langhorne, PA 19047	Warrington Township Bucks County	Bucks County Conservation District 1456 Ferry Road Doylestown, PA 18901-5550 215-345-7577 x110 RA-EPNPDES_SERO@ pa.gov

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<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC150301	PAG-02 General Permit	Issued	SAFStor Snyder, LLC 355 Oneta Street Suite D100 Athens, GA 30601	West Goshen Township Chester County	Chester County Conservation District 688 Unionville Road Kennette Square, PA 19348 610-455-1360 RA-EPNPDES_SERO@ pa.gov
PAC150320	PAG-02 General Permit	Issued	Charles and Elizabeth Martin 108 Pratt Lane West Chester, PA 19382	Newlin Township Chester County	Chester County Conservation District 688 Unionville Road Kennett Square, PA 19348 610-455-1360 RA-EPNPDES_SERO@ pa.gov
PAC250171	PAG-02 General Permit	Issued	Kurt Duska Sales & Consulting, LLC 6990 Van Camp Road Girard, PA 16417	Fairview Township Erie County	Erie County Conservation District 1927 Wager Road Erie, PA 16509 814-825-6403
PAC230210	PAG-02 General Permit	Issued	Delaware County Parks & Recreation Department 1671 North Providence Road Media, PA 19063	Darby Borough Delaware County	Delaware County Conservation District 1521 N. Providence Road Media, PA 19063 610-892-9484 RA-EPNPDES_SERO@ pa.gov
PAC160019A2	PAG-02 General Permit	Issued	Clarion Industries 143 Fiberboard Road Shippenville, PA 16254	Paint Township Clarion County	Clarion County Conservation District 249 S 2nd Avenue Clarion, PA 16214 814-393-6147
PAC380259	PAG-02 General Permit	Issued	Millet Plastics, Inc. 21 Lebanon Valley Parkway Lebanon, PA 17042	South Lebanon Township Lebanon County	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 717-277-5275 RA-EPSCWWPABULL@ pa.gov
PAC340017	PAG-02 General Permit	Issued	Reinford Farms, Inc. 505 Cedar Grove Road Mifflintown, PA 170529	Walker Township Juniata County	Juniata County Conservation District 146 Stoney Creek Drive Suite # 4 Mifflintown, PA 17059 717-436-8953 ext. 5 RA-EPSCWWPABULL@ pa.gov
PAC280310	PAG-02 General Permit	Issued	Jonathan Kilmer 1600 Colony Road York, PA 17408-4357	Montgomery Township Franklin County	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17202 717-264-5499 ext. 107 RA-EPSCWWPABULL@ pa.gov
PAC280308	PAG-02 General Permit	Issued	Dan Long 6405 Nunnery Road Waynesboro, PA 17268-8619	Washington Township Franklin County	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17202 717-264-5499 ext. 107 RA-EPSCWWPABULL@ pa.gov

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC280303	PAG-02 General Permit	Issued	Aaron Moats 8166 Mentzer Gap Road Waynesboro, PA 17268-9256	Quincy Township Franklin County	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17202 717-264-5499 ext. 107 RA-EPSCWWPABULL@pa.gov
PAC280301	PAG-02 General Permit	Issued	Jacob Carter 9010 Overlook Boulevard Brentwood, TN 37027	Antrim Township Franklin County	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17202 717-264-5499 ext. 107 RA-EPSCWWPABULL@pa.gov
PAC280207 A-1	PAG-02 General Permit	Issued	Geoff Miller 11144 Old Forge Road Waynesboro, PA 17268-8899	Washington Township Franklin County	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17202 717-264-5499 ext. 107 RA-EPSCWWPABULL@pa.gov
PAC220357	PAG-02 General Permit	Issued	Lezzer Lumber 7365 Allentown Blvd Harrisburg, PA 17112	West Hanover Township Dauphin County	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100 RA-EPSCWWPABULL@pa.gov
PAC220320	PAG-02 General Permit	Issued	Pennsylvania Department of General Services 1800 Herr Street Harrisburg, PA 17103	Derry Township Dauphin County	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100 RA-EPSCWWPABULL@pa.gov
PAC220341	PAG-02 General Permit	Issued	Iona Investment Group 1 Krall Road Myerstown, PA 17067	Conewago Township Dauphin County	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100 RA-EPSCWWPABULL@pa.gov
PAC220356	PAG-02 General Permit	Issued	Mary's Health and Fitness 1550 Sand Hill Road Hummelstown, PA 17036	Derry Township Dauphin County	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100 RA-EPSCWWPABULL@pa.gov
PAC220344	PAG-02 General Permit	Issued	Milton Hershey School P.O. Box 830 Hershey, PA 17033	Derry Township Dauphin County	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100 RA-EPSCWWPABULL@pa.gov
PAC220253	PAG-02 General Permit	Issued	Steelton-Highspire School District P.O. Box 7645 Steelton, PA 17113	Steelton Borough Dauphin County	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100 RA-EPSCWWPABULL@pa.gov

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC220199 A-1	PAG-02 General Permit	Issued	Paxton Creek North Branch Sanitary Sewer Replacement 1900 Linglestown Road Harrisburg, PA 17110	Susquehanna Township Dauphin County	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717-921-8100 RA-EPSCWWPABULL@ pa.gov
PAC210291	PAG-02 General Permit	Issued	Pennsylvania Builders & Developers, LLC 337 Lincoln Street Carlisle, PA 17015	West Pennsboro Township Cumberland County	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717-240-7838 RA-EPSCWWPABULL@ pa.gov
PAC010198 A-1	PAG-02 General Permit	Issued	Columbia Gas of Pennsylvania 1600 Colony Road York, PA 17408-4357	McSherrystown Borough Adams County	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636 ext. 3044 RA-EPSCWWPABULL@ pa.gov
PAC140099 A-1	PAG-02 General Permit	Issued	1752 N Atherton Street Associates, LP 1792 North Atheron Street State College, PA 16803	Patton Township Centre County	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 814-355-6817
PAC410083	PAG-02 General Permit	Issued	Stryker Properties, LLC 1560 Bums Rd Muncy, PA 17756	Muncy Township Lycoming County	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 570-433-3003
PAC410085	PAG-02 General Permit	Issued	Spring Farm Trust 2394 Rt 220 Hwy Muncy, PA 17756	Muncy Township Lycoming County	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 570-433-3003
PAC600095	PAG-02 General Permit	Issued	GNS Holdings, LLC Joe Necerato 1975 Mensch Road Mifflinburg, PA 17844	Limestone Township Union County	Union County Conservation District 155 N 15th Street Lewisburg, PA 17837 570-524-3860
PAD600010	PAG-02 General Permit	Issued	Custom Barns, Inc. Fredrik Bystedt 4363 White Deer Pike New Columbia, PA 17856	White Deer Township Union County	Union County Conservation District 155 N 15th Street Lewisburg, PA 17837 570-524-3860

STATE CONSERVATION COMMISSION
NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS
FOR NPDES PERMITS FOR CAFOs

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704 to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. Appeals must be filed with the Board within 30-days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at 717-787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, appeals must reach the Board within 30-days. A lawyer is not needed to file an appeal with the Board.

Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at 717-787-3483 for more information.

**NUTRIENT MANAGEMENT PLAN
CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Critter Hill Farm, LLC 224 Quaker Run Road Biglerville, PA 17037	Adams County	39	388.97	Tom Turkeys Beef Cattle Swine Rabbits	NA	Approved

PUBLIC WATER SUPPLY PERMITS

The Department has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. Appeals must be filed with the Board within 30-days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30-days. A lawyer is not needed to file an appeal with the Board.

Individuals in need of accommodations should contact the Environmental Hearing Board through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Important legal rights are at stake, however, so individuals should show this document to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at 717-787-3483 for more information.

SAFE DRINKING WATER

Actions Taken Under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17).

*Northeast Region: Safe Drinking Water Program,
2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.*

Contact: Terri Yencha, Clerical Assistant 2, 570-830-3048.

Construction Permit No. 2400806-E1, Public Water Supply.

Applicant	CAN DO, Inc.
Address	1 South Church Street Suite 200 Hazleton, PA 18201
Municipality	Hazle Township
County	Luzerne County
Consulting Engineer	Eric Moore, P.E. Entech Engineering, Inc. 201 Penn Street Suite 300 Reading, PA 19603
Application Received	October 5, 2022
Permit Issued	November 18, 2022
Description	Emergency permit for temporary iron and manganese treatment for Well Nos. 7 and 8.

Operation Permit No. 3390073, Public Water Supply.

Applicant	Lehigh County Authority LCA Central Division
Address	1053 Spruce Street P.O. Box 3348 Allentown, PA 18106-0348
Municipality	Lower Macungie Township

County	Lehigh County	Description	Issuance of an Operation Permit to designate optimal water quality parameters for the Walnutport MHP water treatment facility.
Consulting Engineer	Mr. Jason G. Saylor, P.E. Utility Service Company, Inc. 1230 Peachtree Street NE Suite 1100, Promenade Atlanta, GA 30309		
Application Received	August 16, 2022		<i>Southwest Region: Safe Drinking Water Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.</i>
Permit Issued	September 26, 2022		<i>Contact: Renee Diehl, Program Manager, ra-epswsdw@pa.gov.</i>
Description	Operations Permit for the Reservoir No. 5 Tank Rehabilitation Project.		
	Operation Permit No. 3390947 , Public Water Supply.		
Applicant	KidsPeace Corporation	Applicant	Pennsylvania American Water Company
Address	4085 Independence Drive Schnecksville, PA 18078	Address	852 Wesley Drive Mechanicsburg, PA 17055
Municipality	North Whitehall Township	Municipality	West Brownsville Borough
County	Lehigh County	County	Washington County
Consulting Engineer	Chelsea Pearce, P.E. Herbert, Rowland & Grubic, Inc. 501 Allendale Road Suite 203 King of Prussia, PA 19406	Application Received	September 29, 2022
Application Received	August 31, 2022	Permit Issued	October 12, 2022
Permit Issued	October 25, 2022	Description	Replacement of two pumps at the SR-88 Booster Pump Station.
Description	Operation Permit for 4-Log treatment of viruses.		
	Operation Permit No. 3130997 , Public Water Supply.		
Applicant	Exeter Industrial Drive Route 940 Land, LLC	Applicant	The Municipal Authority of the Township of Washington
Address	101 West Elm Street Suite 600 Conshohocken, PA 19428	Address	1390 Fayette Avenue Belle Vernon, PA 15012
Municipality	Kidder Township	Municipality	Washington Township
County	Carbon County	County	Fayette County
Consulting Engineer	Christopher P. McDermott, P.E. Reilly Associates 411 Main Street Stroudsburg, PA 18360	Consulting Engineer	Bankson Engineers, Inc. 267 Blue Run Road Suite 200 Cheswick, PA 15024
Application Received	August 17, 2022	Application Received	October 20, 2022
Permit Issued	October 7, 2022	Permit Issued	October 31, 2022
Description	New well and water treatment system to serve a 921,250 SF warehouse building located on Blue Ridge Real Estate Lot # 1 on the south side of SR 0940.	Description	Rehabilitation of the Lynwood Tank.
	Operation Permit No. 3480063 , Public Water Supply.		
Applicant	Richard C. Becker	Applicant	East Taylor Municipal Authority
Address	901 S. Best Avenue Walnutport, PA 18088	Address	403 Donruth Lane Johnstown, PA 15909
Municipality	Lehigh Township	Municipality	East Taylor Township
County	Northampton County	County	Cambria County
Consulting Engineer	Craig LaBarre Portland Contractors, Inc. 403 Jones Street Portland, PA 18351	Consulting Engineer	The EADS Group 227 Franklin Street Suite 300 Johnstown, PA 15901
Application Received	June 16, 2022	Application Received	September 1, 2022
Permit Issued	October 13, 2022	Permit Issued	October 4, 2022
		Description	Operation of recently installed tank mixers in the Pudliner Lane Tank # 2 and the William Penn Avenue Tank.

Actions Taken Under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17).

Southcentral Region: Safe Drinking Water Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Wade Cope, P.E., Environmental Engineer, 717-705-4708.

Construction Permit 5022504 MA. PWSID No. **7500019.** **Duncannon Borough**, 428 North High Street, Duncannon Borough, PA 17020, Duncannon Borough, **Perry County**. Application received: September 29, 2022. Permit Issued: November 22, 2022. Construction permit approved for the replacement of the existing sodium hypochlorite feed pump for Well No. 2.

Southwest Region: Safe Drinking Water Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Renee Diehl, Program Manager; ra-epsdsw@pa.gov.

4-log Treatment of Viruses for Groundwater Sources Permit 1110508GWR-A1. PWSID No. **4110003.** **Northern Cambria Municipal Authority**, 1202 Philadelphia Avenue, Northern Cambria, PA 15714, Northern Cambria Borough, Barr Township, and Susquehanna Township, **Cambria County**. Application received: July 7, 2022. Permit Issued: November 17, 2022. 4-log treatment of Viruses for Groundwater Sources for the Spangler water system: Spangler Well # 1 (Source 006), Spangler Well # 3 (Source 007), and Krumenacker Well # 2 (Source 008).

Operation Permit 0208513-A1. PWSID No. **5020039.** **Pennsylvania American Water Company**, 852 Wesley Drive, Mechanicsburg, PA 17055, City of Pittsburgh, **Allegheny County**. Application received: October 25, 2022. Permit Issued: November 16, 2022. Revised Special Conditions for chloramine facilities at the Hays Mine Water Treatment Plant.

Operation Permit 0212503-A1. PWSID No. **5020039.** **Pennsylvania American Water Company**, 852 Wesley Drive, Mechanicsburg, PA 17055, Union Township, **Washington County**. Application received: October 25, 2022. Permit Issued: November 16, 2022. Revised Special Conditions for chloramine facilities at the E.H. Aldrich Water Treatment Plant.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995 PREAMBLE 2

The Following Plans and Reports Were Submitted Under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.908).

Provisions of Sections 301—308 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P.S. §§ 6026.301—6026.308) require the Department of Environmental Protection (DEP) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental

media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, will also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, please contact the Regional Office Program Manager previously listed in the notice.

Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

The Department has received the following plans and reports.

Southcentral Region: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Environmental Cleanup & Brownfields Program Manager, 717-705-4705.

Jeff and Elizabeth McCracken Residence, Primary Facility ID # **862523**, 3018 Colonial Road, Harrisburg, PA 17111, Susquehanna Township, **Dauphin County**. Environmental Maintenance Co., Inc., 1420 East Mermaid Lane, Glenside, PA 19038, on behalf of Mr. Jeff McCracken, 3018 Colonial Road, Harrisburg, PA 17111, submitted a Final Report concerning remediation of soil contaminated with No. 2 Fuel Oil. The Final Report is intended to document remediation of the site to meet the Statewide health standards.

Southwest Region: Environmental Cleanup & Brownfields Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Kam Miseikyte, Clerical Assistant 2, 412-442-4091.

Shady Hill Plaza, Primary Facility ID # **578364**, 6320 Shakespeare Street, Pittsburgh, PA 15204, City of Pittsburgh, **Allegheny County**. GAI Consultants, Inc., 385 East Waterfront Drive, Homestead, PA 15120, on behalf of Shakespeare Street Associates, LP, 560 Epsilon Drive, Pittsburgh, PA 15238, submitted a Cleanup Plan/Final Report concerning remediation of soil and groundwater contaminated with lead, benzene, cumene, ethylbenzene, naphthalene, benzo(a)pyrene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(ghi)perylene, chrysene, indeno(1,2,3-cd)pyrene, and pyrene for soil; lead, benzene, cumene, ethylbenzene, naphthalene, xylene, 1,2-dichloroethane, and toluene for groundwater. The Cleanup Plan/Final Report is intended to document remediation of the site to meet the Statewide health and site-specific standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995 PREAMBLE 3

The Department Has Taken Action on the Following Plans and Reports Under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.907).

Section 250.8 of 25 Pa. Code and administration of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (DEP) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or non-residential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The DEP may approve or disapprove plans and reports submitted. This notice provides DEP's decision and, if relevant, the basis for disapproval.

For further information concerning plans or reports, please contact the Regional Office Program Manager previously listed in the notice.

Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

The DEP has received the following plans and reports.

Northcentral Region: Environmental Cleanup & Brownfields Program, 208 W. 3rd Street, Suite 101, Williamsport, PA 17701-6448, 570-327-3636.

Contact: Randy Farmerie, P.G., Environmental Program Manager, 570-327-3716.

David C. Duncan Pad A, Primary Facility ID # **861565**, 1178 Matthews Road, Trout Run, PA 17771, Cascade Township, **Lycoming County**. Creston Environmental, LLC, P.O. Box 1373, Camp Hill, PA 17001, on

behalf of EQT Corporation, 33 West Third Street, Suite 300, Williamsport, PA 17701, submitted a Final Report concerning remediation of soil contaminated with produced fluid. The Final Report demonstrated attainment of the Statewide health standards. Approved: November 22, 2022.

Northeast Region: Environmental Cleanup & Brownfields Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: Eric Supey, Environmental Program Manager.

J. Griffiths Pad 1, Primary Facility ID # **850453**, 1007 Hoag Hill Road, Montrose, PA 18801, Rush Township, **Susquehanna County**. Resource Environmental Management, 50 Maple Street, Montrose, PA 18801, on behalf of Coterra Energy, Inc., 2000 Park Lane, Suite 300, Pittsburgh, PA 15275, submitted a Final Report concerning remediation of soil contaminated with diesel-based drilling mud. The Final Report demonstrated attainment of the Statewide health and background standards. Approved: November 22, 2022.

Southcentral Region: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Environmental Cleanup & Brownfields Program Manager, 717-705-4705.

Berman Truck Group, Primary Facility ID # **859321**, 83 Ashley Way, Leesport, PA 19533, Ontelaunee Township, **Berks County**. Taylor Geoservices, Inc., 38 Bishop Hollow Road, Suite 200, Newtown Square, PA 19073, on behalf of PDF Inc. dba Berman Truck Group, 83 Ashley Way, Leesport, PA 19533, submitted a Final Report concerning remediation of soil contaminated with Diesel Fuel and Used Motor Oils. The Report demonstrated attainment of the Statewide health standards. Approved: November 21, 2022.

Nello Tire, Primary Facility ID # **623382**, 2700 East Market Street, York, PA 17402, Springettsbury Township, **York County**. BL Companies, 2601 Market Place, Suite 350, Harrisburg, PA 17110, on behalf of 2700 East York, LLC, 1801 SW 3rd Avenue, Suite 500, Miami, FL 33129, submitted a Remedial Investigation Report/Cleanup Plan concerning remediation of groundwater contaminated with Petroleum Compounds. The Report did not demonstrate attainment of the site-specific standards. Disapproved: November 22, 2022.

MTS Bethel Properties/Berman Truck Group, Primary Facility ID # **848790**, 175 Legion Drive, Bethel, PA 19507, Bethel Township, **Berks County**. Compliance Plus Services, Inc., 240 Gibraltar Road, Suite 100, Horsham, PA 19044, on behalf of Berman Truck Group, 83 Ashley Way, Leesport, PA 19533, submitted a Final Report concerning remediation of soil contaminated with Petroleum Hydrocarbons. The Final Report did not demonstrate attainment of the site-specific standards. Disapproved: November 22, 2022.

Southwest Region: Environmental Cleanup & Brownfields Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Kam Miseikyte, Clerical Assistant 2, 412-442-4091.

Penneco Braddock 7H Well Pad, Primary Facility ID # **842305**, Higbee Road, Wind Ridge, PA 15380, Aleppo Township, **Greene County**. Woodard & Curran, 400 Penn Center Boulevard, Suite 600, Pittsburgh, PA 15235, on behalf of Penneco Oil Company, Inc.,

6608 Route 22, Delmont, PA 15626, submitted a Final Report concerning remediation of soil contaminated with Benzene, sec-Butylbenzene, tert-Butylbenzene, Cyclohexane, Ethyl benzene, Isopropyl benzene (Cumene), Naphthalene, Toluene, 1,2,4-trimethyl benzene, 1,3,5-trimethyl benzene, Xylene, Acenaphthalene, Anthracene, Benzo(a)anthracene, Benzo(a)pyrene, Benzo(b)fluoranthene, Benzo(g,h,i)perylene, Biphenyl, Chrysene, Fluoranthene, Fluorene, Indenopyrene, 2-Methylnaphthalene, Phenanthrene, Pyrene, and Phenol. The Final Report demonstrated attainment of the Statewide health standards. Approved: November 28, 2022.

HAZARDOUS WASTE TREATMENT, STORAGE & DISPOSAL FACILITIES

Actions(s) Taken on Permit(s) Under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage, or Disposal Facility.

Southeast Region: Waste Management Program, 2 East Main Street, Norristown, PA 19401, 484-250-5900.

Contact: Mohamad Mazid, Chief, Technical Services, Phone Number 484-250-5768.

PAR000538058. Energy Transfer Marketing & Terminals, L.P (formerly Sunoco Partners Marketing & Terminals, L.P), 100 Green Street, Marcus Hook, PA 19061, Marcus Hook Borough, Delaware County. This application is for the ten-year renewal of the RCRA Hazardous Waste (Part B) Permit at Energy Transfer Marketing & Terminals, L.P (formerly Sunoco Partners Marketing & Terminals, L.P)—Marcus Hook Terminal Facility. Application received: November 23, 2022. Deemed administratively complete: November 23, 2022.

Persons interested in reviewing the permit may contact Waste Management Program Manager, Phone Number 484.250.5960, Southeast Region, 2 East Main Street, Norristown, PA 19401, 484-250-5900. TDD users may contact DEP through the Pennsylvania Hamilton Relay Service, 800-654-5984.

MUNICIPAL WASTE GENERAL PERMITS

Actions(s) Taken on Permit(s) Under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.

Northeast Region: Waste Management Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: Roger Bellas, Environmental Program Manager, 570-826-2201.

WMGM045-NE001. FCS Partners LLC, P.O. Box 196, Skippack, PA 19474, Lower Mount Bethel Township, Northampton County. A permit renewal for continued coverage under general permit number WMGM045 for the composting of yard waste, food waste, cardboard, paper, wood, and agricultural waste at the A.B.E. Materials—Easton Quarry Compost site. Application received: May 25, 2022. Renewal issued: November 22, 2022.

Persons interested in reviewing the permit may contact Roger Bellas, Environmental Program Manager, 570-826-

2201, Northeast Region, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511. TDD users may contact DEP through the Pennsylvania Hamilton Relay Service, 800-654-5984.

WMGM045-NE002. FCS Partners LLC, P.O. Box 196, Skippack, PA 19474, South Whitehall Township, Lehigh County. A permit renewal for continued coverage under general permit number WMGM045 for the composting of yard waste, food waste, cardboard, paper, wood, and agricultural waste at the A.B.E. Materials—Allentown Quarry Compost site. Application received: May 25, 2022. Renewal issued: November 21, 2022.

Persons interested in reviewing the permit may contact Roger Bellas, Environmental Program Manager, 570-826-2201, Northeast Region, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511. TDD users may contact DEP through the Pennsylvania Hamilton Relay Service, 800-654-5984.

WMGM045-NE003. FCS Partners, LLC, P.O. Box 196, Skippack, PA 19474, Foster Township, Luzerne County. A permit renewal for continued coverage under general permit number WMGM045 for the composting of yard waste, food waste, cardboard, paper, wood, and agricultural waste at the Hazleton Quarry Compost site. Application received: May 25, 2022. Renewal issued: November 21, 2022.

Persons interested in reviewing the permit may contact Roger Bellas, Environmental Program Manager, 570-826-2201, Northeast Region, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511. TDD users may contact DEP through the Pennsylvania Hamilton Relay Service, 800-654-5984.

REGISTRATION FOR MUNICIPAL WASTE GENERAL PERMITS

Actions(s) Taken on Registration(s) Under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.

Southcentral Region: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Anthony Rathfon, Program Manager.

WMGM042SC007. Kish View Farm, 4733 East Main Street, Belleville, PA 17044, Union Township, Mifflin County. This permit renewal authorizes the processing by 1.) Anaerobic digestion of animal manure generated on a farm to be blended with (a) grease trap waste and/or (b) pre-and-post consumer food waste from commercial and institutional establishments, or industrial food manufacturing operations, or 2.) The utilization of a depackaging unit(s) to mechanically separate pre-and-post consumer food waste from commercial and institutional establishments, or industrial food manufacturing operations, from its packaging, prior to anaerobic digestion, for the beneficial use activity as follows: 1.) The methane gas produced by the anaerobic digestion as fuel, including the production of electricity, 2.) The waste solids removed from the digester as animal bedding material at the farm, and 3.) The liquid waste and solids removed from the digester as

a soil additive for agricultural purposes. Application received: February 16, 2022. Renewal issued: November 22, 2022.

Persons interested in reviewing the permit may contact John Oren, Permits Section Chief, Southcentral Region, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700. TDD users may contact DEP through the Pennsylvania Hamilton Relay Service, 800-654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Actions(s) Taken on Permit(s) Under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904); and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southcentral Region: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: John Oren, Waste Management Permits Section Chief, 717-705-4907.

100758. Lancaster County Solid Waste Management Authority, 1299 Harrisburg Pike, Lancaster, PA 17603, Swatara Township and Harrisburg City, **Dauphin County**. Permit renewal for the Susquehanna Resource Management Complex. Application received: February 21, 2022. Renewal issued: November 28, 2022. Extended to November 29, 2032.

Persons interested in reviewing the permit may contact John Oren, Waste Management Permits Section Chief, (717-705-4907), Southcentral Region, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700. TDD users may contact DEP through the Pennsylvania Hamilton Relay Service, 800-654-5984.

AIR QUALITY

Actions(s) Taken on General Plan Approval(s) and Operating Permit(s) Usage Authorized Under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to Construct, Modify, Reactivate or Operate Air Contamination Sources and Associated Air Cleaning Devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: Raymond Kempa, New Source Review Chief, 570-826-2531.

GP1-48-007: County of Northampton, 669 Washington Street, Easton, PA 18042, Upper Nazareth Township, **Northampton County**. To operate three (3) natural gas/No. 2 oil fired boilers at their Gracedale Nursing Home. Application received: October 13, 2022. Issued: November 9, 2022.

GP3-52-006A: Quarry Management Holdings, LLC, 237 Masthope Plank Road, Suite C, Lackawaxen, PA 18435, Lackawaxen Township, **Pike County**. To construct and operate a Portable Crushing Operation with water sprays at the Holbert Quarry Site. Application received: September 29, 2022. Issued: November 7, 2022.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Thomas Bianca, PE, West Permit Section Chief, 717-705-4862.

GP3-05-03010A: New Enterprise Stone & Lime Co., Inc., 3912 Brumbaugh Road, New Enterprise, PA 16664, Snake Spring Township, **Bedford County**. For portable nonmetallic mineral crushing equipment, under GP3, at the Ashcom quarry. Application received: October 28, 2022. Issued: November 18, 2022.

GP9-05-03010A: New Enterprise Stone & Lime Co., Inc., 3912 Brumbaugh Road, New Enterprise, PA 16664, Snake Spring Township, **Bedford County**. For a diesel engine to power portable nonmetallic mineral crushing equipment, under GP9, at the Ashcom quarry. Application received: November 3, 2022. Issued: November 18, 2022.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, 484-250-5900.

Contact: James Beach, New Source Review Chief, 484-250-5920.

GP3-09-0166: Watts Services, LLC, 5031 Point Pleasant Pike, Doylestown, PA 18902, Plumstead Township, **Bucks County**. This action modifies General Permit GP3-09-0166 for the addition of a portable nonmetallic mineral processing plant to the existing General Permit. Watts Services LLC now operates two portable nonmetallic mineral processing plants consisting of (1) Terex Finlay J-1160 Crusher and associated Conveyor and (1) Terex Powerscreen Cone Crusher and associated conveyor at their location at the Plumstead Quarry. Application received: November 1, 2022. Issued: November 28, 2022.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Thomas Joseph, P.E., Facilities Permitting Chief, 412-442-4336.

GP5-30-00255: David Stucker, 101 McQuiston Drive, Jackson Center, PA 16138, Franklin Township, **Greene County**. To allow the operation of the previously installed sources which include: One Waukesha Arrow compressor engine rated at 68 bhp controlled by a 3-way NSCR catalyst, one 2.100-gallon produced water tank, pneumatic devices, venting/blowdowns, and fugitives at Gordon Hill Compressor Station. Application received: October 12, 2022. Accepted: November 18, 2022.

GP5-30-00175F/AG5-30-00028A: Laurel Mountain Midstream Operating, LLC, Park Place Corporate Center 2, 2000 Commerce Drive, Pittsburgh, PA 15275, Jefferson Township, **Greene County**. For re-authorization of the sources at the Davis Compressor Station for a period of five years. Application received: July 14, 2022. Issued: November 23, 2022.

Actions(s) Taken on Plan Approval(s) Under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and Regulations in 25 Pa. Code Chapter 127, Subchapter B Relating to Construction, Modification and Reactivation of Air Contamination Sources and Associated Air Cleaning Devices.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Thomas Bianca, PE, West Permit Section Chief, 717-705-4862.

28-05001B: Martins Famous Pastry Shoppe, Inc., 1000 Potato Roll Lane, Chambersburg, PA 17202, Guilford Township, **Franklin County**. For the installa-

tion of a new oven line, catalytic oxidizer, and re-routing of an existing oven line's exhaust to an existing control device at the facility. Application received: March 29, 2022. Issued: November 18, 2022.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, 484-250-5900.

Contact: James Beach, New Source Review Chief, 484-250-5920.

23-0030B: Swarthmore College, 500 College Avenue, Swarthmore, PA 19081, Swarthmore Borough, **Delaware County**. A plan approval for the installation of two (2) new, natural gas fired, 2.5-megawatt (MW) engines to be located at the existing college campus. The standby electrical generation plant will provide power during emergencies (i.e., utility power interruptions), and the engines may also be used for non-emergency operations including peak shaving and/or demand response. Application received: May 25, 2022. Issued: November 21, 2022.

46-0031G: GlaxoSmithKline, LLC, 1250 S. Collegeville Road, Collegeville, PA 19426, Upper Providence Township, **Montgomery County**. A plan approval for the installation of a selective catalytic reduction (SCR) unit, oxidation catalyst, diesel particulate filter (DPF), and associated equipment, to the exhaust of an existing 2,000 kW diesel-fired emergency electric generator engine (Source 106). The generator is being repurposed from emergency to non-emergency use. Application received: April 7, 2022. Issued: November 28, 2022.

Plan Approval Revision(s) Issued Including Extension(s), Minor Modification(s) and Transfer(s) of Ownership Under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Northcentral Region: Air Quality Program, 208 W. 3rd Street, Suite 101, Williamsport, PA 17701-6448, 570-327-3636.

Contact: Muhammad Q. Zaman, Program Manager, 570-327-3648.

18-00009G: Clinton County Solid Waste Authority, P.O. Box 209, McElhattan, PA 17748, Wayne Township, **Clinton County**. Wayne Township Landfill was issued a plan approval extension to allow continued temporary operation of the landfill gas enclosed flare through May 21, 2023. Application received: October 7, 2022. Revised: November 21, 2022.

14-00002S: Graymont (PA), Inc., 375 Graymont Road, Bellefonte, PA 16823, Spring Township, **Centre County**. Issued an extension to allow for continued usage of natural gas for operation of the rotary lime kilns no. 6 and 7 at their Pleasant Gap plant. The plan approval has been extended for 180 days. Application received: November 14, 2022. Revised: November 14, 2022.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Thomas Bianca, PE, West Permit Section Chief, 717-705-4862.

67-05004U: Pixelle Specialty Solutions, LLC, 228 South Main Street, Spring Grove, PA 17362-1000, Spring Grove Borough, **York County**. For the installation of two 115 mmBtu/hr natural gas burners in the # 3 Recovery Boiler (ID 037) which will be limited by an annual fuel limitation of 225.49 mmscf of natural gas, upgrade of the PLC software and various hardware of the Hardwood Digester (ID 112) to increase pulp production

by 2.1%, and upgrades to the water removal system of paper machines # 1 and # 8 (contained in ID 115) to increase paper production by approximately 8% at the pulp and paper mill. The plan approval was extended. Application received: November 11, 2022. Issued: November 22, 2022.

Contact: Thomas Hanlon, PE, East Permit Section Chief, 717-705-4862.

06-05069AC: East Penn Manufacturing Co., Inc., P.O. Box 147, Lyon Station, PA 19536, Richmond Township, **Berks County**. For the installation of a new fabric filter dust collector in the S-1 Facility and modification of dust collectors C59/C59A and C64/C64A in the A-3 Facility. These facilities are located at the lead acid battery assembly facility. The plan approval was extended. Application received: November 21, 2022. Issued: November 23, 2022.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, 484-250-5900.

Contact: James Beach, New Source Review Chief, 484-250-5920.

09-0244: MM Metals USA, LLC, 4000 Chemical Road, Plymouth Meeting, PA 19462, Falls Township, **Bucks County**. An extension for the installation of a new low-carbon ferrochrome alloy manufacturing facility located in Keystone Industrial Port Complex (KIPC). Application received: November 21, 2022. Issued: November 28, 2022.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Thomas Joseph, P.E., Facilities Permitting Chief, 412-442-4336.

PA-30-00089D: Eastern Gas Transmission and Storage, Inc., 657 Jefferson Road, Waynesburg, PA 15370, Franklin Township, **Greene County**. To extend the period of temporary operation of one natural gas-fired compressor turbine controlled by an oxidation catalyst, microturbine generators, boiler, one produced fluids storage tank, 2,500 gallon capacity; one lube oil tank, 1,000 gallon capacity; and piping components in natural gas service at the Crayne Compressor Station. Application received: October 26, 2022. Issued: November 23, 2022. Expiration date: May 28, 2023.

Plan Approval(s) Denied, Terminated, Modified, Suspended or Revoked Under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and the Provisions of 25 Pa. Code §§ 127.13b and 127.13c.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, 484-250-5900.

Contact: James Beach, New Source Review Chief, 484-250-5920.

09-0197A: Hiossen Inc., 85 Ben Fairless Drive, Fairless Hills, PA 19030-5012, Falls Township, **Bucks County**. The plan approval was modified to increase the operational estimates provided in the original actual operational data for its acid etching machine, remove the previously approval use of hydrofluoric acid from in its acid etching machine, and implement an alternate method of compliance instead of stacktesting. Application received: December 16, 2021. Issued: November 18, 2022.

Operating Permit(s) for Non-Title V Facilities Issued Under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Northcentral Region: Air Quality Program, 208 W. 3rd Street, Suite 101, Williamsport, PA 17701-6448, 570-327-3636.

Contact: Muhammad Q. Zaman, Program Manager, 570-327-3648.

41-00077: Kellogg USA, Inc., 572 Industrial Park Road, Muncy, PA 17756, Muncy Creek Township, **Lycoming County**. Issued a renewal State Only (Synthetic Minor) Operating Permit. The State Only (Synthetic Minor) Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions. Application received: May 24, 2022. Issued: November 17, 2022.

08-00028: Wyalusing Area School District, P.O. Box 157, Wyalusing, PA 18853, Wyalusing Township, **Bradford County**. Issued a renewal State Only (Natural Minor) Operating Permit for their school campus. The State Only (Natural Minor) Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions. Application received: June 17, 2022. Issued: November 18, 2022.

49-00058: Central Builders Supply Company, P.O. Box 152, Sunbury, PA 17801, West Chillisquaque Township, Northumberland County. The permittee was issued a renewal of their State Only Operating Permit for their Montandon sand and gravel plant. The Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions to ensure compliance with applicable Federal and State air quality regulations. Application received: September 2, 2022. Renewal issued: November 23, 2022.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: Norm Frederick, 570-826-2409.

48-00107: Morello Funeral Home/Palmer Crematories, 3720 Nicholas St, Easton, PA 18045-5116, Palmer Township, **Northampton County**. The Department issued a State-Only (Natural) Minor Permit for the funeral services and crematories facility in Palmer Township, Northampton County. The sources at this facility consist of a human remain incinerator. The control device consists of a secondary after burner. The sources are considered minor emission sources of nitrogen oxide (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), total suspended particulate (TSP), and VOC's. The Operating Permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations. Application received: March 2, 2022. Renewal issued: November 21, 2022.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, 814-332-6945.

Contact: Matthew Williams, Facilities Permitting Chief.

25-00501: Ellwood National Forge Corry, 441 East Main Street, Corry, PA 16407-2013, City of Corry, **Erie County**. The Department issued the renewal State Only Natural Minor Operating Permit for operation of the small steel forging facility owned by Ellwood National Forge. The primary emission sources include test sample cutting, the billet grinder, oil quenching, natural gas-fired

forging furnaces, heat treat furnaces, storage tanks, degreasers, miscellaneous natural gas combustion, and two natural gas-fired emergency generator engines. The potential emissions of the primary pollutants from the facility are as follows: 8.15 TPY PM₁₀, 3.60 TPY PM_{2.5}, 47.55 TPY NO_x, 0.28 TPY SO_x, 39.81 TPY CO, 4.61 TPY VOC, and 0.89 TPY total HAP; thus, the facility is a natural minor. The facility is subject to 40 CFR 63 Subpart XXXXXX, NESHAP Area Source Standards for Nine Metal Fabrication and Finishing Source Categories, which includes work practice standards for test sample cutting and the billet grinder. One emergency generator engine is subject to 40 CFR 63 Subpart ZZZZ, NESHAP for Reciprocating Internal Combustion Engines, and the other is subject to 40 CFR 60 Subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines. The renewal permit contains emission restrictions, recordkeeping, work practices, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act. Application received: August 30, 2021. Renewal issued: November 22, 2022.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Thomas Bianca, PE, West Permit Section Chief, 717-705-4862.

07-05041: Fort Dearborn Co., 13985 S. Eagle Valley Road, Tyrone, PA 16686-7905, Snyder Township, **Blair County**. For the flexographic printing facility. The State-Only permit was renewed. Application received: November 29, 2021. Issued: November 28, 2022.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, 484-250-5900.

Contact: Janine Tulloch-Reid, Facilities Permitting Chief, 484-250-5920.

09-00211: Pennridge School District, 1303 North 5th Street, Perkasio, PA 18944, East Rockhill Township, **Bucks County**. For the renewal of a Synthetic Minor Operating Permit for the operation of five (5) boilers and three (3) emergency generators. Application received: June 21, 2021. Issued: November 18, 2022.

Operating Permit(s) Denied, Terminated, Suspended or Revoked Under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.431 and 127.461.

Northcentral Region: Air Quality Program, 208 W. 3rd Street, Suite 101, Williamsport, PA 17701-6448, 570-327-3636.

Contact: Muhammad Q. Zaman, Program Manager, 570-327-3648.

55-00022: Schreck's Custom Trim Finishing, 8661 Route 104, Pleasant Mills, PA 17853, Perry Township, **Snyder County**. The facility received a determination of exemption from plan approval and Operating Permit. Consequently, the Department has determined that the facility qualifies for exemption from a facility-wide Operating Permit and therefore State Only Operating Permit 55-00022 is hereby terminated. The facility must still comply with all applicable requirements of 25 Pa. Code Chapters 121—145 including recordkeeping to demonstrate compliance with exemption conditions. Application received: September 19, 2022. Revoked: November 29, 2022.

ACTIONS ON COAL AND NONCOAL APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.31); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); the Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); the Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the National Pollutant Discharge Elimination System (NPDES) permit application and, if noted, the request for a Section 401 Water Quality Certification. Mining activity permits issued in response to such applications will also address the application permitting requirements of the following statutes; the Air Quality Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1103). Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Coal Permits

California District Mining Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.

Contact: Bonnie Herbert, Clerical Assistant 3.

Mining Permit No. 11841301. NPDES No. PA0001317. Pristine Resources Land LLC (formerly ArcelorMittal Pristine Resources, LLC), P.O. Box 36, Revloc, PA 15948, Cambria Township, Cambria County. To revise the permit and related NPDES permit for construction of an access road and a post-mining land use change from unmanaged natural resources to industrial/commercial, affecting 1.8 surface acres. Application received: June 4, 2021. Issued: July 1, 2022.

Mining Permit No. 63743702. NPDES No. PA0214248. Eighty-Four Mining Company, 46226 National Road, St. Clairsville, OH 43950, Somerset Township, Washington County. To revise the permit and related NPDES permit to revise the water handling plan and remove outfall 009, to be routed to outfall 008. Receiving stream(s): Unnamed Tributary to Center Branch of Pigeon Creek, classified for the following use: WWF. Application received: December 20, 2021. Issued: August 3, 2022.

Mining Permit No. 11841301. NPDES No. PA0001317. Pristine Resources Land LLC (formerly ArcelorMittal Pristine Resources, LLC), P.O. Box 36, 129 Bethlehem Road, Revloc, PA 15948, Cambria, Allegheny, Munster, Portage, Summerhill, and Croyle Townships, Cambria County. To revise the permit and related NPDES permit to add an additional NPDES point (outfall 009). Receiving stream(s): Little Conemaugh River, classified for the following use: WWF and South Branch Blacklick Creek, classified for the following use: CWF. Application received: February 2, 2021. Issued: August 3, 2022.

Mining Permit No. 33071301. NPDES No. PA0236080. Rosebud Mining Company, 301 Market Street, Kittanning, PA 16201, Snyder Township and Horton Township, Jefferson County and Elk County.

To renew the permit and related NPDES permit. Application received: November 22, 2021. Issued: August 23, 2022.

Mining Permit No. 56111601. NPDES No. PA0236098. Laurel Prep Plant, LLC, 1501 Ligonier Street, Latrobe, PA 15650, Shade Township, Somerset County. To transfer the permit and related NPDES permit from LCT Energy, LP. Application received: April 27, 2021. Issued: September 1, 2022.

Mining Permit No. 17071301. NPDES No. PA0235784. Rosebud Mining Company, 301 Market Street, Kittanning, PA 16201, Burnside Township, Clearfield County. To revise the permit and related NPDES permit, affecting 640.0 underground acres and 640.0 subsidence control plan acres. Application received: June 23, 2020. Issued: September 2, 2022.

Mining Permit No. 56841328. NPDES No. PA0033677. Rosebud Mining Company, 301 Market Street, Kittanning, PA 16201, Paint Township and Adams and Richland Townships, Somerset County and Cambria County. To revise the permit and related NPDES permit, affecting 1,404.5 underground acres and 1,404.5 subsidence control plan acres. Application received: September 2, 2020. Issued: October 5, 2022.

Mining Permit No. 11733701. GP12-11733701-R23. Robindale Energy Services, Inc., 224 Grange Hall Road, P.O. Box 228, Armagh, PA 15920, Cambria Township, Cambria County. To renew the permit including the renewal of the Air Quality GPA/GP12 authorization. Approval is authorized under General Permit BAQ-GPA/GP12 and is required to meet all applicable limitations, terms, and conditions of authorization GP12-11733701-R23. Application received: May 27, 2020. Issued: October 14, 2022.

Mining Permit No. 32061303. NPDES No. PA 0235725. Rosebud Mining Company, 301 Market Street, Kittanning, PA 16201, Pine and Cherryhill Townships, Indiana County. To revise the permit and related NPDES permit for installation of a degas borehole and a rock dust borehole into the Brookville Mine workings, affecting 6.4 surface acres. Application received: March 1, 2022. Issued: October 20, 2022.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931-4119, 814-472-1800.

Contact: Melanie Ford-Wigfield, 814.472.1900, ra-ep cambria@pa.gov.

Mining Permit No. 56060102. NPDES No. PA0249912. Mountaineer Mining Corp, 1010 Garrett Shortcut Road, Berlin, PA 15530, Stonycreek Township, Somerset County. NPDES renewal of a bituminous surface mine affecting 83.7 acres. Receiving streams: unnamed tributaries to/and Schrock Run classified for the following use: CFW. Application received: November 15, 2021.

New Stanton District Mining Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.

Contact: Tracy Norbert or RA-EPNEWSTANTON@pa.gov.

Mining Permit No. 26000201. NPDES No. PA0202801. Carbon Fuel Resources, Inc., 4325 State Route 51, Rostraver Township, PA 15012, German Township, Fayette County. Renewal of an existing bituminous coal refuse reprocessing permit and associated NPDES permit for continued mining, affecting 73.7 acres. Receiving streams: unnamed tributary to the Monon-

gahela River and unnamed tributary to Browns Run to Monongahela River, classified for the following use: WWF. Application received: May 10, 2021. Issued: November 29, 2022.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Contact: RA-EPPottsvilleDMO@pa.gov.

Mining Permit No. 40990101. NPDES Permit No. PA0225193. Hazleton Shaft Division, LLC, P.O. Box 39, Hazleton, PA 18201, Hazle Township and the City of Hazleton, **Luzerne County**. Renewal and transfer of an anthracite surface mine, coal refuse reprocessing, coal refuse disposal and preparation plant operation and NPDES Permit affecting 481.0 acres. Receiving stream: Hazle Creek. Application received: June 12, 2020. Transfer issued: November 29, 2022. Renewal issued: November 29, 2022.

Mining Permit No. 40990101. GP12 No. GP12-40990101. Hazleton Shaft Division, LLC, P.O. Box 39, Hazleton, PA 18201, Hazle Township and the City of Hazleton, **Luzerne County**. General operating permit to operate a coal preparation plant. Application received: June 12, 2020. Permit issued: November 29, 2022.

Noncoal Permits

Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

Contact: Cayleigh Boniger, Clerical Supervisor 2, 814-797-0824.

Mining Permit No. 61110304. NPDES No. PA0259217. Glenn O. Hawbaker, Inc., 1952 Waddle Road, Suite 203, State College, PA 16803, Barkeyville Borough, **Venango County**. Renewal of NPDES permit. Application received: June 24, 2022. Issued: November 23, 2022.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

Contact: Cassie Stanton, Clerical Assistant 2.

Mining Permit No. 08970302 & Mining Permit No. 08120302. NPDES No. PA0237868. Bishop Brothers Construction Co., Inc., 1376 Leisure Drive, Towanda, PA 18848, Sheshequin Township, **Bradford County**. Modification of an NPDES permit for a large noncoal (industrial minerals) mining site affecting 261 acres. Modification to replace Sheshequin Sand & Gravel Pit GP-104 with Scrivens Pit NPDES Permit. Receiving stream(s): Susquehanna River classified for the following use(s): WWF, MF. Application received: April 4, 2022. Issued: November 22, 2022.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Contact: RA-EPPottsvilleDMO@pa.gov.

Mining Permit No. 58160301. F.S. Lopke Contracting, Inc., 3430 SR 434, Apalachin, NY 13732, Lenox Township, **Susquehanna County**. Correction to a quarry operation to add 10.6 acres for a total of 59.6 acres. Receiving stream: Tunkhannock Creek. Application received: March 30, 2020. Correction issued: November 16, 2022.

Mining Permit No. 58160301. GP104 No. PAM115048. F.S. Lopke Contracting, Inc., 3430 SR 434, Apalachin, NY 13732, Lenox Township, **Schuylkill County**. Coverage under the General NPDES Stormwater Permit for stormwater discharges associated

with mining activities (BMP-GP-104). Receiving stream: Tunkhannock Creek. Application received: March 30, 2020. Coverage issued: November 16, 2022.

Mining Permit No. 7975SM5. NPDES Permit No. PA0225649. KPK Development Corp., 149 Newbold Road, Fairless Hills, PA 19030, Falls Township, **Bucks County**. Renewal of an NPDES Permit for discharge of treated mine drainage from a quarry operation. Receiving stream: Martins Creek. Application received: January 18, 2022. Renewal issued: November 28, 2022.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Action(s) Taken on Application(s) Under the Explosives Acts of 1937 and 1957 and 25 Pa. Code § 211.124. Blasting Activity Performed as Part of a Coal or Noncoal Mining Activity will be Regulated by the Mining Permit for that Coal or Noncoal Mining Activity.

Blasting Permits

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

Contact: Cassie Stanton, Clerical Assistant 2, 814-342-8101.

Permit No. 17224002. Corey L. Shawver DBA Hilltop Coal Company, 12 Dutchtown Road, Houtzdale, PA 16651, Bigler Township, **Clearfield County**. Blasting for Contracting and Reclamation of GFCC Permit No. 17-16-01. Application received: November 21, 2022. Issued: Expiration date: October 1, 2024.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Contact: RA-EPPottsvilleDMO@pa.gov.

Permit No. 38224113. Maine Drilling & Blasting, Inc., P.O. Box 1140, Gardiner, ME 04345, Annaville Township, **Lebanon County**. Construction blasting for utilities at 110 Landings Drive. Application received: November 14, 2022. Permit issued: November 21, 2022. Expiration date: November 14, 2023.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (DEP) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval, and requests for Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, DEP has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of Sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317), and that the construction will not violate applicable Federal and State Water Quality Standards.

Individuals aggrieved by these actions may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. Appeals must be filed with the Environmental Hearing Board within 30-days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time

period. Copies of the appeal form and the Board’s rules of practice and procedure may be obtained from the Board. The appeal form and the Board’s rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If you want to challenge this action, your appeal must reach the Board within 30-days. You do not need a lawyer to file an appeal with the Board.

Individuals in need of accommodations should contact the Environmental Hearing Board through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Important legal rights are at stake, however, so you should show this notice to a lawyer at once. If you cannot afford a lawyer, you may qualify for free pro bono representation. Call the Secretary to the Board 717-787-3483 for more information.

WATER OBSTRUCTIONS AND ENCROACHMENTS

Action(s) Taken on Application(s) for the Following Activities Filed Under The Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), Section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and the Clean Streams Law and Notice of Final Action for Certification Under Section 401 of the FWPCA.

Eastern District: Oil and Gas Management Program, 208 West Third Street, Williamsport, PA 17701-6448.

Contact: RA-EPEASTERNOGPRG@pa.gov.

E0829222-027. Chesapeake Appalachia, LLC, 14 Chesapeake Lane, Sayre, PA 18840-1567, Asylum Township, **Bradford County**. U.S. Army Corps of Engineers Baltimore District. Application received: June 22, 2022. Issued: November 22, 2022.

To construct, operate and maintain the James Barrett Bra Pad Project, which consists of the following impacts:

1. 3,528 square feet of permanent direct impacts to Palustrine Emergent (PEM) Wetlands and 479 square

feet of temporary direct impacts to Palustrine Emergent (PEM) Wetlands via the placement of fill (Monroeton, PA Quadrangle, Latitude N41° 40’ 29.07”, Longitude W76° 22’ 40.07”);

2. 392 square feet of permanent direct impacts to Palustrine Emergent (PEM) Wetlands via the placement of fill (Monroeton, PA Quadrangle, Latitude N41° 40’ 27.70”, Longitude W76° 22’ 37.06”); and

3. 1,089 square feet of permanent direct impacts to Palustrine Emergent (PEM) Wetlands via the placement of fill (Monroeton, PA Quadrangle, Latitude N41° 40’ 30.02”, Longitude W76° 22’ 41.73”).

This project is an after-the-fact permit that is associated with the Chesapeake Audit and will result in 5,009 square feet (0.115 acre) of permanent direct PEM wetland impacts and 479 square feet (0.011 acre) of temporary direct PEM wetland impacts, all for the purpose of Marcellus well development in Asylum Township, Bradford County.

E0829222-030. Chesapeake Appalachia, LLC, 14 Chesapeake Lane, Sayre, PA 18840-1567, Tuscarora Township, **Bradford County**. U.S. Army Corps of Engineers Baltimore District. Application received: July 18, 2022. Issued: November 22, 2022.

This project seeks after-the-fact authorization in accordance with the Consent Decree Chesapeake Appalachia, LLC entered into with the U.S. Environmental Protection Agency and the PA Department of Environmental Protection on May 20, 2021. As previously referenced, Water Obstruction and Encroachment (WOEP) Application E0829222-030 Chesapeake Appalachia, LLC (Chesapeake) has applied for an Individual—Joint Permit to construct, operate and maintain 0.012 acre of permanent and 0.078 acre of temporary impacts to on-site wetlands. All impacts are associated with the Bennett Bra Pad construction in 2010.

There are no stream and floodway impacts associated with this after-the-fact authorization. The project will result in a total of 523 SF (0.012 acre) of permanent and 3,397 SF (0.078 acre) of temporary wetland impacts. Additionally, project will include 3,790 SF (0.087 acre) of temporary wetland restoration impacts.

WETLAND IMPACT TABLE:

<i>Resource Name</i>	<i>Municipality Quadrangle</i>	<i>Activity</i>	<i>Cov. Class</i>	<i>Listed Trout</i>	<i>Impact Length Temp. (LF)</i>	<i>Impact Area Temp. (SF)</i>	<i>Impact Length Perm. (LF)</i>	<i>Impact Area Perm. (SF)</i>	<i>Lat. Long.</i>
W-MRK-001-T	Tuscarora Laceyville	Temporary Workspace	PEM	None	193	958			41.714659° 76.129356°
W-MRK-010 -T	Tuscarora Laceyville	Fill	PEM	None	255	2,439			41.715050° 76.129602°
W-DJY-007-P	Tuscarora Laceyville	Fill	PEM	None			12	131	41.714096° 76.130300°
W-MRK-010-P	Tuscarora Laceyville	Fill	PEM	None			49	392	41.715527° 76.129968°
W-MRK-001-REST1	Tuscarora Laceyville	Restoration	PEM	None	334	1,873			41.714975° 76.129528°
W-MRK-001-REST2	Tuscarora Laceyville	Temporary Workspace	PEM	None	384	1,917			41.714816° 76.129400°
TOTAL IMPACTS					1,166	7,187	61	523	

Northeast Region: Waterways & Wetlands Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: RA-EPWW-NERO@pa.gov.

E6602222-002. Monroe Township, 1697 Graveyard Hill Road, Monroe Township, PA 18618, Monroe Township, **Wyoming County**. U.S. Army Corps of Engineers Baltimore District.

The following impacts are associated with the structure replacement for T-337 over Leonard Creek: 1. To remove the existing structure and to construct and maintain a 27.56-foot wide single-span bulb-tee beam bridge carrying T-337 (Dietz Mountain Road) across Leonard Creek (HQ-CWF, MF) having an 82.71-foot normal clear span and a 9-foot minimum underclearance. 2. To permanently impact approximately 0.01 acre of PEM wetland due to the replacement of an existing outfall structure. The proposed project is located along T-337 approximately 100' east of the SR 0309/T-337 intersection (Noxen, PA Quadrangle, Latitude: 41° 25' 31.34"; Longitude: -76° 0' 38.73") in Monroe Township, Wyoming County. Application received: February 25, 2022.

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: 717-705-4802.

E2203222-002. Mission Land Company, LLC, 5755 Union Deposit Road, Harrisburg, PA 17111, South Hanover Township, **Dauphin County**. U.S. Army Corps of Engineers Baltimore District.

The applicant proposes to 1.) install and maintain a 120.0-foot long 48.0-inch diameter RCP stream enclosure in an unnamed tributary to Kellock Run (WWF, MF) and palustrine emergent wetlands, 2.) to install and maintain a 4.0-inch PVC electrical conduit across Kellock Run (WWF, MF) and palustrine emergent wetlands; 3.) to install and maintain a 4.0-inch PVC fiber optic conduit across an unnamed tributary to Kellock Run (WWF, MF) and palustrine emergent wetlands; 4.) to install and maintain a 4.0-inch PVC coaxial cable conduit across an unnamed tributary to Kellock Run (WWF, MF) and palustrine emergent wetlands; 5.) install and maintain an 80.0-foot long 24.0 diameter RCP culvert and two 85.0-foot long, 15.0-inch diameter overflow culverts with rip rap scour protection in palustrine emergent wetlands; 6.) to install and maintain a 4.0-inch PVC electrical conduit across an unnamed tributary to Kellock Run (WWF, MF) and palustrine emergent wetlands; 7.) to install and maintain a 4.0-inch PVC fiber optic conduit across an unnamed tributary to Kellock Run (WWF, MF) and palustrine emergent wetlands; 8.) to install and maintain a 4.0-inch PVC coaxial cable conduit across an unnamed tributary to Kellock Run (WWF, MF) and palustrine emergent wetlands and 9.) place and maintain fill in the floodway of an unnamed tributary to Kellock Run (WWF, MF), all impacting a total of 0.14 acre of palustrine emergent wetlands, 120 feet of stream and 61,000 square feet of floodway; and to remove an existing 18.0-foot long CMP culvert in an unnamed tributary to Kellock Run (WWF, MF) and restore the stream and surrounding palustrine emergent wetlands, temporarily impacting 20 linear feet of stream and 0.03 acre of wetlands. All impacts are for the purpose of accommodating a proposed residential housing development. To compensate for the proposed wetland impacts, the applicant proposes to create 0.14 acre of wetlands onsite. Latitude: 40° 17' 47.45", Longitude: -76° 43' 21.75". Application received: January 19, 2022. Issued: November 21, 2022.

Southeast Region: Waterways & Wetlands Program, 2 East Main Street, Norristown, PA 19401, 484-250-5900.

Contact: Elaine Henderson, Clerical Assistant 3, 484-250-5157.

E4601222-012. New Hanover Township, 2943 North Charlotte Street, Gilbertsville, PA 19525, New Hanover Township, **Montgomery County**. U.S. Army Corps of Engineers Philadelphia District.

To perform the following listed water obstruction and encroachment activities associated with the Swamp Creek Restoration Project. The proposed work includes 100 LF of in-stream and streambank restoration along Swamp Creek (WWF-MF) consisting of j-hooks, floodplain benches, coir logs, and minor grading to create a riparian buffer. The project is located near the intersection of Serenity Drive and Middle Creek Road (Sassamansville, PA USGS Map) in New Hanover Township, Montgomery County. Latitude: 40.316755°, Longitude: -75.585927°. Application received: May 16, 2022. Permit issued: November 17, 2022.

E4601222-009. Ryan and Kari Lenhart, 107 Old Oak Tree Road, Lansdale, PA 19446, Montgomery Township, **Montgomery County**. U.S. Army Corps of Engineers Philadelphia District.

To perform the following-listed water obstruction and encroachment activities associated with the Lenhart Residence. The project proposes streambank rehabilitation which includes to construct and maintain a 155 LF by 3 ft gabion wall along the streambank of the UNT Wissahickon Creek (TSF, MF) and to place fill in a wetland to restore the lawn area. The proposed project is disturbing approximately 0.107 acre of wetlands, permanent stream impacts of 465 square feet, and temporary stream impacts of 1,320 square feet. There are no impacts to the floodway and floodplain. The site is located at 107 Old Oak Tree Road (Lansdale, PA USGS Map) in Montgomery Township, Montgomery County. Latitude: 40.239186°, Longitude: -75.259102°. Application received: May 6, 2022. Issued: November 17, 2022.

Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Dana Drake, Program Manager.

E0205221-010. Penn Hills Township, 102 Duff Road, Penn Hills, PA 15235, Penn Hills Township, **Allegheny County**. U.S. Army Corps of Engineers Pittsburgh District.

The applicant has been given consent to: 1. Construct, operate, and maintain a stream bank restoration project in and along 1,000 LF of UNT # 1 to Thompson Run (WWF). Within this reach the following activities/structures are proposed:

- A. Stream bank regrading along 900 LF and rock toe protection along 112 LF of the right descending bank;
- B. One rock cross vane, seven log vanes and one log rollover;
- C. Branch layering along 557 LF of stream bank; and
- D. To construct, operate, and maintain 27 LF of branch layering within UNT # 2 to Thompson Run (WWF).

For the purpose of providing nutrient and sediment load reduction toward Penn Hills Township's MS4 requirements of their NPDES permit and to provide stream bank protection to an existing sewerline. Cumulatively, the project will permanently impact 1,000 linear feet of a

two UNTs to Thompson Run and permanently impact 1.65 acres of associated floodway. The project site is located west of Thompson Run Road. Latitude: 40° 27' 18.93", Longitude: -79° 47' 54.99". Application received: May 5, 2021. Issued: November 21, 2022.

E63052-727. Redevelopment Authority of the County of Washington, 100 West Beau Street, Washington, PA 15301, South Franklin Township, **Washington County**. U.S. Army Corps of Engineers Pittsburgh District.

This amendment is seeking after-the-fact authorization to repair and stabilize two landslides that occurred during permitted construction activities, and has been given consent to: Construct, operate and maintain: 1. Fill within W-KLE-05 (PEM Wetland) for landslide stabilization. Permanent impacts include 0.004 acre. 2. Fill within the 100-year floodway of stream S-KLE-06 an unnamed tributary (UNT) of Chartiers Creek (WWF) for stabilization of landslide # 1. Permanent impacts include 0.056 acre and temporary impacts include 0.076 acre. 3. A 24-inch diameter pipe for a temporary stream crossing on stream S-KLE-06 a UNT of Chartiers Creek (WWF). Temporary impacts include 54 LF. 4. Fill within the 100-year floodway of stream S-KLE-05 a UNT of Chartiers Creek (WWF) for stabilization of landslide # 1. Permanent impacts include 0.414 acre. 5. A relocation of a segment of stream S-KLE-5 a UNT to Chartiers Creek (WWF) for stabilization of slide # 1. Permanent impacts include 252 LF. 6. Fill within 100-year floodway of stream S-KLE-05 a UNT of Chartiers Creek (WWF) for stabilization of landslide # 2. Temporary impacts include 0.497 acre. 7. Removal of earth slide material from the stream S-KLE-05 a UNT of Chartiers Creek (WWF) and construct a 24-inch diameter pipe for a temporary stream crossing for slide # 2. Temporary impacts include 205 LF. 8. A relocation of a 342 LF segment of stream S-KLE-5 a UNT to Chartiers Creek (WWF) for landslide stabilization of slide # 2. Permanent impacts include 342 LF. 9. Fill within W-KLE-07 (PEM Wetland) for landslide stabilization of slide # 2. Permanent impacts include 0.004 acre. For the purpose of repairing two landslides that occurred during construction of the original permitted activities. Latitude: 40° 08' 11", Longitude: -80° 17' 24". Application received: January 22, 2021. Issued: November 28, 2022.

E6505221-002. Airport Auto Outlet, 5941 Route 981, Latrobe, PA 15650, Unity Township, **Westmoreland County**. U.S. Army Corps of Engineers Pittsburgh District.

The applicant has been given consent to: 1. Construct and maintain a 60-foot extension to an existing 86 linear feet (LF) of a 48" diameter concrete culvert, which carries an Unnamed Tributary (UNT) to Monastery Run (WWF), for a total 146 LF linear feet of stream enclosure. 2. Place and maintain fill above the proposed stream enclosure and in 0.058 acre of PEM wetland, along with indirect impacts to an additional 0.012 acre of wetland, in order to extend and connect the dealership's parking lots. For the purposes of increasing existing customer parking and vehicular sales storage parking from 68 existing total spaces to a total of 81 proposed spaces; improving safety conditions and allowing for safer access to the southern sales lot. The total project impacts will be permanent impacts to 84 linear feet of an Unnamed Tributary (UNT) to The Monastery Run (WWF), 0.034 acre of the floodway of the UNT, and 0.07 acre of Wetland A, a palustrine emergent wetland (PEM). Mitigation will be provided through the purchase of 0.07 of wetland and 0.008 of

stream credits, from the Furnace Run Mitigation Bank Project, which is operated by the Land Reclamation Group, LLC. Latitude: 40° 17' 50", Longitude: -79° 23' 39". Application received: March 8, 2021. Issued: November 28, 2022.

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control permits have been issued.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. Appeals must be filed with the Board within 30-days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30-days. A lawyer is not needed to file an appeal with the Board.

Individuals in need of accommodations should contact the Environmental Hearing Board through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at 717-787-3483 for more information.

Eastern District: Oil and Gas Management Program, 208 West Third Street, Williamsport, PA 17701-6448.

Contact: RA-EPEASTERNNOGPRG@pa.gov.

ESCGP # 3 ESG290822040-00

Applicant Name **Chesapeake Appalachia, LLC**

Contact Person Eric Haskins

Address 14 Chesapeake Lane

City, State, Zip Sayre, PA 18840

Township(s) Standing Stone Township

County **Bradford County**

Receiving Stream(s) and Classification(s) King Creek (WWF, MF)

Application received: October 26, 2022

Issued: November 22, 2022

ESCGP # 3 ESG290822041-00

Applicant Name **Chesapeake Appalachia, LLC**

Contact Person Eric Haskins

Address 14 Chesapeake Lane

City, State, Zip Sayre, PA 18840

Township(s) Asylum Township

County **Bradford County**

Receiving Stream(s) and Classification(s) Tributary # 30039 to Susquehanna River (WWF, MF)

Application received: October 26, 2022

Issued: November 23, 2022

ESCGP # 3 ESG290822039-00Applicant Name **Appalachia Midstream Services, LLC**

Contact Person Adam Weightman

Address 30351 Route 6

City, State, Zip Wysox, PA 18854

Township(s) Monroe Township

County **Bradford County**

Receiving Stream(s) and Classification(s) Satterlee Run

103396 (HQ-CWF), UNT to South Branch Towanda

Creek # 91175 (CWF, MF)

Application received: September 27, 2022

Issued: November 29, 2022

Southwest Region: Oil and Gas Management Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: D. J. Stevenson, 412-442-4281.

ESCGP # 3 ESG073022004-00Applicant Name **EQT Production Company**

Contact Person Charity Fleenor

Address 400 Woodcliff Drive

City, State, Zip Canonsburg, PA 15317

Township(s) Perry Township

County **Greene County**

Receiving Stream(s) and Classification(s) Haynes Run

WWF Dunkard Creek WWF Unnamed Tributary to

Haynes Run. WWF Unnamed Tributary to Rudolph Run WWF.

Application received: March 25, 2022

Issued: November 23, 2022

CORRECTIVE ACTION UNDER ACT 32, 1989

PREAMBLE 2

The Following Plan(s) and Report(s) Were Submitted Under the Storage Tank and Spill Prevention Act (35 P.S. §§ 6021.101—6021.2104).

Provisions of 25 Pa. Code Chapter 245, Subchapter D, Administration of the Storage Tank and Spill Prevention Program, require the Department of Environmental Protection (DEP) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A remedial action plan is submitted to summarize the site characterization, document the design and construction details for the remedial action, and describe how the remedial action will attain the selected remediation standard. The remedial action plan also provides results of studies performed and data collected to support the remedial action and a description of postremediation care requirements. A remedial action completion report is submitted to document cleanup of a release of a regulated substance at a site to the selected remediation standard. A remedial action completion report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning plans or reports, please contact the Regional Office Program Manager previously listed in the notice.

Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

DEP has received the following plans and reports.

Northcentral Region: Environmental Cleanup & Brownfields Program, 208 W. 3rd Street, Suite 101, Williamsport, PA 17701-6448, 570-327-3636.

Contact: Randy Farmerie, P.G., Environmental Program Manager, 570-327-3716.

Kwik Fill M0411, Storage Tank Facility ID # **59-71805**, 12 PA Route 328, Tioga, PA 16946, Lawrence Township, **Tioga County**. EnviroTrac, Ltd., 176 Thorn Hill Road, Warrendale, PA 15086, on behalf of United Refining Company, 814 Lexington Avenue, P.O. Box 688, Warren, PA 16365 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with Gasoline. The plan is intended to document the remedial actions for meeting nonresidential Statewide health standards.

Northeast Region: Environmental Cleanup & Brownfields Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: Eric Supey, Environmental Program Manager.

Speedway # 6745, Storage Tank Facility ID # **48-31585**, 3622-3624 Route 378, Bethlehem, PA 18015, Lower Saucon Township, **Northampton County**. AECOM, 625 West Ridge Pike, Suite E-100, Conshohocken, PA 19428, on behalf of 7-Eleven, Inc., 3200 Hackberry Road, P.O. Box 711 (0148), Dallas, TX 75221-0711 submitted a Remedial Action Plan concerning remediation of soil contaminated with kerosene. The plan is intended to document the remedial actions for meeting site-specific standards.

Northwest Region: Environmental Cleanup & Brownfields Program, 230 Chestnut Street, Meadville, PA 16335-3481, 814-332-6945.

Contact: Ellen Roberts.

Last Minit Mart, Storage Tank Facility ID # **10-14629**, 1674 Perry Hwy, Portersville, PA 16051, Muddycreek Township, **Butler County**. Letterle & Associates, 191 Howard Street, Suite 108, Franklin, PA 16323, on behalf of Reed Oil Company, 511 Montgomery Ave, New Castle, PA 16102 submitted a Combined Remedial Action Plan and Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with unleaded gasoline. The combined plan and report is intended to document the remedial actions for meeting nonresidential site-specific standards.

Surfine 0457 4653, Storage Tank Facility ID # **20-36816**, 800 Main St, Conneautville, PA 16406, Conneautville Borough, **Crawford County**. EnviroTrac Ltd., 176 Thorn Hill Road, Warrendale, PA 15086, on behalf of Sunoco Inc., 2 Righter Parkway, Suite 120, Wilmington, DE 19803 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with unleaded gasoline. The plan is intended to document the remedial actions for meeting nonresidential Statewide health standards.

Southcentral Region: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Robin L. Yerger, LPG, 717-705-4705.

Aryan & Riaan, Storage Tank Facility ID # **21-55177**, 3804 Lisburn Road, Mechanicsburg, PA 17055, Lower Allen Township, **Cumberland County**. Letterle & Associates, Inc., 2022 Axeman Road, Suite 201, Bellefonte, PA 16823, on behalf of Lucky Bear LLC, P.O. Box 448, Abbottstown, PA 17301 submitted a Remedial Action Plan

concerning remediation of soil contaminated with Petroleum Constituents. The plan is intended to document the remedial actions for meeting nonresidential Statewide health standards.

Southwest Region: Environmental Cleanup & Brownfields Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Kam Miseikyte, Clerical Assistant 2, 412-442-4091.

Sunoco # 0359-3605, Storage Tank Facility ID # **02-03533**, 5733 Butler Street, Pittsburgh, PA 15201, City of Pittsburgh, **Allegheny County**. EnviroTrac, Ltd., 176 Thorn Hill Road, Warrendale, PA 16365 on behalf of Evergreen Resource Group, LLC, 2 Righter Parkway, Suite 120, Wilmington, DE 19803, submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with unleaded gasoline, leaded gasoline, diesel fuel, and crude oil. The plan is intended to document the remedial actions for meeting nonresidential Statewide health and site-specific standards.

InNOut Food Mart, Storage Tank Facility ID # **02-28148**, 838 East Warrington Avenue, Pittsburgh, PA 15210, City of Pittsburgh, **Allegheny County**. Insite Group, Inc., 611 South Irvine Avenue, Sharon, PA 16146, on behalf of Kesari, LLC, 838 East Warrington Avenue, Pittsburgh, PA 15210 submitted a Remedial Action Plan concerning remediation of groundwater contaminated with unleaded gasoline. The plan is intended to document the remedial actions for meeting residential Statewide health standards.

CORRECTIVE ACTION UNDER ACT 32, 1989

PREAMBLE 3

Action(s) Taken on the Following Plans and Reports Under the Storage Tank and Spill Prevention Act (35 P.S. §§ 6021.101—6021.2104).

Provisions of 25 Pa. Code Chapter 245, Subchapter D, Administration of the Storage Tank and Spill Prevention Program, require the Department of Environmental Protection (DEP) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports.

A remedial action plan is submitted to summarize the site characterization, document the design and construction details for the remedial action, and describe how the remedial action will attain the selected remediation standard. The remedial action plan also provides results of studies performed and data collected to support the remedial action and a description of postremediation care requirements. A remedial action completion report is submitted to document cleanup of a release of a regulated substance at a site to the selected remediation standard. A remedial action completion report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

DEP may approve or disapprove plans and reports submitted. This notice provides DEP's decision and, if relevant, the basis for disapproval.

For further information concerning plans or reports, please contact the Regional Office Program Manager previously listed in the notice.

Individuals in need of accommodations should contact DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

DEP has received the following plans and reports.

Northeast Region: Environmental Cleanup & Brownfields Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: Eric Supey, Environmental Program Manager.

PA0491 (Former Speedway 6751/7-Eleven 45780), Storage Tank Facility ID # **39-22662**, 4002 Chestnut Street, Emmaus, PA 18049, Upper Milford Township, **Lehigh County**. AECOM, 625 West Ridge Pike, Suite E-100, Conshohocken, PA 19428, on behalf of 7-Eleven, Inc., 3200 Hackberry Road, P.O. Box 711 (0148), Dallas, TX 75221-0711 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum. The report was not acceptable to meet the Statewide health standards and was disapproved by DEP on November 22, 2022.

Market Convenience, Storage Tank Facility ID # **40-23187**, 581 Market Street, Kingston, PA 18704, Kingston Borough, **Luzerne County**. MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of ANS Real Estate, Inc., 581 Market Street, Kingston, PA 18704 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with gasoline. The report was acceptable to meet the Statewide health standards and was approved by DEP on November 23, 2022.

Fuel On Drums, Storage Tank Facility ID # **40-07468**, 6 West Butler Drive, Drums, PA 18222, Butler Township, **Luzerne County**. Environmental Alliance, 5341 Limestone Road, Wilmington, DE 19808, on behalf of Doloma USA, LLC, 6 West Butler Drive, Drums, PA 18222 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with gasoline. The plan was acceptable to meet the Statewide health standards and was approved by DEP on November 23, 2022.

Carriage Stop Plaza Sunoco, Storage Tank Facility ID # **40-38017**, 2500 East End Boulevard, Wilkes-Barre, PA 18702, Plains Township, **Luzerne County**. MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Anup Patel, 2500 East End Boulevard, Wilkes-Barre, PA 18702 submitted a Remedial Action Completion Report concerning remediation of groundwater contaminated with gasoline. The report residential demonstrated attainment of the Statewide health standards and was approved by DEP on November 28, 2022.

Convenient Food Mart, Storage Tank Facility ID # **40-08918**, 340 Wilkes-Barre Township Boulevard, Wilkes-Barre, PA 18702, Wilkes-Barre Township, **Luzerne County**. Reliance Environmental, 235 North Duke Street, Lancaster, PA 17602, on behalf of CDG 320 Inc., 304 North Wilkes-Barre Township Boulevard, Wilkes-Barre, PA 18702 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with gasoline. The plan was not acceptable to meet the Statewide health and site-specific standards and was disapproved by DEP on November 29, 2022.

Southcentral Region: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, 717-705-4700.

Contact: Cherie Campbell, Soil Scientist, 717-705-4705.

Tanglewood Valero, Storage Tank Facility ID # **36-28236**, 1201 Lancaster Pike, Quarryville, PA 17566-9748, East Drumore Township, **Lancaster County**. Environmental Alliance, Inc., 5341 Limestone Road, Wilmington, DE 19808, on behalf of Shreeji Petroleum, Inc., 1201 Lancaster Pike, Quarryville, PA 17566-9748 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with Petroleum Constituents. The report nonresidential did not demonstrate attainment of the Statewide health standards and was disapproved by DEP on November 28, 2022.

Dutchland, Inc., Storage Tank Facility ID # **36-62314**, 160 PA Route 41, Gap, PA 17527-9410, Sadsbury Township, **Lancaster County**. Rettew Associates, Inc., 3020 Columbia Avenue, Lancaster, PA 17603, on behalf of Dutchland, Inc., 160 PA Route 41, Gap, PA 17527 submitted a Remedial Action Plan concerning remediation of groundwater contaminated with Petroleum Constituents. The plan nonresidential was acceptable to meet the Statewide health standards and was approved by DEP on December 1, 2022.

Contact: Robin L. Yerger, LPG, 717-705-4705.

Aryan & Riaan, Storage Tank Facility ID # **21-55177**, 3804 Lisburn Road, Mechanicsburg, PA 17055, Lower Allen Township, **Cumberland County**. Letterle & Associates, Inc., 2022 Axeman Road, Suite 201, Bellefonte, PA 16823, on behalf of Lucky Bear LLC, P.O. Box 448, Abbottstown, PA 17301 submitted a Remedial Action Plan concerning remediation of soil contaminated with Petroleum Constituents. The plan nonresidential was acceptable to meet the Statewide health standards and was approved by DEP on November 29, 2022.

Southeast Region: Environmental Cleanup & Brownfields Program, 2 East Main Street, Norristown, PA 19401, 484-250-5900.

Contact: Richard M. Staron, Professional Geologist Manager, 484-250-5717.

Oxford Citgo, Storage Tank Facility ID # **15-28959**, 216 South 3rd Street, Oxford, PA 19363, Oxford Borough, **Chester County**. Aquaterra Technologies, Inc., P.O. Box 744, West Chester, PA 19381, on behalf of Oxford ADP, LLC, 216 South 3rd Street, Oxford, PA 19363 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with unleaded gasoline. The plan nonresidential was acceptable to meet the Statewide health and site-specific standards and was approved by DEP on November 23, 2022.

SEPTA Allegheny Garage, Storage Tank Facility ID # **51-44393**, 27th & Allegheny Ave., Philadelphia, PA 19132, City of Philadelphia, **Philadelphia County**. Michael Baker International, 1818 Market Street, Suite 3110, Philadelphia, PA 19103, on behalf of SEPTA, 1234 Market Street, 6th Floor, Philadelphia, PA 19107 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum products. The plan residential was not acceptable to meet the Statewide health standards and was disapproved by DEP on November 23, 2022.

Southwest Region: Environmental Cleanup & Brownfields Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Kam Miseikyte, Clerical Assistant 2, 412-442-4091.

Sunoco # 0002-4190, Storage Tank Facility ID # **02-32312**, 1721 Banksville Road, Pittsburgh, PA 15216, City of Pittsburgh, **Allegheny County**. EnviroTrac, Ltd., 176 Thorn Hill Road, Warrendale, PA 16365, on behalf of Sunoco, Inc., 2 Righter Parkway, Suite 120, Wilmington, DE 19803 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with benzene, toluene, ethylbenzene, xylenes, methyl tertiary butyl ether, cumene, and naphthalene. The report residential was acceptable to meet the Statewide health standards and was approved by DEP on November 22, 2022.

SPECIAL NOTICES

WASTE, AIR, RADIATION AND REMEDIATION

Plan Revision Approval under the Municipal Waste Planning, Recycling and Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101.

Northcentral Region: Waste Management Program, 208 W. 3rd Street, Suite 101, Williamsport, PA 17701-6448, 570-327-3636.

Contact: Joseph Delgrippe, Regional Planning & Recycling Coordinator, 570-916-8648.

The Department of Environmental Protection (Department) approved the Centre County Municipal Waste Plan Revision on December 1, 2022.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Hamilton Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

The plan revision is a public document and may be viewed at the Department Regional Office previously noted.

Questions concerning this approval should be directed to Joseph L. DelGrippe, Regional Planning and Recycling Coordinator, Waste Management Program, at the Northcentral Regional Office at 570-916-8648.

[Pa.B. Doc. No. 22-1900. Filed for public inspection December 9, 2022, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Coal Mining Reclamation Fee Amount for 2023

The Department of Environmental Protection (Department) announces the amount of the per acre Reclamation Fee for coal permits for 2023. Effective January 1, 2023, the per acre Reclamation Fee will remain at \$100. The fee amount is recalculated each year in accordance with 25 Pa. Code § 86.17(e)(4) (relating to permit and reclamation fees). Refer to 25 Pa. Code § 86.17 for more detailed information.

Annual adjustments to the per acre Reclamation Fee are based on a fiscal year report that contains a financial analysis of the revenue and expenditures from the Reclamation Fee O & M Trust Account for Fiscal Year (FY) 2021-2022. The report also provides projections for FY 2022-2023. The report was reviewed with the Department's Mining and Reclamation Advisory Board on October 13, 2022.

The final fiscal year report is available at <http://www.dep.pa.gov/Business/Land/Mining/BureauofMiningPrograms/Reports/Pages/default.aspx>.

RAMEZ ZIADEH, P.E.,
Acting Secretary

[Pa.B. Doc. No. 22-1901. Filed for public inspection December 9, 2022, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Extension of National Pollutant Discharge Elimination System General Permit for Discharges from Aquatic Animal Production Facilities (PAG-11)

Under The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P.S. §§ 510-5, 510-17 and 510-20), the Department of Environmental Protection (Department) is, by this notice, extending for 12 months the availability of the current National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges from Aquatic Animal Production Facilities (PAG-11).

The existing PAG-11 General Permit in effect at this time will expire on March 2, 2023. Persons who are operating under the PAG-11 General Permit may continue to operate until March 2, 2024. The Department is extending the availability of this permit to adequately evaluate the need to renew the PAG-11 General Permit. During the period of administrative extension, no new coverage under the PAG-11 General Permit may be authorized by the Department.

To access the General Permit and related documents, visit the Department's eLibrary web site at www.depgreenport.state.pa.us/elibrary/ (select "Permit and Authorization Packages," then "Clean Water," then "PAG-11 NPDES General Permit for Discharges from Aquatic Animal Production Facilities 3800-PM-BCW0006").

Questions regarding the PAG-11 General Permit can be directed to Maria Schumack, PE, at maschumack@pa.gov or (717) 705-0486.

RAMEZ ZIADEH, P.E.,
Acting Secretary

[Pa.B. Doc. No. 22-1902. Filed for public inspection December 9, 2022, 9:00 a.m.]

DEPARTMENT OF HUMAN SERVICES

Disproportionate Share Hospital Payments for Trauma Services

The Department of Human Services (Department) is announcing its intent to allocate funds for Fiscal Year (FY) 2022-2023 disproportionate share hospital (DSH) payments to Medical Assistance (MA) enrolled acute care general hospitals that qualify as a trauma center for the purpose of improving access to readily available and coordinated trauma care. The Department is amending the qualifying criteria and payment methodology for these payments as outlined as follows.

Payment limitations are still applicable, including those limitations that the Commonwealth may not exceed its aggregate annual DSH allotment, and that no hospital may receive DSH payments in excess of its hospital-specific limit.

Qualifying Criteria

The qualifying criteria for this DSH payment is being updated for newly accredited trauma centers and hospitals seeking trauma center accreditation. To determine eligibility for newly accredited trauma centers and hospitals seeking trauma center accreditation for which Pennsylvania Trauma Outcome Study (PTOS) data is not available, the Department will use Pennsylvania Health Care Cost Containment Council claims data from the same period as the PTOS report.

Payment Methodology

The payment methodology for this DSH payment is being updated for newly accredited trauma centers and hospitals seeking trauma center accreditation. The Department will calculate partial year payments using the number of trauma cases and patient days reflecting the hospital's months of accreditation, or months in which it was seeking accreditation during the fiscal year.

Fiscal Impact

The FY 2022-2023, the Department will allocate an annualized amount of \$18.034 million in total funds (State and Federal) for these DSH payments upon approval by the Centers for Medicare & Medicaid Services.

Public Comment

Interested persons are invited to submit written comments regarding these DSH payments and the updates related to newly accredited trauma centers and hospitals seeking trauma center accreditation to the Department of Human Services, Office of Medical Assistance Programs, c/o Regulations Coordinator, P.O. Box 2675, Harrisburg, PA 17120 or RA-PWMAProgComments@pa.gov. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

MEG SNEAD,
Acting Secretary

Fiscal Note: 14-NOT-1553. (1) General Fund; (2) Implementing Year 2022-23 is \$8,656,000; (3) 1st Succeeding Year 2023-24 through 5th Succeeding Year 2027-28 are \$0; (4) 2021-22 Program—\$7,522,000; 2020-21 Program—\$7,534,000; 2019-20 Program—\$7,397,000; (7) MA—Trauma Centers; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 22-1903. Filed for public inspection December 9, 2022, 9:00 a.m.]

**DEPARTMENT OF
HUMAN SERVICES**

Medical Assistance Program Fee Schedule Update

The purpose of this notice is to announce, in accordance with 55 Pa. Code § 1150.61(a) (relating to guidelines for fee schedule changes), that the Department of Human Services (Department) is making the following updates to the Medical Assistance (MA) Program Fee Schedule for disposable breast milk collection and storage bags and breast pump replacement supplies.

Background

Stakeholders contacted the Department to request that disposable breast milk collection and storage bags be a covered supply, as well as for fees to be reevaluated for a possible price adjustment to certain breast pump replacement parts. After evaluating these requests, the Department is making changes to the MA Program Fee Schedule as noted as follows.

New Procedure Code

The Department added the following procedure code, with a limit of 120 bags per month, to the MA Program Fee Schedule for the coverage of disposable collection and storage bags for human milk, effective with dates of service on and after December 25, 2022.

<i>Procedure Code</i>	<i>Code Description</i>	<i>Fee</i>
K1005	Disposable Collection and Storage Bag for Breast Milk, Any Size, Any Type, Each	\$0.21 per bag

MA Program Fee Update

The Department updated the fee for the following procedure codes on the MA Program Fee Schedule for the coverage of breast pump supplies, effective with dates of service on and after July 12, 2022.

<i>Procedure Code</i>	<i>Code Description</i>	<i>Fee</i>
A4281	Tubing For Breast Pump, Replacement	\$15.91 per unit
A4282	Adapter for Breast Pump, Replacement	\$22.70 per unit
A4284	Breast Shield and Splash Protector for Use with Breast Pump, Replacement	\$16.89 per unit

Fiscal Impact

There is no fiscal impact for the addition and updates of these procedure codes.

Public Comment

Interested persons are invited to submit written comments to the Department of Human Services, Office of Medical Assistance Programs, c/o Regulations Coordinator, P.O. Box 2675, Harrisburg, PA 17120 or RA-PWMAProgComments@pa.gov. Comments received within 30 days will be reviewed and considered for any subsequent revision of the MA Program Fee Schedule.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania Hamilton Relay Service (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

MEG SNEAD,
Acting Secretary

Fiscal Note: 14-NOT-1554. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 22-1904. Filed for public inspection December 9, 2022, 9:00 a.m.]

**DEPARTMENT OF
LABOR AND INDUSTRY**

Consumer Price Index Adjustment of Base Amounts on Bids Effective January 1, 2023

Each year the Department of Labor and Industry (Department) is required by the following statutes to publish changes to the base amounts triggering the requirement for public bids, telephonic bids or separate bids, or both, for certain contracts. The Department is required to announce the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U): All Items (CPI-U) for the United States City Average for the 12-month period ending September 30 of each year. The Department utilizes the most current nonseasonally adjusted series, as published by the United States Bureau of Labor Statistics (BLS), which at present uses 1982—1984 as the index base period (set equal to 100). The percentage change for the 12-month period ending September 30, 2022, is 8.2%.

The change to the base rate is determined as follows:

1) Calculate the percentage change in CPI-U (I) from September 2021 to September 2022. This is derived as I =

$(CPI_{22}-CPI_{21})/CPI_{21}$, where the subscripts refer to September 2022 and 2021 values of CPI-U. As reported by the BLS these values are $(296.808 - 274.310)/274.310 = +22.498/274.310 = +8.2017\%$, which when rounded to 1 decimal place = 8.2%. (This was also reported as 8.2% in Table A of the BLS News release on the Consumer Price Index Summary for September 2022.)

2) The legislation puts a floor of 0 and a cap of 3% on the percentage change to be utilized in the calculations (technically these restrictions are on the Preliminary Adjusted Base (PAB), defined in step 4, however this is mathematically equivalent). The truncated value of the percentage change to be used in the adjustment formula is denoted as PC, resulting in:

- a) $PC = I$, for $0 \leq I \leq 3\%$,
- b) $PC = 0$, for $I < 0$ and
- c) $PC = 3\%$, for $I > 3\%$.

3) The base value (either original for new legislation or the prior year's PAB) is designated as B and the product of B and PC (determined previously) is P. (There are different values of the base depending on the entity and the type of bid, so technically B could be designated with 2 subscripts. For illustration purposes, the subscripts are omitted.) Then $P = B*PC$. A common value for the base amount in 2022 for a public bid is \$21,890.83. (The other two prior PABs, which are this year's bases for a variety of bid types, were \$11,832.87 and \$29,582.19.) For example, using $B = \$21,890.83$, results in $P = \$21,890.83*3.0\% = \656.72 . (Since $I = 8.2\%$, $PC = 3\%$ as stated previously in 2c.)

4) Then the Preliminary Adjusted Base, $PAB = P + B$, which reduces to $\$656.72 + \$21,890.83 = \$ 22,547.55$.

5) The Final Adjusted Base Amount, FAA, (which is used as the limit for the next year that is 2023) is the PAB rounded to the nearest 100. Therefore, the $FAA = \$22,500.00$.

<i>Entity and Legislation</i>	<i>Final Adjusted Base Amount for Use in 2023</i>			
	<i>Public Bid</i>	<i>Written / Telephonic Bid</i>	<i>Separate Bids</i>	<i>Concessions</i>
The County Code (16 P.S. §§ 1216-B, 1801—1803, 1955, 2317 and 2650)	\$22,500	\$12,200	\$22,500	
County Correctional Institutions (61 Pa.C.S. § 1735)	\$22,500	\$12,200	\$22,500	
Second Class County Code (16 P.S. §§ 3112, 5001, 5407, 5511-A, 5517 and 5704.1)	\$22,500	\$12,200	\$22,500	
Public School Code (24 P.S. §§ 1-120, 7-751 and 8-807.1)	\$22,500	\$12,200	\$22,500	
Public School Code, Thaddeus Stevens College of Technology (24 P.S. § 19-1913.1-B)	\$22,500			
Public School Code, State System of Higher Education (24 P.S. §§ 20-2003-A.1 and 20-2010-A)	\$22,500			
Prevention and Control of Floods, Flood Control Districts (32 P.S. §§ 662 and 662.1)	\$22,500			
Housing Authorities (35 P.S. § 1551)	\$22,500	\$12,200		
Intergovernmental Cooperation (53 Pa.C.S. §§ 2308, 2311 and 2312)	\$22,500	\$12,200		
General Municipal Law, Flood Control (53 P.S. § 2863)	\$22,500	\$12,200		
Political Subdivisions Joint Purchases Law (53 P.S. § 5432)	\$22,500	\$12,200		
Parking Authorities (53 Pa.C.S. § 5511)	\$30,500	\$12,200		
Municipal Authorities (53 Pa.C.S. § 5614)	\$22,500	\$12,200		
Second Class County Code—Residential Finance Authorities (16 P.S. § 5208-A)	\$22,500	\$12,200		
Public Auditorium Authorities Law (53 P.S. § 23851)	\$22,500	\$12,200		
Third Class City Code (11 Pa.C.S. §§ 11901.1, 11901.2, 11901.4, 11902, 11903.1 and 11909)	\$22,500		\$22,500	
Boroughs and Incorporated Towns (8 Pa.C.S. §§ 1402, 1403 and 1405)	\$22,500	\$12,200	\$22,500	
Incorporated Towns (53 P.S. §§ 53202, 53202.1, 53203, 53203.1 and 53205)	\$22,500	\$12,200	\$22,500	
First Class Township Code (53 P.S. §§ 56802, 56803 and 56805)	\$22,500	\$12,200	\$22,500	
Second Class Township Code (53 P.S. §§ 68102 and 68107)	\$22,500	\$12,200	\$22,500	

<i>Entity and Legislation</i>	<i>Final Adjusted Base Amount for Use in 2023</i>			
	<i>Public Bid</i>	<i>Written / Telephonic Bid</i>	<i>Separate Bids</i>	<i>Concessions</i>
Economic Development Financing Law (73 P.S. § 382)	\$22,500	\$12,200		
Metropolitan Transportation Authorities (74 Pa.C.S. § 1750)	\$30,500			\$22,500

JENNIFER BERRIER,
Secretary

[Pa.B. Doc. No. 22-1905. Filed for public inspection December 9, 2022, 9:00 a.m.]

DEPARTMENT OF REVENUE

Rates of Tax on Aviation Gasoline and Jet Fuel for 2023; Oil Company Franchise Tax Rate for 2023; Alternative Fuels Tax Rates for 2023

I. Aviation Gasoline and Jet Fuels

A. Aviation Gasoline Rate for 2023

Under 74 Pa.C.S. § 6121(b) (relating to tax on aviation fuels), the Secretary of Revenue (Secretary) announces that for calendar year 2023 the rate of tax on aviation gasoline and all other liquid fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in propeller-driven piston engine aircraft or aircraft engines will remain at the rate of 6.0¢ per gallon or fractional part thereof.

B. Jet Fuel Rate for 2023

Under 74 Pa.C.S. § 6131(b) (relating to tax on jet fuels), the Secretary announces that for calendar year 2023 the rate of tax on jet fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in turbine-propeller jet, turbojet and jet-driven aircraft and aircraft engines will remain at the rate of 2.0¢ per gallon or fractional part thereof.

C. Calculating the 2023 Aviation Gasoline and Jet Fuel Rates

The rate of tax on aviation gasoline is adjusted annually beginning on January 1, 1985 and each January 1 thereafter.

The rate of tax on jet fuels is adjusted annually beginning on January 1, 1986, and each January 1 thereafter. Under 74 Pa.C.S. §§ 6121(b) and 6131(b) the rate of each tax increases or decreases 0.1¢ per gallon for each 10% increase or decrease in the producer price index for jet fuel as determined by the United States Department of Labor, Bureau of Labor Statistics, for the most recent 12-month period available as of November 1 each year subject to a maximum rate of 6.0¢ per gallon for aviation gasoline and 2.0¢ per gallon for jet fuels.

On October 12, 2022, the most recently available 12-month period was September 2021 to September 2022, as reported in the Bureau of Labor Statistics, United States Department of Labor, Producer Price Indexes, September 2022, USDL-22-11989, released October 12, 2022, for which the percentage change was an increase of 73.9%. Accordingly, the aviation gasoline tax rate will remain at the rate of 6.0¢ per gallon; the jet fuel tax rate also will remain at the rate of 2.0¢ per gallon.

II. Oil Company Franchise Tax

A. Transportation Funding Act of 2013

Governor Corbett signed into law the act of November 25, 2013 (P.L. 974, No. 89) which amended 75 Pa.C.S. (relating to Vehicle Code) to both eliminate the inflationary cap on the Oil Company Franchise Tax and the fixed 12¢ per gallon Liquid Fuels and Fuels tax. Specifically, 75 Pa.C.S. § 9002 (relating to definitions) provides for the future removal of the cap and specific wholesale prices for use in the interim years.

B. Calculating the 2023 Oil Company Franchise Tax Rate

The rate of the oil company franchise tax imposed under 75 Pa.C.S. Chapter 95 (relating to taxes for highway maintenance and construction), 75 Pa.C.S. § 9502 (relating to imposition of tax) and collected under 75 Pa.C.S. Chapter 90 (relating to Liquid Fuels and Fuels Tax Act), 75 Pa.C.S. § 9004(b) (relating to imposition of tax, exemptions and deductions), is determined annually by the Department of Revenue (Department) and announced by each December 15 for the following calendar year. The tax rate is determined on a “cents per gallon equivalent basis,” which is defined by 75 Pa.C.S. § 9002 as:

The average wholesale price per gallon multiplied by the decimal equivalent of any tax imposed by section 9502 (relating to imposition of tax), the product of which is rounded to the next highest tenth of a cent per gallon. The rate of tax shall be determined by the Department of Revenue on an annual basis beginning on every January 1 and shall be published as a notice in the *Pennsylvania Bulletin* no later than the preceding December 15. In the event of a change in the rate of tax imposed by section 9502, the Department shall redetermine the rate of tax as of the effective date of such change and give notice as soon as possible.

“Average wholesale price” as used previously is defined by 75 Pa.C.S. § 9002 as:

The average wholesale price of all taxable liquid fuels and fuels, excluding the Federal excise tax and all liquid fuels taxes shall be as follows:

- (1) After December 31, 2013, and before January 1, 2015, the average wholesale price shall be \$1.87 per gallon.
- (2) After December 31, 2014, and before January 1, 2017, the average wholesale price shall be \$2.49 per gallon.

(3) After December 31, 2016, the average wholesale price shall be as determined by the Department of Revenue for the 12-month period ending on the September 30 immediately prior to January 1 of the year for which the rate is to be set. In no case shall the average wholesale price be less than \$2.99 per gallon.

For the 12-month period ending September 30, 2022, the Department has determined that the average wholesale price for all grades of gasoline and diesel fuel was \$3.17 per gallon, therefore, the average wholesale price for 2023 is set at \$3.17 per gallon.

The oil company franchise tax imposed under 75 Pa.C.S. § 9502 is separated into two portions: mills per gallon not subject to discount (NSTD) and mills per gallon subject to discount (STD). The following table details the underlying calculations:

Composition of Oil Company Franchise Tax (OCFT)

OCFT Per Gallon NSTD

<i>Imposed By:</i>	<i>Liquid Fuels</i>	<i>Fuels</i>
75 Pa.C.S. § 9502(a)(1)	60.0	60.0
75 Pa.C.S. § 9502(a)(2)	55.0	55.0
75 Pa.C.S. § 9502(a)(3)	38.5	38.5
75 Pa.C.S. § 9502(a)(4)	00.0	55.0
NSTD Mills per Gallon:	153.5	208.5
Decimal Equivalent:	0.1535	0.2085
Average Wholesale Price:	× \$3.17	× \$3.17
Product:	48.66¢	66.09¢
OCFT per Gallon, NSTD, rounded to next highest tenth per 75 Pa.C.S. § 9002:	48.7¢	66.1¢

OCFT Per Gallon STD

<i>Imposed By:</i>	<i>Liquid Fuels</i>	<i>Fuels</i>
75 Pa.C.S. § 9502(a)(5)	39.0	39.0
STD Mills per Gallon:	39.0	39.0
Decimal Equivalent:	0.0390	0.0390
Average Wholesale Price:	× \$3.17	× \$3.17
Product:	12.36¢	12.36¢

The Secretary announces that the 2023 tax rates for alternative fuels are as follows:

<i>Alternative Fuel (Liquids)</i>	<i>Rate of Conversion (BTU/Gal of Alternative Fuel)</i>	<i>Tax Rate per Gallon of Alternative Fuel</i>
Ethanol	76,330	\$0.408
Methanol	57,250	\$0.306
Propane/LPG	84,250	\$0.451
E-85	82,056	\$0.438
M-85	65,838	\$0.352
Electricity	3,414 BTU/kWh	\$.0183/kWh

OCFT per Gallon, STD, rounded

to next highest tenth per 75

Pa.C.S. § 9002:

12.4¢

12.4¢

Total OCFT per Gallon, rounded to next highest tenth

Liquid Fuels Fuels

Total OCFT = NSTD + STD:

61.1¢

78.5¢

C. Imposition of Oil Company Franchise Tax on Liquid Fuels and Fuels

The act of April 17, 1997 (P.L. 6, No. 3) provides that the oil company franchise tax as previously computed is imposed when liquid fuels or fuels are used or sold and delivered in this Commonwealth. Accordingly, the tax imposed upon the use or sale and delivery of 1 gallon of liquid fuels (primarily gasoline) shall increase to 61.1¢, and the tax imposed upon the use or sale and delivery of 1 gallon of fuels (primarily undyed diesel fuel) shall be 78.5¢.

III. Alternative Fuels Tax Rates for 2023

Under 75 Pa.C.S. § 9004(d) the Secretary is required to compute the rate of tax applicable to each alternative fuel on a gallon-equivalent-basis. Under 75 Pa.C.S. § 9002 “gallon-equivalent-basis” is defined as the “amount of any alternative fuel as determined by the Department to contain 114,500 BTU’s.” The amount determined on a “gallon-equivalent-basis” for each alternative fuel is subject to the oil company franchise tax currently imposed on 1 gallon of gasoline. The rate of tax on 1 gallon of gasoline during the period of this notice is 61.1¢ which is equal to the Oil Company Franchise Tax.

The 2023 tax rates for Compressed Natural Gas (CNG) and Hydrogen are calculated by utilizing the unit of measurement referred to as the gasoline gallon equivalent (GGE). A GGE is the amount of alternative fuel it takes to equal the energy content of one liquid gallon of gasoline.

The 2023 tax rate for Liquefied Natural Gas (LNG) is calculated by utilizing the unit of measurement referred to as the diesel gallon equivalent (DGE). A DGE is the amount of alternative fuel it takes to equal the energy content of one liquid gallon of diesel.

GGE and DGE are the most common forms of measurement for these products at the retail level. Measuring alternative fuels by GGE and DGE allows the consumer to make energy and cost comparisons with gasoline and diesel.

<i>Alternative Fuels under GGE Formula (Gaseous)</i>	<i>GGE Equivalent to One Gallon of Gasoline</i>	<i>Tax Rate per GGE</i>
CNG	1	\$0.611
Hydrogen	1	\$0.611

<i>Alternative Fuels under DGE Formula (1 DGE = 1.7 gallons)</i>	<i>DGE Equivalent to One Gallon of Diesel</i>	<i>Tax Rate per DGE</i>
LNG	1	\$0.688

C. DANIEL HASSELL,
Secretary

[Pa.B. Doc. No. 22-1906. Filed for public inspection December 9, 2022, 9:00 a.m.]

**DEPARTMENT OF
TRANSPORTATION**

Cost of Photograph for Photo Driver’s License or Photo Identification Card

The Department of Transportation, Bureau of Driver Licensing, under the authority in 67 Pa. Code § 73.5(d) (relating to fees), gives notice that, effective January 9, 2023, the cost of the photograph associated with the issuance of a photo driver’s license or photo identification card will be \$15.50 This will result in a \$6 increase to the cost of a driver’s license/identification card.

YASSMIN GRAMIAN,
Secretary

[Pa.B. Doc. No. 22-1907. Filed for public inspection December 9, 2022, 9:00 a.m.]

**DEPARTMENT OF
TRANSPORTATION**

State Transportation Commission Meeting

The State Transportation Commission (Commission) will hold a meeting on Wednesday, December 14, 2022, from 10 a.m. to 12 p.m. This meeting will be held in the Keystone Building, 8N1, 400 North Street, Harrisburg, PA and by means of Microsoft Teams. Meeting information including the agenda is available at <https://bit.ly/3SUPw3l>.

For more information, contact the Commission, (717) 787-2913, RA-PennDOTSTC@pa.gov.

YASSMIN GRAMIAN,
Secretary

[Pa.B. Doc. No. 22-1909. Filed for public inspection December 9, 2022, 9:00 a.m.]

**DEPARTMENT OF
TRANSPORTATION**

Pedalcycle and Pedestrian Advisory Committee Meeting

The Pedalcycle and Pedestrian Advisory Committee will hold a meeting on Tuesday, December 13, 2022. The meeting will be held in person at 1 p.m. The location is to be determined. There will also be a remote Microsoft Teams option and the meeting will be recorded. For more information, contact the Statewide Bicycle and Pedestrian Coordinator, (717) 772-4450, pmeek@pa.gov. To call into the meeting, dial (267) 332-8737 and enter 81243762# as the meeting code.

To view the meeting agenda, visit the Department of Transportation’s web site at www.penn.dot.gov (click on “About PennDOT” at the bottom of the web page, then select “Commissions & Committees” under “What We Do,” then select “Pedalcycle and Pedestrian Advisory Committee”).

YASSMIN GRAMIAN,
Secretary

[Pa.B. Doc. No. 22-1908. Filed for public inspection December 9, 2022, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Meeting Cancellation

The December 20, 2022, meeting of the Environmental Quality Board (Board) is cancelled. The next Board meeting is not yet scheduled. Information about the next meeting will be published in a future issue of the *Pennsylvania Bulletin*.

Information will also be provided on the Board’s webpage, found 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”).

Individuals are encouraged to visit the Board’s webpage to confirm meeting date, time and location prior to each meeting. Questions concerning the Board can be directed to Laura Griffin at laurgriffi@pa.gov or (717) 772-3277.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Department at (717) 772-3277 or through the

Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

RAMEZ ZIADEH, P.E.,
Acting Chairperson

[Pa.B. Doc. No. 22-1910. Filed for public inspection December 9, 2022, 9:00 a.m.]

FISH AND BOAT COMMISSION

Proposed Exemptions to Allow for the Continued Stocking of Class A Stream Sections

The Fish and Boat Commission (Commission) intends to consider at its meeting on January 23, and 24, 2023, whether to allow trout stocking to continue on each of the Class A wild trout streams listed as follows. Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), the Executive Director will obtain approval of the Commission prior to granting permission to stock a Class A wild trout stream under 58 Pa. Code § 71.4 (relating to stocking of designated waters).

On September 30, 2014 (effective January 1, 2015), the statement of policy at 58 Pa. Code § 57.8a was amended to require the Executive Director to obtain approval from the Commission prior to granting permission to stock a Class A wild trout stream section. Following the update to 58 Pa. Code § 57.8a, Commission staff developed internal decision-making criteria to allow continued Commission stocking of a limited number of Class A wild trout stream sections. Subsequently, 13 stream sections that support strong Class A wild brown trout populations were officially designated as Class A wild trout streams during the 2015–2017 timeframe following updated wild trout surveys, and stocking was continued. Stream sections where stocking was continued are heavily fished waters, most located in high-density human population centers, of a size and character that can support a fishery featuring both stocked and wild trout components.

Historically, there have been very few streams where stocking of trout following Class A designation was considered and warranted. However, there are rare cases, beyond the current 13 stocked Class A wild trout stream sections, where a stocking exemption should be considered. To account for these rare circumstances, Commission staff developed additional decision-making criteria to consider internal and external requests for continued stocking of newly designated Class A wild trout streams. These criteria provide staff direction to guide decisions when unusual situations arise but do not automatically result in continued stocking when criteria are met, as most Class A stream sections are best managed solely for wild trout with no stocking. They offer a mechanism for transparent, timely and consistent consideration of requests to continue the stocking of newly designated Class A wild trout streams. These criteria, listed as follows, are detailed in the *Operational Guidelines for the Management of Trout Fisheries in Pennsylvania Waters, 5th Edition* available at www.fishandboat.com. Exemptions will not be granted for streams where a component of the wild trout fishery is comprised of wild brook trout.

1. Pre-existing youth fishing derbies and special use areas that were properly permitted by the Commission and have a history of more than one past occurrence.
2. Pre-existing private stockings on private property on recently designated (that is, within 1 year of posting in

the *Pennsylvania Bulletin*) Class A stream sections that have been closed to public angling at the time of Class A designation and at least since 2010. Historic stockings need to be verifiable by documentation, stocking records and have a history of more than one past occurrence.

3. Stream sections stocked by the Commission, a cooperative nursery, or a private group, or both, or individual the year prior to Class A designation, have a history of more than one past occurrence, and meet the following subcriteria.

a) The stream section was stocked with adult trout during the year immediately prior to its designation as a Class A wild trout stream.

b) Angler use (anglers/mile of stream) in the stream section equals or exceeds the Statewide 50th percentile of angler use for the opening weekend of trout season as documented by Commission staff, or the stream section is a special regulation area under 58 Pa. Code Chapter 65 (relating to special fishing regulations) that was stocked by the Commission the year immediately prior to its designation as a Class A wild trout stream.

c) The trout species to be stocked are not the same species as the primary component of the wild trout population.

d) The stocking numbers and frequency will not exceed those of the year prior to the Class A designation.

e) Stream sections where a component of the wild trout population is comprised of wild brook trout will not be considered for stocking.

f) Prior to implementing a decision to stock a Class A wild trout stream, the Executive Director will obtain the approval of the Commission.

4. Previously received an exemption or a Special Activities Permit from the Commission between 2010 and the present to allow for continued stocking of a Class A wild trout stream section. If the exemption was time-limited and not renewed before expiration, it will be considered a new request and a determination will be made according to other exemption criteria.

Exemptions to the prohibition of stocking hatchery trout into Class A wild trout stream sections will be granted only under rare circumstances. Consideration is only given to requests for continued stocking in stream sections within 1 year of the section being designated as Class A and posted in the *Pennsylvania Bulletin*. However, entities that previously received an exemption or a Special Activities Permit from the Commission between 2010 and the effective date (April 3, 2021) of the amendment to the statement of policy at 58 Pa. Code § 57.8a adopted at the January 2021 quarterly Commission meeting and published at 51 Pa.B. 1828 (April 3, 2021) will be eligible for consideration.

Should an exemption be granted, the Commission will determine the species of trout, number of trout and frequency of stocking consistent with stocking strategies and historical stocking rates of the stream section to minimize impacts to the Class A wild trout population. Stocking provisions will be communicated in writing by the Commission to the entity receiving the exemption for continued stocking on Class A designated waters. Stocking exemptions will be valid for no more than 5 years at which time the need for continuance may be evaluated.

Commission staff have identified three potential exemptions to 58 Pa. Code § 57.8a that meet the criteria to consider the continuance of trout stocking at three Class

A stream sections. It should be noted that the Executive Director previously obtained approval from the Board to continue Commission stockings at two of these stream sections (Little Lehigh Creek, Sections 04 and 07); however, this request is specific to the continuance of stocking by private entities and not the annual Commission stockings. The general exemption classification, stream name, stream section, county and commissioner district are listed as follows.

Young fishing derbies

- Salt Run (Section 02), Cameron County, Commissioner District 3

Prior history of stocking and meets the subcriteria outlined under criterion 3 previously listed

- Little Lehigh Creek (Section 04), Lehigh County, Commissioner District 8
- Little Lehigh Creek (Section 07), Lehigh County, Commissioner District 8

Persons with comments, objections or suggestions concerning the additions are invited to submit comments in writing to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments should be submitted electronically to RA-pfbregulations@pa.gov. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

[Pa.B. Doc. No. 22-1911. Filed for public inspection December 9, 2022, 9:00 a.m.]

HOUSING FINANCE AGENCY

2023 Pennsylvania Housing Affordability and Rehabilitation Enhancement Fund Plan; Draft

The Pennsylvania Housing Affordability and Rehabilitation Enhancement (PHARE) Fund was established by the act of November 23, 2010 (P.L. 1035, No. 105) (Act 105) to provide the mechanism by which certain allocated State or Federal funds, as well as funds from other outside sources, would be used to assist with the creation, rehabilitation and support of affordable housing throughout this Commonwealth.

Act 105 outlines specific requirements that include preferences, considerations, match funding options and obligations to utilize a percentage of the funds to assist households below 50% of the median area income. Act 105 provides a broad canvas regarding the types of programs and the specific uses of any funding to allow flexibility in working with other State and Federal acts and programs.

For Program Year 2022-2023, the PHARE Fund includes funds available through Marcellus Shale (Act 13 of 2012), the Realty Transfer Tax (RTT) Funds (Act 58 of 2015) and the National Housing Trust Fund (HTF), authorized by the Housing and Economic Recovery Act of 2008 (Pub.L. No. 110-289).

As additional PHARE funding sources become available, the Housing Finance Agency (Agency) will adminis-

ter them in accordance with this plan and without the need for additional notices or amendments.

This plan includes the following general sections: principles of PHARE, elements of the plan, application requirements and timeline. Thereafter, the plan includes specific information and program requirements relating to each of the Marcellus Shale (Act 13 of 2012) funds, the RTT funds and the HTF funds.

Principles of PHARE

In accordance with Act 105, the moneys will be used to address significant and persistent housing needs in communities with the following additional criteria:

1) *Maximize resource leveraging*—To the greatest extent possible, the resources allocated will be used as leverage for other public and private resources. Additionally, local nonfinancial assets should be identified and leveraged where possible—including transportation, schools, recreation, employment, health, community and economic development support and other amenities.

• *Maintenance of Effort/Resource Coordination*—The Agency is seeking to ensure that PHARE applicants, where practical and relevant, are utilizing all other available sources of funding (Community Development Block Grant, HOME Community Services Block Grant, AHP, Emergency Solutions Grant, Continuum of Care, Housing of Urban Development (HUD) Neighborhood Assistance Program, Keystone Communities and the like). The Agency will review applications with an emphasis on ensuring maximum leveraging of other available resources. PHARE funds are not intended to substitute for, or supplant, other currently available sources of program/project funding. This provision is primarily intended to address local municipal or county-based real estate development projects where other Federal/non-Federal sources of funding may be applicable. Multi-county, regional or Statewide proposals addressing critical housing needs are still encouraged to apply.

2) *Affordability*—The Agency encourages applicants to address the issue of long-term affordability based on the local housing market conditions. To the greatest extent possible, programs and projects should be designed in ways to both maintain the investment made in the housing stock and to continue affordability after initial assistance. This could include revolving loan programs, shared equity homeownership and other strategies for addressing this objective.

3) *Address greatest need*—PHARE funds will be allocated in communities where the greatest housing needs are identified based on studies and assessments, interviews, real estate price factors, housing stock analysis and market studies. The limited resources available should be used to meet the most significant and pressing housing needs or to address longer term housing needs.

Funding priority: Proposals that: 1.) Assist with the rehabilitation of blighted, abandoned or otherwise at-risk housing and the reuse of vacant land where housing was once located; 2.) Provide funding for owner-occupied rehabilitation, first time homebuyers and rental assistance; or 3.) Address ongoing needs for homeless families and individuals including veterans.

4) *Foster partnerships*—The funds should be used to maximize sustainable partnerships that will be committed to addressing the housing needs in these communities over a significant period of time. While the funds are to

be used to directly support housing to meet community needs, the projects should also help establish capacity to address those needs over the long term.

Funding priority: Proposals that incorporate social service entities offering additional services to the residents within the community where the project/program is taking place.

5) *Effective and efficient implementation*—Ensure that the resources are used effectively and efficiently to meet the housing needs. Given the expected demand for many types of housing will greatly exceed the program funds available, it is critical that Agency dollars are used to maximize housing investments efficiently and effectively.

Funding priority: Proposals that assist residents with the greatest need in that region and can document highly effective strategies to address unmet needs.

6) *Equitable and transparent*—Create a plan and equitable allocation process that provides transparency to all stakeholders. Funding decisions and reporting will be done in accordance with legislative requirements.

7) *Emergency response to critical needs*—Providing immediate and necessary funding to address an emergent crisis, emergency housing needs or other unanticipated issues that may arise over the course of the year. The PHARE funds could be rapidly deployed to address these significant, unmet and emergency housing needs in this Commonwealth as determined by the Agency.

Elements of the Plan

Analysis of need—One of the most critical components of the plan is to continually assess housing needs throughout this Commonwealth. From both a quantitative and qualitative perspective the requirement to have accurate, reliable data from which funding decisions can be made is imperative.

It is important to recognize that this data will need to be municipality-specific to capture the unique and likely different housing needs in the various communities. In addition, the housing/real estate markets are diverse across communities and the analysis of need will require an understanding (qualitative and quantitative) of individual markets to make appropriate resource allocation decisions.

Building upon analysis already undertaken by the Agency and the Commonwealth, additional analysis may be performed to assess specific housing issues to identify housing needs (persons with special needs, elderly, larger households, physical disabilities, homeless and the like) to appropriately target PHARE Fund resources to those in greatest need of housing. In addition to multiple types of housing analysis, the Agency will consider different income levels, nature of housing stock and the housing needs of those across a broad spectrum (homeless, near homeless, very low income, low income, temporary and seasonal workers and permanent work force and the like).

Understanding of real estate market dynamics—The plan for the utilization of these resources has been developed to address and continuously reevaluate the specific housing real estate markets in each community. The housing and real estate development “capacity” will also have significant impact on the ability of these funds to be used effectively and efficiently to meet the needs of the communities.

There will be need for ongoing analysis of capacity (private, nonprofit and public) as part of the plan. Some communities may not have had a significant housing

market in decades while in others there may be a robust market addressing a significant portion of housing needs. The plan will help determine where additional housing development may be necessary or where other strategies may be implemented for meeting the housing needs in those communities.

Allocation and use—The funding vehicle’s allocation process, created by the plan, must also be supportive of and responsive to the needs of the housing and real estate development market and should foster coordinated local housing plans and resources. Funds may be used to support predevelopment, site acquisition and infrastructure development, planning and preconstruction activity in addition to direct support of development and operation of projects and housing programs including employee assisted housing programs. Funds may be provided in various forms designed to best support the activity including grants; market rate, amortizing, balloon, bridge or soft loans; capital contributions; capital financing subsidy support; operating and supportive service reserve funding; and rental or homeowner assistance. Funds may be specifically allocated to address timing issues presented in the development of affordable housing projects; for example, when other financing is available, construction season, local zoning or other approvals. Funds may also be directed for administration by the Agency for certain projects approved for low income housing tax credits or other Agency resources. Preliminary allocations may be made for projects/programs awaiting approval of additional resources.

Funds will have expenditure deadlines and approved programs/projects must be started within 2 years of funding award. Additional requirements for application submission will be outlined in the annual Request for Proposal (RFP).

High quality design and construction—A vital element of the plan will be the development of housing that is both of good quality design and construction and will be sustainable over a long period of time.

The opportunity to meet the growing housing needs in these communities will necessitate that this housing be available as an asset for the community for many generations. To meet this objective the Agency requires that projects, funded with these resources, meet the highest design and construction quality standards available and that all projects ensure sustainability to the long term (both financial and physical). Funds may be specifically allocated to support green and renewable energy sources and as leverage to consumer programs available through utility companies or other business partners.

PHARE Application Process

The elements of the application and allocation process include:

- Adoption of “plan” for managing the anticipated PHARE funds by the Agency each year.
- The Agency will establish an annual application process that will allow the Agency to address local housing needs.
 - The Agency may amend the plan, application and the allocation process at any time, upon written publication of such amendments.
- Announcement of application and possible training/information session concerning the elements of the application.
- Applications accepted and reviewed by the Agency staff based on the application and plan requirements.

- As part of the RFP process, the Agency will require that all applicants target a minimum of 30% of their awarded PHARE funds to support households with incomes below 50% of median area income.

- Project recommendations reviewed by the Agency.
- Announcement of preliminary funding approval.

The Agency may allocate existing funds, or funds that may become available, at any time outside of the application cycle but consistent with the principles, goals and elements of this plan.

Applicants are expected to satisfy the affordability requirements of the PHARE program and commit to a long-term sustainable program to maintain affordability (which may be documented with restrictive covenants or other program documents). Successful applicants must abide by all applicable Commonwealth laws relating to public sources of funds (fair housing, accessibility, wage rates, labor standards and the like).

Timeline

The Agency will align the application and funding timelines of its programs that support multifamily affordable rental housing—tax credits, PennHOMES and PHARE (Marcellus Shale, RTT and HTF)—to strategically and efficiently allocate these resources.

The following is the proposed timeline for 2022 program administration:

PHARE Plan—Draft	December 2022
PHARE Plan—Final	February 2023
PHARE RFP—Issued	September 2023
PHARE Applications Due	November 2023
PHARE Funding Awards Announced	June/July 2024

Monitoring and Compliance

The Agency monitors the use of all awarded PHARE funds and provides technical assistance to grantees throughout the application, funding, grant implementation and closeout process. The Agency team reviews semiannual reports—submitted by all grantees twice per year, at the end of January and July—to ensure grantee compliance with contract requirements and ensure the anticipated outcomes and local housing impact of their funded initiatives are in line with the grantees’ approved use of funds.

Grantees are required to meet all PHARE funding requirements and report on the following data for each awarded grant.

- Total amount of PHARE funds expended.
- Number of households served/impacted.
- Amount and percentage of funds used to benefit households below 50% of median area income.
- Household income of each individual households assisted.
- Amount of funding used to assist each impacted households.
- Amount of administrative funds expended (capped at 5% of the total awarded funds).
- Sources and amounts of all matching/leveraged funds.
- Impact of funds used to address barriers to fair housing for marginalized communities.

The Agency maintains constant contact with grantees until all funds are expended, all households are served or newly created/rehabbed housing units, or both, are housed and the final closeout report is submitted and approved for compliance. Organizations are advised to contact the Agency as soon as possible if their grant needs to be modified due to staff capacity/workforce issues or if there are any changes in economic conditions or local housing needs at any point during the grant term.

The Agency team will be increasing the volume of scheduled grantee site visits in 2023 to monitor adherence to program requirements and provide additional feedback to the Board on the successful outcomes connected to PHARE-funded housing initiatives.

PHARE/Marcellus Shale Impact Fee (Act 13 of 2012)

Purpose and Priorities for Funding

The Marcellus Shale Impact Fee (Act 13 of 2012) provides the funding mechanism to address the housing needs in impacted counties/communities of the Marcellus Shale region. Fifty percent of the awarded funds must be spent in fifth through eighth class counties.

The Marcellus Shale Impact Fee legislation (Impact Fee Act) specifically allocates certain amounts from the impact fee into the PHARE Fund to address the following needs, including:

1. Support for projects that increase the availability of affordable housing for low-income and moderate-income persons and families, persons with disabilities and elderly persons in counties where unconventional gas wells have been drilled (regardless of production levels).
2. Provide rental assistance, in counties where unconventional gas wells have been drilled, for persons or families whose household income do not exceed the area median income.
3. Specifies that no less than 50% of the funds are to be used in fifth, sixth, seventh and eighth class counties.

Direct Allocation—The PHARE Fund will receive a direct yearly allocation from the portion of funds set aside for local distribution. The direct allocation is as follows: \$5.0 million each fiscal year beginning in 2013 and thereafter.

Windfall/Spillover Funds—Additional funds may become available because the Impact Fee Act limits amounts allocated to qualifying municipalities (as defined in the Impact Fee Act) and provides that any money remaining, after all allocations have been made to qualified municipalities, would also be deposited into the PHARE Fund.

Agency proposals that exhibit readiness for implementation and which include significant leveraging of funds from public/private funding sources will be prioritized. It is likely that the funds in this program will not be sufficient to meet all the housing needs and mitigate every housing impact created by the shale gas development; therefore, investment decisions will target the limited funds to projects that meet the principles previously outlined and most comprehensively address the elements of the plan.

Where possible, these funds will be targeted and stay focused on mitigating the very specific housing impacts created by the shale development in the impacted and designated communities. This element will likely result in the determination that while there may be worthy housing projects that could be funded with these resources, the focus of development will be on most comprehensively addressing the direct and tangible housing impacts. Priority may be given to target resources in tandem with approved county housing trust fund plans or plans for the utilization of local share impact fee funds, or both.

Eligible Applicants

Applicants eligible to receive PHARE/Marcellus Shale funds include counties that have adopted impact fees as well as municipalities who have further contributed to PHARE by means of windfall/spill over funds from the impact fee. While only eligible applicants may apply, nonprofit and for-profit organizations may be part of the application process.

Counties and municipalities may also delegate the role of “applicant” to a nonprofit or for-profit organization for purposes of the application. In the case where a county or municipality has designated another organization, agency or department to apply on their behalf, documentation identifying such must be included in the application.

There are many diverse interests that are concerned about the anticipated housing impact and therefore how these resources will be allocated to address the need. To the greatest extent possible opportunities should be created for relevant and legitimate stakeholders to comment and advise the plan. This element will need to be managed for practicality and efficiency to maximize input.

Funding Priorities:

- Proposals which include a process where members of the community and other stakeholders may provide input on the application prior to submission.
- Proposals which include Optional Affordable Housing funds (Act 137 of 1989) or local share portions of the impact fee, or both.

The Agency also requests that applicants include information on how the county is using local shares of public resources, including local Act 13 of 2012 funds and Act 137 of 1989 (county-based housing trust fund) moneys, to address housing needs in the community.

Preliminary approval and funding of applications is contingent upon receipt of funds under Act 13 of 2012.

PHARE/RTT Fund (Act 58 of 2015)

In November 2015, Governor Tom Wolf signed Act 58 of 2015, which, in part, directs certain RTT receipts to the PHARE Fund. This revenue source is available in all 67 counties of this Commonwealth.

Under Act 58 of 2015 RTT, the Agency’s PHARE program will receive an allocation of funds based on a formula using 2014 year as a base. (The annual amount available for the PHARE program will be equal to the lesser of 40% of the difference between the total dollar amount of the RTT imposed under section 1102-C of the Tax Reform Code of 1971 collected for the prior fiscal year and the total amount of RTT estimated from the fiscal year beginning July 1, 2014.) The PHARE/RTT funds are capped at \$40 million annually.

In 2022, the legislature approved an additional increase to the cap on RTT funds to be allocated to the Agency from the Fiscal Year 2022-2023 budget. Funds allocated to the Agency will be capped at \$60 million beginning with the 2023-2024 PHARE program year.

Purpose and Priorities for Funding

The PHARE/RTT Program will provide funds to projects/programs providing sustainable and comprehensive solutions to address housing and community development needs across this Commonwealth.

These funds will be directed to address clearly articulated needs in communities based on the following priorities:

1. Preservation of the current stock of rental housing or the development/creation of new affordable rental housing to address unmet local need. This includes projects/programs for the elderly in danger of losing their homes and rental assistance to help families remain in their residence.
2. Funding for projects/programs to address ongoing housing needs for reducing homelessness, including specific and targeted vulnerable populations (veterans, persons with disabilities, supportive housing for the elderly, re-entry population, families and youth).
3. Funding for comprehensive housing and redevelopment efforts that address blighted and abandoned properties impacting concerted community revitalization efforts, supported by clearly articulated community plans. This could include a variety of housing/redevelopment strategies such as acquisition, demolition, construction, rehabilitation, site remediation and other efforts.
4. Creating new opportunities for affordable homeownership. This may include closing cost/down payment assistance, financial education/counseling or other forms of assistance to potential first-time homebuyers as well as the development/construction of new homes and rehabilitation of existing housing.
5. Other efforts that address unmet housing and community development needs. This could include projects and programs to assist persons living in manufactured communities, homeowners to remain in their homes through renovation/mortgage/utilities or other forms of housing services and assistance, addressing environmental conditions such as lead paint abatement, rapid rehousing efforts and emergency temporary housing needs resulting from disasters.

PHARE Funding Categories

The Agency will prioritize funding for proposals targeting at least one of the following housing initiatives (all proposals must fall under one of the seven funding categories):

- *4% Tax Credit Projects*—Projects submitted must include a minimum of 50 units. Projects with greater than 75 units will be prioritized for funding.

*The Agency anticipates a commitment of up to \$10 million to support 4% tax credit developments.

- *Preservation/Rehabilitation/Renewal*—Rehabilitation of existing housing stock, demolition of blighted, at-risk housing and renewal of brownfields or vacant land for green space.

- *Rental Housing Creation*—Development of new and affordable rental units. This may include costs for acqui-

sition, predevelopment, construction or significant rehabilitation, or both, and demolition where the development of affordable housing is the end goal.

- *Homelessness Prevention*—Address ongoing needs for individuals and families at risk for homelessness, including (but not limited to) rapid rehousing, rent/utility/transportation assistance, landlord outreach, case management and short-term emergency shelter care.

- o Increase the availability of integrated housing opportunities, supportive services and resources for vulnerable populations such as veterans, the re-entry population, persons dealing with addiction disorders, persons with disabilities and at-risk youth.

- *Innovative Housing Solutions*—Piloting unique and creative approaches to addressing unmet housing needs and historic disparities in housing.

- o *Health and Housing*—Targeted partnerships with health care providers to support and monitor the success of interventions related to housing determinants of health.

- o *Climate Resiliency*—Adaptive strategies for affordable housing that aim to address and mitigate the growing effects of climate change on housing access and affordability. This may include the use of environmentally conscious housing design and construction and the use of renewable energy sources and sustainable materials.

- o *Trauma Informed Housing*—Social or environmental housing design strategies to build social cohesion, deescalate chaos and stress, and foster resiliency to address the challenges trauma poses to traditional housing models and long-term individual and community success.

- *Homeownership*—Development of additional affordable for-sale housing units, also to include support for down payment and closing cost assistance programs for first-time homebuyers and vulnerable/underrepresented communities.

- *Housing Counseling and Financial Education*—Activities providing various types of housing counseling, including pre and post purchase, financial education, foreclosure prevention and other forms of direct client counseling to assist homeowners or renters.

Priorities for Selection

PHARE/RTT awards will be directed to projects and programs based on the following criteria for selection:

- Projects/programs that show significant leveraging of other funds (local, State and Federal, public and private) to ensure maximum impact.

- Projects/programs that have all funding committed and can move rapidly to implementation and utilization.

- Projects/programs that embrace, partner with, and/or are incorporated into a larger local, county or regional housing development plan.

- Projects/programs that satisfy local planning/zoning ordinances.

- Projects/programs that affirmatively further fair housing.

- Projects/programs that are specifically designed to address a clearly articulated need in a community or specific population.

- o Projects/programs must be ready to address how PHARE funding will be used to address persistent, historical and significant disparities and inequities that exist by race, class, income, culture and education.

- Projects/programs that embrace innovative approaches to Statewide housing and community development issues, address underserved and unmet housing needs across this Commonwealth and otherwise meet overall Agency goals for tackling community redevelopment.

- Documented capacity of applicant and ability to proceed with the project/program in a timely manner.

Eligible Applicants

Applicants eligible to receive PHARE/RTT funds include units of local government (counties, cities, boroughs, townships, town and home rule municipalities), nonprofit and for-profit entities, and economic, community and housing development organizations in all 67 counties of this Commonwealth.

Applicants are expected to satisfy the affordability requirements of the PHARE program and commit to a long-term sustainable program to maintain affordability (which may be documented with restrictive covenants or other program documents). Applicants must abide by prevailing wage labor payment standards where applicable.

Preliminary approval and funding of applications is contingent upon receipt of funds under Act 58 of 2015.

PHARE/HTF

The HTF was enacted as part of the Housing and Economic Recovery Act of 2008 to provide resources to develop, preserve and rehabilitate housing for very low income and extremely low-income households. Funding for the HTF is derived from Fannie Mae and Freddie Mac earnings.

HTF funding will be made available to provide additional financial support to tax credit properties which increase the number of units set aside for extremely low-income tenants. The Agency received approval from the United States Department of HUD of Commonwealth's HTF Allocation Plan and is awaiting release of funding from HUD. Upon receipt of HUD program documents and release of funding, the Agency will announce the application process in accordance with the HTF Allocation Plan.

A copy of the approved HUD HTF Allocation Plan can be found at <http://www.phfa.org/legislation/act105.aspx>.

Date: November 30, 2022

ROBIN L. WIESSMANN,
Executive Director

[Pa.B. Doc. No. 22-1912. Filed for public inspection December 9, 2022, 9:00 a.m.]

INSURANCE DEPARTMENT

**Allianz Life Insurance Company of North America;
Rate Increase Filing for Several Forms (ALLB-
133465700); Rate Filing**

Allianz Life Insurance Company of North America is requesting approval to increase the premium 11.5% on

155 policyholders with individual LTC forms 7-P-Q-PA, 7-P-Q-PA-1, 7-P-F-Q-PA, 7-P-F-Q-PA-1, N-4040-P-PA (Q), N-4040-P-PA (NQ), N-4041-P-PA (Q), N-4041-P-PA (NQ), 8-P-Q-PA and 8-P-F-Q-PA.

Unless formal administrative action is taken prior to February 24, 2023, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.insurance.pa.gov. To view these filing notices, hover the cursor over the word "Consumers," then select "Pending Long Term Care Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

MICHAEL HUMPHREYS,
Acting Insurance Commissioner

[Pa.B. Doc. No. 22-1913. Filed for public inspection December 9, 2022, 9:00 a.m.]

INSURANCE DEPARTMENT

Allianz Life Insurance Company of North America; Rate Increase Filing for Several Forms (ALLB-133465701); Rate Filing

Allianz Life Insurance Company of North America is requesting approval to increase the premium 44% on 996 policyholders with individual LTC forms N-2350-P-PA, N-2350-P-1-PA, N-3000-P-PA (Q), N-3000-P-PA (NQ), N-3001-P-PA (Q), N-3001-P-PA (NQ), N-2720-P-PA, N-2721-P-PA, N-2720-P-PA (Q), N-2720-P-PA (NQ), N-2721-P-PA (Q) and N-2721-P-PA (NQ).

Unless formal administrative action is taken prior to February 24, 2023, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.insurance.pa.gov. To view these filing notices, hover the cursor over the word "Consumers," then select "Pending Long Term Care Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

MICHAEL HUMPHREYS,
Acting Insurance Commissioner

[Pa.B. Doc. No. 22-1914. Filed for public inspection December 9, 2022, 9:00 a.m.]

INSURANCE DEPARTMENT

American Progressive Life and Health Insurance Company of New York; Rate Increase Filing for Several Forms (UNAM-133469265); Rate Filing

American Progressive Life and Health Insurance Company of New York is requesting approval to increase the

premium 65% on 54 policyholders with individual forms LTC HHC 1/98, PRNHO, PRNHOQ, PRNHOQRS and QHHC 11/99.

Unless formal administrative action is taken prior to February 24, 2023, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.insurance.pa.gov. To view these filing notices, hover the cursor over the word "Consumers," then select "Pending Long Term Care Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

MICHAEL HUMPHREYS,
Acting Insurance Commissioner

[Pa.B. Doc. No. 22-1915. Filed for public inspection December 9, 2022, 9:00 a.m.]

INSURANCE DEPARTMENT

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P.L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile insurance policy. The hearing will be governed in accordance with the requirements of Act 68; 2 Pa.C.S. §§ 501—508, 561—588 and 701—704 (relating to Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). This administrative hearing will be held virtually by means of Zoom. Failure by the appellants to appear at the scheduled hearing may result in dismissal with prejudice.

The parties and their representatives and witnesses shall join the Zoom hearing through the link supplied in the invitation. The Administrative Hearings Office may be contacted at (717) 783-2126, ra-hearings@pa.gov.

Appeal of Richard and Patricia Walsh; Penn National Mutual Casualty Insurance Company; File No. 22-130-271958; Doc. No. P22-08-024; January 24, 2023, 2 p.m.

Following the hearing and receipt of the stenographic transcript, the Acting Insurance Commissioner (Acting Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Acting Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Acting Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Joseph Korman, (717) 787-4429, jkorman@pa.gov.

MICHAEL HUMPHREYS,
Acting Insurance Commissioner

[Pa.B. Doc. No. 22-1916. Filed for public inspection December 9, 2022, 9:00 a.m.]

OFFICE OF THE BUDGET

Statutory Cost of Living Increases for Salaries of State Officials and the Heads of Departments, Boards and Commissions

Section 3(e) of the Public Official Compensation Act, the act of September 30, 1983 (P.L. 160, No. 39) as amended by Section 2 of the act of October 19, 1995 (P.L. 324, No. 51) mandates that the salaries of the Governor, Lieutenant Governor, State Treasurer, Auditor General, Attorney General, and the heads of the departments and members of boards and commissions shall be increased by applying the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area for the most recent 12 month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics (BLS) immediately prior to the date adjustment is due to take effect.

As required by Section 3(e) of the Public Official Compensation Law, the Governor has determined, based on the change in the CPI-U (PA-DE-NJ-MD) over the past 12 months as reported by BLS on November 10, 2022, that the salaries covered by that law shall be increased by 7.8% effective January 1, 2023. The following chart lists the position, the salary prior to the adjustment, the percentage increase of the adjustment, and the new salary:

COLA Adjustment for Elected and Appointed Officials Receiving Salaries Contained in Act 1995-51

COLA Adjustment is Based on the Percent Change in the CPI-U for PA-DE-NJ-MD, CMSA, for the 12 Month Period Ending October 2022

<i>Position</i>	<i>Salary Prior to 1/1/2023</i>	<i>COLA Adjustment</i>	<i>Salary Effective 1/1/2023</i>
Governor	\$213,026	7.8%	\$229,642
Lieutenant Governor	\$178,940	7.8%	\$192,897
State Treasurer	\$177,237	7.8%	\$191,061
Auditor General	\$177,237	7.8%	\$191,061
Attorney General	\$177,237	7.8%	\$191,061
Large Agency Head	\$170,419	7.8%	\$183,712
Secretary of Education			
Secretary of Environmental Protection			
Secretary of Health			
Secretary of Labor and Industry			
Secretary of Human Services			
Secretary of Transportation			
Secretary of Corrections			
Medium Agency Head	\$161,899	7.8%	\$174,527
Secretary of Aging			
Secretary of Community & Economic Development			
Secretary of General Services			
Secretary of Revenue			
State Police Commissioner			
Secretary of Conservation & Natural Resources			
Small Agency Head	\$153,378	7.8%	\$165,341
Secretary of Agriculture			
Secretary of Banking & Securities			
Secretary of the Commonwealth			
Insurance Commissioner			
Secretary of Drug and Alcohol Programs *****			
Liquor Control Board			
Chairman	\$86,571	7.8%	\$93,324
Member	\$83,161	7.8%	\$89,648
Civil Service Commission****			
Chairman	\$97,414	7.8%	\$105,012
Member	\$93,667	7.8%	\$100,973

<i>Position</i>	<i>Salary Prior to 1/1/2023</i>	<i>COLA Adjustment</i>	<i>Salary Effective 1/1/2023</i>
State Tax Equalization Board			
Chairman	\$29,825	7.8%	\$32,151
Member	\$27,693	7.8%	\$29,853
Milk Marketing Board			
Chairman	\$27,693	7.8%	\$29,853
Member	\$26,628	7.8%	\$28,705
Securities Commission***			
Chairman	\$46,595	7.8%	\$50,229
Member	\$42,510	7.8%	\$45,826
Athletic Commission			
Chairman	\$22,370	7.8%	\$24,115
Member	\$21,301	7.8%	\$22,962
Board of Pardons			
Member	\$19,597	7.8%	\$21,126
Public Utility Commission			
Chairman	\$164,399	**	\$177,027
Member	\$161,899	7.8%	\$174,527
Environmental Hearing Board*			
Chairman	\$164,399	*	\$177,027
Member	\$161,899	*	\$174,527
Board of Claims*****			
Chairman	\$157,339	7.8%	\$169,611
Member	\$149,055	7.8%	\$160,681

*: The Environmental Hearing Board is not listed in Act 1995-51, but separate legislation requires that the Board's members receive the same compensation as the PUC.

** : Act 1995-51 requires that the PUC Chairman shall receive \$2,500/yr. more than PUC Members.

***: Per Act 1998-51.

****: Per Act 2002-140, effective November 27, 2002.

*****: Per Act 2002-118, effective October 2, 2002.

*****: The salary for the Secretary of Drug and Alcohol Programs has not yet been set by statute.

BENJAMIN LUKENS,
Secretary

[Pa.B. Doc. No. 22-1917. Filed for public inspection December 9, 2022, 9:00 a.m.]

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Environmental Assessment Approval for PENNVEST Funding Consideration

Scope: Clean Water and Drinking Water State Revolving Fund Projects for January 12, 2023, Pennsylvania Infrastructure Investment Authority (PENNVEST) Board meeting consideration

Description: PENNVEST, which administers the Commonwealth's Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF), is intended to be the funding source for the following

projects. The Department of Environmental Protection's (Department) review of these projects, and the information received in the Environmental Report for these projects, has not identified any significant, adverse environmental impact resulting from any of the proposed projects. The Department hereby approves the Environmental Assessment for each project. If no significant comments are received during this comment period, the Environmental Assessment will be considered approved and funding for the project will be considered by PENNVEST.

To be considered, the Department must receive comments on this approval on or by Tuesday, January 10, 2023. Comments, including comments submitted by e-mail must include the commentator's name and address. Commentators are encouraged to submit comments using the Department's online eComment tool at www.ahs.dep.pa.gov/eComment. Written comments can also be submitted by e-mail to ecomment@pa.gov or by

mail to the Policy Office, Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 2063, Harrisburg, PA 17105-2063. Use "PENNVEST SRF-Environmental Assessment" as the subject line in written communication.

For more information about the approval of the following Environmental Assessments or the Clean Water and Drinking Water State Revolving Loan Programs contact Richard Wright, Bureau of Clean Water, Department of Environmental Protection, P.O. Box 8774, Harrisburg, PA 17105-8774, (717) 772-4059, riwright@pa.gov, or visit the Department's web site at www.dep.pa.gov/Business/Water/CleanWater/InfrastructureFinance/Pages/default.aspx.

Comments received during the comment period, along with the Department's comment and response document will be available on the Department's web site at www.dep.pa.gov/Business/Water/CleanWater/InfrastructureFinance/Pages/EnvironmentalReview.aspx.

Upon approval, the full list of approved projects and their costs can be found in a press release on PENNVEST's web site at www.pennvest.pa.gov.

CWSRF Projects Being Considered:

<i>Applicant:</i>	Bedford Township Municipal Authority
<i>County:</i>	Bedford
<i>Applicant Address:</i>	1007 Shed Road Suite 102 Bedford, PA 15522

Project Description: The Bedford Township Municipal Authority proposes to extend their sewer system. This sewer extension project includes the installation of approximately 38,080 linear feet (LF) of 8-inch polyvinyl chloride gravity sewer, 1,120 LF of 2-inch high-density polyethylene (HDPE) low pressure sewer and 168 manholes. Additionally, 2 sewage pumping stations and 4,100 LF of 6-inch HDPE force main are also being proposed. Each pump station site will include a precast concrete valve/metering vault. The southern pump station will also include a generator and a generator building.

Problem Description: Area V, which includes the Cara Heights Development, the homes along State Route Business 220 between the Bedford Springs Resort and the intersection with Cumberland Road, and the Sunrise Terrace Development and Area VI, which includes the Sunnybrook Development, the Hafer Development and the homes along Cumberland Road between the Sunnybrook and Hafer Developments do not currently have sewer service. Issues of contaminated drinking water in privately owned wells and malfunctioning onlot disposal systems primarily necessitated the provision of sewer service to these areas. The extension of sewer service to Areas V and VI would be the final obligations of Bedford Township Municipal Authority's Act 537 Plan originally approved in 2002 and updated in 2005.

<i>Applicant:</i>	Curwensville Municipal Authority
<i>County:</i>	Clearfield
<i>Applicant Address:</i>	314 South Street Curwensville, PA 16833

Project Description: This is Phase 2 of the collection system rehabilitation project in the Borough of Curwensville (Borough) and is focused primarily on the

south side of the Borough. It consists of slip lining approximately 15,000 feet of clay sewer mains of various sizes, constructing 400 feet of gravity sewer of various sizes, replacing 70 brick manholes with concrete manholes, replacing 6,000 feet of existing sewer laterals and replacing 650 feet of 4-inch force main. Additionally, this project includes rehabilitation at the sewage treatment plant including replacement of valves, pipes and other appurtenances in the raw wastewater pumping system, replacement of a sewer inspection camera and sewer cleaning jet, rehabilitation of the existing fine screen, replacement of the existing utility water system, updating the treatment facility's alarm system and other miscellaneous building upgrades associated with doors and windows.

Problem Description: The existing collection system in Curwensville is near the end of its useful life and is currently allowing significant inflow and infiltration into the system during wet weather events. This has resulted in the collection system exceeding its design flow capacity, leading to sanitary sewer overflows. This project is Phase 2 of a multiphase project to address the collection system's deficiencies. These deficiencies were identified in an Act 537 Sewage Facilities Plan Special Study that was conducted to evaluate the nutrient limitation concerns and other needs within the system.

DWSRF Projects Being Considered:

<i>Applicant:</i>	Bear Valley Franklin County Pennsylvania Joint Authority
<i>County:</i>	Franklin
<i>Applicant Address:</i>	218 School House Road Saint Thomas, PA 17252

Project Description: This project includes the addition of three new groundwater sources: Wells No. 13, 16 and 17. Each source will be treated at Bear Valley Franklin County Pennsylvania Joint Authority's existing Fort Loudoun membrane filtration plant. Development of these additional sources will provide a combined additional source capacity of up to 1.56 million gallon per day.

Problem Description: The existing surface water source is not reliable during the summer and fall seasons due to low flows. Additionally, the interconnect with Chambersburg is not available if Chambersburg needs the water for its own uses. The system's reliable source capacity does not meet the average and peak demands. This will ensure that the system has sufficient source capacity to meet the demands reliably and consistently.

<i>Applicant:</i>	Richland Borough
<i>County:</i>	Lebanon
<i>Applicant Address:</i>	5 Pine Street P.O. Box 676 Richland, PA 17087

Project Description: This project provides for an additional source of supply to the applicant's system. The installation will provide from transmission of the well water to the applicant's existing reservoir and treatment facilities. In addition, provisions are being incorporated into the design to include chemical injection points for sodium hypochlorite and a corrosion inhibitor, along with 4-log (99.99% purification) chlorine contact piping. This additional functionality will allow the applicant, if neces-

sary, to bypass the system's existing reservoir and treatment and supply water directly to the distribution system.

Problem Description: This project will provide a redundant source of supply by developing a new well, namely Well No. 9. The project will increase the applicant's ability to ensure safe and potable water is continuously supplied.

<i>Applicant:</i>	Perkasie Regional Authority
<i>County:</i>	Bucks
<i>Applicant Address:</i>	150 Ridge Road Sellersville, PA 18960

Project Description: Perkasie Regional Authority is proposing to install 6,000 LF of 8-inch diameter ductile iron waterline extension along Bethlehem Pike and Tabor Road. Construction of this waterline will provide public water to approximately 50 existing homes affected by perfluorooctane sulfonate and perfluorooctanoic acid contamination also known as per- and polyfluoroalkyl substances (PFAS).

Problem Description: Several private wells in East and West Rockhill Townships were found to have PFAS contamination. The contamination levels were found to be above the Environmental Protection Agency Health Advisory levels in some homes while other homes have lower levels of PFAS contamination in well water.

<i>Applicant:</i>	Bedford Township Municipal Authority
<i>County:</i>	Bedford
<i>Applicant Address:</i>	1007 Shed Road Bedford, PA 15522

Project Description: This project includes extending water service to approximately 130 residential homes within Bedford Township. The two new distribution areas, Area V and Area VI, will be connected by means of the following new sections of ductile iron piping; 16,800 LF of 10-inch diameter; 9,900 LF of 8-inch diameter; 5,500 LF of 6-inch diameter; and 1,600 LF of 4-inch diameter waterline. A section of Area VI will be connected to the booster pumping station constructed near the intersection of Mount Airy Drive and Cumberland Road.

Problem Description: Bedford Township Municipal Authority (Authority) will extend its distribution system to several existing neighborhoods currently served by individual wells. This is the final obligation as described in the Authority's Act 537 Plan originally approved in 2002 and updated in 2005.

RAMEZ ZIADEH, P.E.,
Acting Secretary

Department of Environmental Protection

BRION JOHNSON,
Executive Director

Pennsylvania Infrastructure Investment Authority

[Pa.B. Doc. No. 22-1918. Filed for public inspection December 9, 2022, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission (Commission). Formal protests, petitions to intervene and answers must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before December 27, 2022. Filings are recommended to be made electronically through eFiling to the Secretary of the Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120, with a copy served on the applicant by December 27, 2022. Individuals can sign up for a free eFiling account with the Secretary of the Commission through the Commission's eFiling system at <https://www.puc.pa.gov/efiling/Default.aspx>. A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Protests may only be filed if there is evidence that the applicant lacks fitness. Protests based on endangering or impairing operations of an existing carrier will not be honored. The documents filed in support of the application are only available for inspection through the Commission's web site at www.puc.pa.gov by searching under the previously listed docket number or by searching the applicant's web site.

Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

A-2022-3034940. Safe Zone, LLC (6532 Castor Avenue, 2nd Floor, Philadelphia, Philadelphia County, PA 19149) to transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in the City and County of Philadelphia, to points in Pennsylvania, and return.

A-2022-3036905. Adult Transport Services, LLC (306 Primrose Lane, First Floor, Mountville, Lancaster County, PA 17554) to transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in the Counties of Dauphin, Lancaster, Lebanon and York, to points in Pennsylvania, and return. *Attorney:* Edward J. Cyran, Esq., 747 Constitution Drive, Suite 100, Exton, PA 19341.

A-2022-3036926. Special Delivery Mobility, LLC (249 Bridge Street, Phoenixville, Chester County, PA 19460) to transport, by motor vehicle, persons in paratransit service, from points in the Counties of Adams, Allegheny, Armstrong, Beaver, Bedford, Berks, Blair, Bradford, Butler, Cambria, Cameron, Carbon, Centre, Clarion, Clearfield, Clinton, Columbia, Crawford, Cumberland, Dauphin, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lackawanna, Lancaster, Lawrence, Lebanon, Lehigh, Luzerne, Lycoming, McKean, Mercer, Mifflin, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somers, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Washington, Wayne, Westmoreland, Wyoming and York, to points in Pennsylvania, and return.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 22-1919. Filed for public inspection December 9, 2022, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Transfer of Control

A-2021-3026700. Jefferson Estates Sewage Treatment Plant, Inc. Application of Jefferson Estates Sewage Treatment Plant, Inc. for approval of the transfer of control of Jefferson Estates Sewage Treatment Plant, Inc. and for approval, nunc pro tunc, to begin to offer, render, furnish and supply wastewater service to the public in portions of Washington Township and Jefferson Township, Fayette County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before December 27, 2022. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, 400 North Street, 2nd Floor, Harrisburg, PA 17120, with a copy served on the applicant. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, on the Pennsylvania Public Utility Commission's (Commission) web site at www.puc.pa.gov and at the applicant's business address. If a filing contains confidential or proprietary material, the filing is required to be submitted by overnight delivery. Large filings containing confidential or proprietary material may be submitted through the Commission's Share Point File system with advanced notice to the Commission prior to submittal.

Applicant: Jefferson Estates Sewage Treatment Plant, Inc.

Through and By: Bradley M. Bassi, Esquire, Bassi, Vreeland & Associates, PC, 111 Fallowfield Avenue, P.O. Box 144, Charleroi, PA 15022, BBassi@bmvlaw.com; Justin D. Ahmann, PE, 75 Somers Road, Somers, MT 59932, Justin@APEC-MT.com

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 22-1920. Filed for public inspection December 9, 2022, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Voluntarily Negotiated Interconnection Agreements under 47 U.S.C.A. § 252(e)(2)

By Final Opinion and Order entered June 16, 2022, at docket number M-2022-3030709, the Pennsylvania Public Utility Commission (Commission) directed that certain voluntarily negotiated interconnection agreements and subsequent amendments would be assigned to a delegated Commission Bureau for resolution. The parties of these interconnection agreements or amendments would be advised of the disposition by means of Secretarial Letter.

Since the modification to the review process, the following interconnection agreements or amendments have been approved by the Commission by means of Secretarial Letter:

- **A-2022-3032216.**—Joint petition of Yukon-Waltz Telephone Company, Inc. and Teleport Communications America, LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

- **A-2022-3033007.**—Joint petition of Verizon Pennsylvania, LLC and Consolidated Communications Enterprise Services, Inc., f/k/a Penn Telecom, Inc. for approval of an amendment to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

- **A-2022-3033035.**—Joint petition of Verizon Pennsylvania, LLC and Consolidated Communications Enterprise Services, Inc., f/k/a Penn Telecom, Inc. for approval of an amendment to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

- **A-2022-3034384.**—Joint petition of Verizon North, LLC and Everstream Solutions, LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

- **A-2022-3034439.**—Joint petition of Verizon Pennsylvania, LLC and Stroud Media, LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

- **A-2022-3034476.**—Joint petition of Verizon North, LLC and Barr Tell USA, Inc. for approval of an amendment to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

- **A-2022-3034477.**—Joint petition of Verizon Pennsylvania, LLC and Barr Tell USA, Inc. for approval of an amendment to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

- **A-2022-3035124.**—Joint petition of Verizon Pennsylvania, LLC and Dynalink Communications, Inc. for approval of an amendment to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

- **A-2022-3035126.**—Joint petition of Verizon North, LLC and Dynalink Communications, Inc. for approval of an amendment to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

- **A-2022-3034879.**—Joint petition of The United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink and Peerless Network of Pennsylvania, LLC for approval of an interconnection agreement and amendments under section 252(e) of the Telecommunications Act of 1996.

- **A-2022-3035199.**—Joint petition of Armstrong Telephone Company and Armstrong Telecommunications, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

- **A-2022-3035680.**—Joint petition of The United Telephone Company of Pennsylvania, LLC, d/b/a CenturyLink and Metropolitan Telecommunications Corporation of PA for approval of an amendment to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

- **A-2022-3036211.**—Joint petition of Armstrong Telephone Company and Teleport Communications America, LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

The contact person is Kathryn Sophy, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 22-1921. Filed for public inspection December 9, 2022, 9:00 a.m.]

PHILADELPHIA PARKING AUTHORITY

Service of Notice of Motor Carrier Applications in the City of Philadelphia

The following permanent authority applications to render service as common carriers in the City of Philadelphia have been filed with the Philadelphia Parking Authority's (PPA) Taxicab and Limousine Division (TLD). Formal protests must be filed in accordance with 52 Pa. Code Part II (relating to Philadelphia Parking Authority) with the TLD's Office of the Clerk, 2415 South Swanson Street, Philadelphia, PA 19148, no later than December 27, 2022. The nonrefundable protest filing fee is \$5,000 payable to the PPA by certified check or money order. The applications are available for inspection at the TLD between 9 a.m. and 4 p.m., Monday through Friday (contact TLD Director Christine Kirlin, Esq. at (215) 683-9653 to make an appointment) or may be inspected at the business addresses of the respective applicants or attorneys, or both.

Doc. No. A-22-11-03. Simran Cab, Inc. (259 Rocklyn Road, Upper Darby, PA 19082): An application for a medallion taxicab certificate of public convenience (CPC) to transport, as a common carrier, persons in taxicab service between points within the City of Philadelphia and from points in the City of Philadelphia to points in Pennsylvania, and return.

Doc. No. A-22-11-04. 809Lux, LLC (3016 Fanshawe Street, Philadelphia, PA 19149): An application for a limousine CPC to transport persons and their baggage in luxury limousine service on an exclusive basis, arranged for in advance, between points within the City of Phila-

delphia and from points in the City of Philadelphia to points in Pennsylvania, and return. *Attorney for Applicant:* David Temple, Esq., 1600 Market Street, Suite 1320, Philadelphia, PA 19103.

RICH LAZER,
Executive Director

[Pa.B. Doc. No. 22-1922. Filed for public inspection December 9, 2022, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

The following hearings have been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of claimant's request concerning the indicated account.

The hearings will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

February 6, 2023	Robert Mulgrew Judicial Pension Forfeiture	1 p.m.
February 16, 2023	James H. Short Pension Forfeiture	1 p.m.

Parties in each respective case may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JOSEPH A. TORTA,
Executive Director

[Pa.B. Doc. No. 22-1923. Filed for public inspection December 9, 2022, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD [25 PA. CODE CHS. 121 AND 129]

Control of VOC Emissions from Unconventional Oil and Natural Gas Sources

The Environmental Quality Board (Board) amends Chapters 121 and 129 (relating to general provisions; and standards for sources) to read as set forth in Annex A. This final-form rulemaking adds §§ 129.121—129.130 to adopt reasonably available control technology (RACT) requirements and RACT emission limitations for unconventional oil and natural gas sources of volatile organic compound (VOC) emissions. These sources include natural gas-driven continuous bleed pneumatic controllers, natural gas-driven diaphragm pumps, reciprocating compressors, centrifugal compressors, fugitive emissions components and storage vessels installed at unconventional well sites, gathering and boosting stations and natural gas processing plants, as well as storage vessels in the natural gas transmission and storage segment. The Board adds definitions, acronyms and United States Environmental Protection Agency (EPA) methods to § 129.122 (relating to definitions, acronyms and EPA methods) to support the implementation of the control measures, as well as amends certain terms in and adds an abbreviation to § 121.1 (relating to definitions) to support the amendments to Chapter 129.

This final-form rulemaking will be submitted to the EPA for approval as a revision to the Commonwealth's State Implementation Plan (SIP) following promulgation.

This final-form rulemaking was adopted by the Board at its meeting on June 14, 2022.

A. Effective Date

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Viren Trivedi, Chief, Division of Permits, Bureau of Air Quality, Rachel Carson State Office Building, P.O. Box 8468, Harrisburg, PA 17105-8468, (717) 783-9476; or Jennie Demjanick, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania Hamilton Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board" and then navigate to the Board meeting of June 14, 2022).

C. Statutory Authority

This final-form rulemaking is authorized under section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P.S. § 4005(a)(1)), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth and section 5(a)(8) of the APCA, which grants the

Board the authority to adopt rules and regulations designed to implement the provisions of the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401—7671q).

D. Background and Purpose

The purpose of this final-form rulemaking is to implement control measures to reduce VOC emissions from unconventional oil and natural gas sources in this Commonwealth. Five air contamination source categories are affected by this final-form rulemaking: storage vessels; natural gas-driven continuous bleed pneumatic controllers; natural gas-driven diaphragm pumps; reciprocating and centrifugal compressors; and fugitive emissions components. These sources were selected by the EPA because data and information has indicated that they are significant sources of VOC emissions.

In accordance with sections 172(c)(1), 182(b)(2)(A) and 184(b)(1)(B) of the CAA (42 U.S.C.A. §§ 7502(c)(1), 7511a(b)(2)(A) and 7511c(b)(1)(B)), this final-form rulemaking establishes the VOC emission limitations and other RACT requirements consistent with the EPA's recommendations in the "Control Techniques Guidelines for the Oil and Natural Gas Industry," EPA 453/B-16-001, Office of Air Quality Planning and Standards, EPA, October 2016 (2016 O&G CTG) as RACT for these sources in this Commonwealth. See 81 FR 74798 (October 27, 2016). The EPA defines RACT as "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility." See 44 FR 53761 (September 17, 1979).

Background on the Ozone National Ambient Air Quality Standards (NAAQS)

Under section 108 of the CAA (42 U.S.C.A. § 7408), the EPA is responsible for establishing the NAAQS, or maximum allowable concentrations in the ambient air, for six criteria pollutants considered harmful to public health and the environment: ground-level ozone; particulate matter; nitrogen oxides (NO_x); carbon monoxide; sulfur dioxide; and lead. Section 109 of the CAA (42 U.S.C.A. § 7409) established two types of NAAQS: primary standards, which are limits set to protect public health; and secondary standards, which are limits set to protect public welfare and the environment. In section 302(h) of the CAA (42 U.S.C.A. § 7602(h)), effects on welfare are defined to include protection against visibility impairment and from damage to animals, crops, vegetation and buildings. The EPA established primary and secondary ground-level ozone NAAQS to protect public health and public welfare, including the environment.

On April 30, 1971, the EPA promulgated primary and secondary NAAQS for photochemical oxidants, which include ground-level ozone, under section 109 of the CAA. See 36 FR 8186 (April 30, 1971). These standards were set at an hourly average of 0.08 parts per million (ppm) total photochemical oxidants not to be exceeded more than 1 hour per year. On February 8, 1979, the EPA revised the level of the primary 1-hour ozone standard from 0.08 ppm to 0.12 ppm and set the secondary standard identical to the primary standard. See 44 FR 8202 (February 8, 1979). This revised 1-hour standard was reaffirmed on March 9, 1993. See 58 FR 13008 (March 9, 1993).

On July 18, 1997, the EPA concluded that revisions to the then-current 1-hour ozone primary standard to provide increased public health protection were appropriate

to protect public health with an adequate margin of safety. Further, the EPA determined that it was appropriate to establish a primary standard of 0.08 ppm averaged over 8 hours. At this time, the EPA also established a secondary standard equal to the primary standard. See 62 FR 38856 (July 18, 1997). In 2004, the EPA designated 37 counties in this Commonwealth as 8-hour ozone nonattainment areas for the 1997 8-hour ozone NAAQS. See 69 FR 23858, 23931 (April 30, 2004). Based on the Department's certified ambient air monitoring data for the Commonwealth's 2020 ozone season, all monitored areas of this Commonwealth are attaining and maintaining the 1997 8-hour ozone NAAQS.

In March 2008, the EPA lowered the primary and secondary ozone NAAQS to 0.075 ppm (75 parts per billion (ppb)) averaged over 8 hours to provide greater protection for children, other at-risk populations and the environment against the array of ozone-induced adverse health and welfare effects. See 73 FR 16436 (March 27, 2008). In May 2012, the EPA designated five areas in this Commonwealth as marginal nonattainment for the 2008 ozone NAAQS with the rest of this Commonwealth designated as attainment. See 77 FR 30088, 30143 (May 21, 2012). The five designated areas include all or a portion of Allegheny, Armstrong, Beaver, Berks, Bucks, Butler, Carbon, Chester, Delaware, Fayette, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, Washington and Westmoreland Counties. Per the 1997 ozone NAAQS, the Department must ensure that the 2008 ozone NAAQS is attained and maintained by implementing permanent and enforceable control measures. Based on the Department's certified ambient air monitoring data for the Commonwealth's 2020 ozone season, all monitored areas of this Commonwealth are attaining and maintaining the 2008 8-hour ozone NAAQS. Adoption of the VOC emission control measures in this final-form rulemaking would allow the Commonwealth to continue its progress in attaining and maintaining the 2008 8-hour ozone NAAQS.

On October 26, 2015, the EPA again lowered the primary and secondary ozone NAAQS, this time to 0.070 ppm (70 ppb) averaged over 8 hours. See 80 FR 65291 (October 26, 2015). On June 4, 2018, the EPA designated Bucks, Chester, Delaware, Montgomery and Philadelphia Counties as marginal nonattainment for the 2015 ozone NAAQS, with the rest of this Commonwealth designated as attainment. See 83 FR 25776 (June 4, 2018). The Department must ensure that the 2015 8-hour ozone NAAQS is attained and maintained by implementing permanent and Federally enforceable control measures. The certified ambient air ozone season monitoring data for the 2020 ozone season shows that all ozone samplers in this Commonwealth, except the Bristol sampler in Bucks County and the Northeast Airport and Northeast Waste samplers in Philadelphia County, are monitoring attainment of the 2015 ozone NAAQS. Reductions in VOC emissions that are achieved following the adoption and implementation of RACT emission control measures for source categories covered by this final-form rulemaking will assist the Commonwealth in making substantial progress in achieving and maintaining the 2015 ozone NAAQS.

Clean Air Act (CAA) requirements: Implementation of permanent and Federally enforceable control measures for attaining and maintaining the ozone NAAQS

Section 101(a)(3) of the CAA (42 U.S.C.A. § 7401(a)(3)) provides that air pollution prevention (that is, the reduction or elimination, through any measures, of the amount

of pollutants produced or created at the source) and air pollution control at its source is the primary responsibility of states and local governments. Section 110(a) of the CAA (42 U.S.C.A. § 7410(a)) gives states the primary responsibility for achieving the NAAQS in nonattainment areas and for maintaining the NAAQS in areas of the state that are in attainment. Section 110(a) of the CAA provides that each state shall adopt and submit to the EPA a plan (a SIP) for implementation, maintenance and enforcement of the NAAQS or a revision to the NAAQS promulgated under section 109(b) of the CAA. Additionally, section 110(a) of the CAA provides that the plan shall contain adequate provisions to prevent emissions activity within a state from contributing significantly to nonattainment in, or interference with maintenance by, any other state with respect to a NAAQS. The entirety of the SIP includes the regulatory programs, actions and commitments a state will carry out to implement its responsibilities under the CAA. Once approved by the EPA and incorporated into the state's SIP, the measures of a SIP are legally enforceable under both Federal and state law.

Section 172(c)(1) of the CAA provides that a SIP for states with nonattainment areas must include "reasonably available control measures," including RACT, for affected sources of VOC and NO_x emissions. Upon submittal to the EPA, state regulations to control VOC emissions from affected sources are reviewed by the EPA to determine if the provisions meet the RACT requirements of the CAA and its implementing regulations designed to attain and maintain the ground-level ozone NAAQS. If the EPA determines that the provisions meet the applicable requirements of the CAA, the provisions are approved and incorporated as amendments to the state's SIP.

Section 182 of the CAA (42 U.S.C.A. § 7511a) requires that, for areas which exceed the ground-level ozone NAAQS, states must develop and implement a program that mandates certain major stationary sources develop and implement a RACT emission reduction program. Section 182(b)(2) of the CAA provides that for moderate ozone nonattainment areas, a state must revise its SIP to include RACT for sources of VOC emissions covered by a Control Techniques Guidelines (CTG) document issued by the EPA prior to the area's date of attainment of the applicable ozone NAAQS. CTG documents provide states with information about a VOC emission source category and recommendations of what the EPA considers to be RACT for the source category to attain and maintain the applicable ozone NAAQS. State air pollution control agencies may use the Federal recommendations provided in the CTG to inform their own determination as to what constitutes RACT for VOC emissions from the covered source category for subject sources located within the state. State air pollution control agencies may implement other technically-sound approaches that are consistent with the CAA requirements and the EPA's implementing regulations or guidelines.

Although the designated nonattainment areas in this Commonwealth for the 2008 and 2015 ground-level ozone NAAQS are classified as "marginal" nonattainment, this entire Commonwealth is treated as a "moderate" ozone nonattainment area for RACT purposes because this Commonwealth is included in the Ozone Transport Region (OTR) established by operation of law under sections 176A and 184 of the CAA (42 U.S.C.A. §§ 7506a and 7511c). Section 176A grants the Administrator of the EPA the authority to establish an interstate transport region and the associated transport commission. Section 184(a)

of the CAA established the OTR comprised of the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and the Consolidated Metropolitan Statistical Area that includes the District of Columbia. More importantly, section 184(b)(1)(B) of the CAA requires that states in the OTR, including this Commonwealth, submit a SIP revision requiring implementation of RACT for all major stationary sources of VOC emissions in the state covered by a specific CTG and not just for those sources that are located in designated nonattainment areas of the state.

Consequently, the Commonwealth's SIP must include regulations implementing RACT requirements Statewide to control VOC emissions from the oil and natural gas sources covered by the 2016 O&G CTG. These sources, which are not regulated elsewhere in Chapter 129, were selected by the EPA because data and information has indicated that they are significant sources of VOC emissions. Significantly, this final-form rulemaking should achieve VOC emission reductions and lowered concentrations of ground-level ozone locally as well as in downwind states. Additionally, adoption of VOC emission reduction requirements is part of the Commonwealth's strategy, in concert with other OTR jurisdictions, to further reduce the transport of VOC ozone precursors and ground-level ozone throughout the OTR to attain and maintain the 8-hour ozone NAAQS. This final-form rulemaking will be submitted to the EPA for approval as a revision to the Commonwealth's SIP following promulgation of this final-form rulemaking.

Need to limit VOC emissions and ground-level ozone pollution

VOC emissions are precursors to the formation of ground-level ozone, a public health, welfare and environmental hazard. However, ground-level ozone is not emitted directly to the atmosphere from any sources, including unconventional oil and natural gas sources. Ground-level ozone is formed by a photochemical reaction between emissions of VOC and NO_x in the presence of sunlight; oil and gas sources do emit these two pollutants. Ground-level ozone is a highly reactive gas, which at sufficiently high concentrations can produce a wide variety of effects harmful to public health and welfare and the environment. Additionally, climate change may exacerbate the need to address ground-level ozone. According to the EPA, atmospheric warming, as a result of climate change, may increase ground-level ozone in regions across the United States. This impact could also be an issue for states trying to comply with future ozone standards.

Ground-level ozone is a respiratory irritant and repeated exposure to high ambient concentrations of ground-level ozone pollution, for both healthy people and those with existing conditions, may cause a variety of adverse health effects, including difficulty in breathing, chest pains, coughing, nausea, throat irritation and congestion. In addition, people with bronchitis, heart disease, emphysema, asthma and reduced lung capacity may have their symptoms exacerbated by high ambient concentrations of ground-level ozone pollution. Asthma, in particular, is a significant and growing threat to children and adults in this Commonwealth. Ozone can also cause both physical and economic damage to important food crops, forests and wildlife, as well as materials such as rubber and plastics.

The implementation of additional measures to address ozone precursor emissions impacts on air quality in this Commonwealth is necessary to protect the public health

and welfare and the environment. Because VOC emissions are precursors for ground-level ozone formation, adoption of the VOC emission control measures and other requirements in this final-form rulemaking is in the public interest as it will allow the Commonwealth to continue to make substantial progress in maintaining the 1997 and 2008 NAAQS as well as attaining and maintaining the 2015 8-hour ozone NAAQS Statewide. Implementation of and compliance with the final-form VOC emission reduction measures will assist the Commonwealth in reducing the levels of ozone precursor emissions that contribute to potential nonattainment of the 2015 ozone NAAQS in downwind states. As a result, the VOC emission control measures are reasonably necessary to attain and maintain the health-based and welfare-based 8-hour ozone NAAQS in this Commonwealth and to satisfy related CAA requirements.

The EPA's Control Techniques Guidelines for the Oil and Natural Gas Industry

The EPA issues guidance, in the form of a CTG, in place of regulations where the guidelines will be "substantially as effective as regulations" in reducing VOC emissions from a product or source category in ozone nonattainment areas. On October 27, 2016, the EPA issued the 2016 O&G CTG which provided information to assist states in determining what constitutes RACT for VOC emissions from select oil and natural gas industry emission sources. See 81 FR 74798 (October 27, 2016). On March 9, 2018, the EPA had proposed to withdraw the 2016 O&G CTG in its entirety because the CTG had relied upon underlying data and conclusions made in the 2016 new source performance standards which the EPA was reconsidering. See 83 FR 10478 (March 9, 2018). However, on March 5, 2020, the EPA announced in the United States Office of Management and Budget's Spring 2020 Unified Agenda and Regulatory Plan that the EPA was no longer pursuing the action to withdraw the CTG and "the CTG will remain in place as published on October 27, 2016." See Supplemental Notice of Potential Withdrawal of the Control Techniques Guidelines for the Oil and Natural Gas Industry at https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202004&RIN=2060-AT76&operation=OPERATION_PRINT_RULE.

While the EPA provided information and RACT recommendations through the 2016 O&G CTG for VOC emissions, it is up to the Department to determine what is RACT for each source category of VOC emissions. As explicitly stated by the EPA in the 2016 O&G CTG, state air pollution control agencies are free to implement other technically-sound approaches that are consistent with the CAA and the EPA's regulations. See 81 FR 74798, 74799 (October 27, 2016). The EPA also further clarified that "the information contained in the CTG document is provided only as guidance" and "this guidance does not change, or substitute for, requirements specified in applicable sections of the CAA or the EPA's regulations; nor is it a regulation itself." *Id.* While the EPA will ultimately need to approve the Department's RACT determinations by reviewing and approving the revision to the Commonwealth's SIP, the Department has made the initial RACT determinations in this final-form rulemaking based on the entirety of information available to the Department, including the 2016 O&G CTG. In other words, the Department's obligation is to affirmatively determine what constitutes RACT for the source group identified in the 2016 O&G CTG and the EPA's provision of guidance and data in the 2016 O&G CTG does not obviate that legal requirement. In the time since the 2016 O&G CTG was issued by the EPA, the Department acquired addi-

tional information and current emissions data specific to this Commonwealth that it analyzed to determine the RACT emission limitations and requirements established in this final-form rulemaking.

Findings of Failure to Submit, sanctions and deadline for action

If the EPA finds that a state has failed to submit an approvable SIP revision or has failed to implement the requirements of an approved measure in the SIP, the EPA issues a “finding of failure to submit notice.” On November 16, 2020, the EPA issued a Final Rule entitled “Findings of Failure To Submit State Implementation Plan Revisions in Response to the 2016 Oil and Natural Gas Industry Control Techniques Guidelines for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) and for States in the Ozone Transport Region,” with an effective date of December 16, 2020. See 85 FR 72963 (November 16, 2020). This Commonwealth was one of the five states issued a finding of failure to submit a SIP revision addressing the RACT requirements associated with the 2016 O&G CTG by October 27, 2018. The EPA’s finding triggers the sanction clock under section 179 of the CAA (42 U.S.C.A. § 7509). However, sanctions cannot be imposed until 18 months after the EPA makes the determination, and sanctions cannot be imposed if a deficiency has been corrected within the 18-month period. Thus, the Commonwealth must have submitted this final-form rulemaking as an SIP revision and the EPA must have determined that the submittal is complete by June 16, 2022, or sanctions could take effect.

On December 16, 2021, the EPA issued “Findings of Failure to Submit State Implementation Plan Revisions for the 2016 Oil and Natural Gas Control Techniques Guidelines for the 2015 Ozone National Ambient Air Quality Standards and for States in the Ozone Transport Region,” with an effective date of January 18, 2022. See 86 FR 71385 (December 16, 2021). This finding also triggers the sanction clock under section 179 of the CAA and the Commonwealth must submit an SIP revision and the EPA must determine that the submittal is complete by July 18, 2023.

Section 179 of the CAA authorizes the EPA to use two types of sanctions: 1) imposing what are called “2:1 offsets” on new or modified sources of emissions; and 2) withholding of certain Federal highway funds. Under section 179 of the CAA and its implementing regulations, the Administrator first imposes “2:1 offsets” sanctions for new or modified major stationary sources in the nonattainment area, and then, if the deficiency has not been corrected within 6 months, also applies Federal highway funding sanctions. See 40 CFR 52.31 (relating to selection of sequence of mandatory sanctions for findings made pursuant to section 179 of the Clean Air Act). The Commonwealth receives Federal transportation funding annually: \$1.8 billion in 2020 and 2021.

Additionally, the findings trigger an obligation under section 110(c) of the CAA for the EPA to promulgate a Federal Implementation Plan (FIP) no later than 2 years after the effective date of the finding of failure to submit if the Commonwealth has not submitted, and the EPA has not approved, the required SIP submittal. If the EPA promulgates a FIP, the EPA could, in its discretion, also withhold a portion of the Department’s air pollution grant funds provided for in section 105 of the CAA. However, if the Commonwealth makes the required SIP submittal

and the EPA takes final action to approve the submittal within 2 years of the effective date of these findings, the EPA is not required to promulgate a FIP.

While this final-form rulemaking will not fully address the December 2021 and the November 2020 findings of failure to submit SIP revisions, the Department will develop a separate rulemaking for the RACT requirements for sources of VOC emissions installed at conventional well sites.

This final-form rulemaking is being promulgated to attain and maintain both the 2008 and the 2015 ozone NAAQS and will be submitted to the EPA for approval as a revision to the Commonwealth’s SIP following promulgation. Once promulgated, the separate rulemaking for sources of VOC emissions installed at conventional well sites will also be submitted as a SIP revision. The Department is working toward completing both submittals by December 16, 2022, to avoid the Federal Highway sanctions.

VOC RACT requirements in this final-form rulemaking

Under section 4.2(b)(1) of the APCA (35 P.S. § 4004.2(b)(1)), the Board has the authority to adopt control measures that are more stringent than those required by the CAA if the Board determines that it is reasonably necessary for the control measure to exceed minimum CAA requirements for the Commonwealth to achieve or maintain the NAAQS. To the extent that a requirement in this final-form rulemaking is more stringent than the recommendations of the 2016 O&G CTG, the more stringent requirement is reasonably necessary to attain and maintain the health-based and welfare based 8-hour ozone NAAQS in this Commonwealth and to satisfy related CAA requirements.

The Department reviewed the RACT recommendations included in the 2016 O&G CTG for their applicability to the ground-level ozone reduction measures necessary for this Commonwealth and determined that the VOC emission reduction measures and other requirements are appropriate for this source category. However, based on analysis of data available to the Department during the development of the proposed rulemaking as well as additional and updated data available during this final-form rulemaking development phase, the Department determined in three cases that RACT requirements more stringent than the recommendations in the 2016 O&G CTG are cost-effective and necessary to continue the Commonwealth’s progress in attaining and maintaining the ground-level ozone NAAQS.

In the first case, the Department established in proposed § 129.123(a)(1)(i)—(vi) (relating to storage vessels) a tiered emissions threshold based on the potential to emit for affected owners or operators of subject storage vessels to prevent backsliding on the amount of controlled emissions for storage vessels subject to the Department’s Air Quality Permit Exemptions 38(b) or 38(c). The tiered emission threshold established in proposed § 129.123(a)(1)(i) and (ii) was the potential to emit 6.0 tons per year (TPY) or greater VOC emissions for a storage vessel installed at a conventional well site or at an unconventional well site before August 10, 2013. The tiered emission threshold established in proposed § 129.123(a)(1)(iii)—(vi) was the potential to emit 2.7 TPY or greater VOC emissions for a storage vessel installed at an unconventional well site on or after August 10, 2013, a storage vessel installed at a gathering and boosting station, a storage vessel installed at a

natural gas processing plant and a storage vessel installed at a facility in the natural gas transmission and storage segment.

However, during the development of this final-form rulemaking, the Department performed additional analysis which shows that the 2.7 TPY VOC emission threshold for storage vessels is RACT as it is technically and economically feasible for both potential to emit and actual emissions from all covered storage vessels. The analysis examined the sensitivity to the initial capital cost of the control device and found that the total cost per ton of VOC reduced is below the RACT benchmark of \$6,600 per ton reduced. Therefore, a single 2.7 TPY VOC emission threshold is established in § 129.123(a)(1) in this final-form rulemaking that applies to affected owners or operators of storage vessels at unconventional well sites, gathering and boosting stations and natural gas processing plants, and in the natural gas transmission and storage segment. The tiered emissions thresholds, including requirements for storage vessels at conventional well sites, in proposed § 129.123(a)(1)(i)—(vi) are deleted in this final-form rulemaking.

In the second case, the proposed rulemaking included an exemption in § 129.126(d) for the owner or operator of a reciprocating compressor or a centrifugal compressor located at an unconventional well site or located at an adjacent well site and servicing more than one well site. However, the Department's additional analysis, further detailed in the Regulatory Analysis Form (RAF), for this final-form rulemaking shows that it is both technically and economically feasible to require reciprocating compressor rod packing replacements every 26,000 hours of operation or every 3 years for reciprocating compressors located at unconventional well sites. The analysis showed that the cost-effectiveness of the rod packing replacement is highly sensitive to the emissions factor used to represent emissions from reciprocating compressors. Using the average of several emission factors from the University of Texas at Austin's Emission Factor Improvement Study, the cost per ton of VOC reduced is approximately \$6,600 which is consistent with the RACT benchmark. See Harrison, M., Galloway, K., Hendler, A., Shires, T., Allen, D., Foss, M., Thomas, J., Spinhirne, J., Natural Gas Industry Methane Emission Factor Improvement Study Final Report Cooperative Agreement No. XA-83376101, Dec. 2011 at https://dept.ceer.utexas.edu/ceer/GHG/files/FReports/XA_83376101_Final_Report.pdf. Therefore, the exemption in proposed § 129.126(d) for reciprocating compressors is deleted in this final-form rulemaking, meaning this final-form rulemaking requires affected owners or operators to implement reciprocating compressor rod packing replacements on reciprocating compressors located at well sites. This is a new requirement that was not included in the proposed rulemaking and was not one of the recommendations in the 2016 O&G CTG.

In the third case, the Department established a requirement in proposed § 129.127(b)(1)(ii)(A) and (B) (relating to fugitive emissions components) that affected owners or operators shall conduct monthly audible, visual, and olfactory (AVO) inspections and quarterly instrument-based leak detection and repair (LDAR) inspections of fugitive emissions components for well sites with at least one well that produces, on average, 15 barrels of oil equivalent (BOE) per day. In proposed § 129.127(b)(2), the Department also established a stepdown provision which enabled affected owners or operators to track the percentage of leaking components at each inspection and if, in two consecutive quarterly inspections, less than 2% of components were leaking

emissions, the owner or operator could reduce the quarterly schedule of instrument-based LDAR inspections to semiannual.

This final-form rulemaking deletes the stepdown provisions of proposed § 129.127(b)(2)(i) and (ii). The Department's additional analysis shows that it is both technically and economically feasible for an affected owner or operator to implement instrument-based LDAR inspections at an unconventional well site with an average production of 15 BOE or more per day, with the frequency of inspections based on the production from each individual well at the well site. The owner or operator of an unconventional well site with an average production of 15 BOE or more per day and with at least one individual well producing 15 BOE or more per day, on average, shall conduct quarterly instrument-based LDAR inspections. The owner or operator of an unconventional well site with an average of 15 BOE or more per day and at least one individual well producing 5 BOE or more but less than 15 BOE per day, on average, shall conduct annual instrument-based LDAR inspections. In this final-form rulemaking, the Department also included an option for the owner or operator of an unconventional well site producing, on average, equal to or greater than 15 BOE per day, and at least one well producing, on average, equal to or greater than 5 BOE per day but less than 15 BOE, per day to submit to the Department a request for an exemption from the annual instrument-based LDAR requirement. However, the request must include, among other information, a demonstration that the annual LDAR requirement is not RACT (technically or economically feasible) for the well site. If approved, this exemption request will be submitted to the EPA as a revision to the Commonwealth's SIP.

In addition to the technically and economically feasible RACT requirements detailed previously, the Commonwealth is responsible for ensuring that the 2015 8-hour ozone NAAQS is attained and maintained by implementing permanent and Federally enforceable control measures. This final-form rulemaking is a primary component of the Commonwealth's strategy of ensuring that the ozone NAAQS are attained and maintained across this Commonwealth. Reductions in VOC emissions, that are achieved following the adoption and implementation of RACT VOC emission control measures for the select unconventional oil and natural gas source categories covered by this final-form rulemaking, will assist the Commonwealth in making substantial progress in achieving and maintaining the ozone NAAQS. To the extent that a requirement in this final-form rulemaking is more stringent than the recommendations of the 2016 O&G CTG, the more stringent requirement is reasonably necessary to attain and maintain the health-based and welfare based 8-hour ozone NAAQS in this Commonwealth and to satisfy related CAA requirements.

VOC and methane emission reduction benefits

The Department estimates that in 2020, sources installed at unconventional well sites, gathering and boosting stations and natural gas processing plants emitted an estimated 5,648 TPY VOC and that implementation of the control measures in this final-form rulemaking could reduce VOC emissions by as much as 2,864 TPY. These VOC emission reductions will contribute to reductions in the formation of ground-level ozone and to achieving and maintaining the ozone NAAQS.

While this final-form rulemaking requires VOC emission reductions, methane emissions are also reduced as a cobenefit, because both VOC and methane are emitted

from oil and gas operations. Methane is a potent greenhouse gas with a global warming potential more than 28 times that of carbon dioxide over a 100-year time period, according to the EPA. The EPA has identified methane, the primary component of natural gas, as the second-most prevalent greenhouse gas emitted in the United States from human activities. The Department estimates that unconventional well sites, gathering and boosting stations and natural gas processing plants emitted 102,297 TPY methane in 2020, and that the cobenefit methane emissions reduction from this final-form rulemaking may be as much as 45,278 TPY.

Furthermore, the technically and economically feasible RACT determinations in this final-form rulemaking for storage vessels, reciprocating compressors at unconventional well sites and fugitive emissions components result in a greater reduction of VOC emissions than implementing the EPA's RACT recommendations from the 2016 O&G CTG resulting in an additional 411 TPY of VOC and 6,124 TPY of methane emissions reductions.

This final-form rulemaking is also consistent with Governor Tom Wolf's strategy to reduce emissions of methane from the oil and natural gas industry in this Commonwealth. In the strategy, announced on January 19, 2016, the Department committed to developing a regulation for existing sources to reduce leaks at existing oil and natural gas facilities. The strategy also states that the Commonwealth will reduce emissions by requiring LDAR inspections and more frequent use of leak-sensing technologies. This final-form rulemaking fulfills those parts of the strategy.

Applicability of this final-form rulemaking

This final-form rulemaking will apply Statewide to owners or operators of one or more of the following unconventional oil and natural gas sources of VOC emissions which were constructed on or before the effective date of this final-form rulemaking: natural gas-driven continuous bleed pneumatic controllers, natural gas-driven diaphragm pumps, centrifugal compressors, reciprocating compressors, fugitive emission components and storage vessels installed at unconventional well sites, gathering and boosting stations and natural gas processing plants, as well as storage vessels in the natural gas transmission and storage segment.

The Department identified 577 owners or operators of approximately 3,889 facilities in this Commonwealth that may be affected by this final-form rulemaking. Approximately 306 of the 577 owners or operators may meet the definition of small business as defined in section 3 of the Regulatory Review Act (RRA) (71 P.S. § 745.3). Based on information supplied by commentators, the Oil and Gas Production Report and the Department's Air Information Management System (AIMS) database, the Department estimates there are 3,388 unconventional well sites, 486 gathering and boosting stations, 15 processing plants and 120 transmission stations. The Department estimates that these owners or operators have at least 44 storage vessels at 12 facilities, 8,572 pneumatic controllers at 3,874 facilities and 40 pneumatic pumps at 17 facilities that will be subject to requirements under this final-form rulemaking. The owners or operators of approximately 2,616 of 3,388 unconventional well sites will be required to implement instrument-based LDAR inspections or increase the current instrument-based LDAR inspection frequency under this final-form rulemaking. The owners or operators of approximately 264 of 486 gathering and boosting stations and 1 of 15 processing plants will be required to implement a new instrument-based LDAR

inspection program or will be subject to new requirements under this final-form rulemaking.

The Department estimates that the total unconventional industry-wide cost of complying with this final-form rulemaking will be about \$21.9 million per year. However, implementation of the control measures will also potentially save owners or operators in the unconventional oil and natural gas industry about \$4.6 million per year due to a lower natural gas loss rate during production. This cost estimate consists of two major categories of data. The first is the annual cost to implement the RACT requirements for each affected source or affected facility as provided by the EPA in the 2016 O&G CTG and from the Department's own additional analysis. The second is the number of potentially affected facilities, which was obtained from several data sources including the Department's Oil and Gas Production Report, Environmental Facility Application Compliance Tracking System (eFACTS) database and AIMS. For the owners or operators of unconventional well sites, gathering and boosting stations and natural gas processing plants the anticipated annual cost to comply with the requirements will be based on the type of sources present at the site, the requirements that apply to those sources, and the type of control used to comply.

Most of the anticipated costs are due to new regulatory requirements but many of the costs associated with this final-form rulemaking are from common sense practices and controls, some of which owners or operators may already be implementing due to regulatory requirements or voluntary emission reduction programs. An example includes periodic AVO inspections which can prevent natural gas releases, which in turn prevents environmental damage and significant financial losses for the operator. The Department anticipates there will be areas of cost savings that will occur as a result of this final-form rulemaking. The Department estimates a majority of small business stationary sources will be below the applicability thresholds. However, affected small businesses may incur some cost as a result of this final-form rulemaking; net costs of approximately \$6,370 per facility or, on average, \$30,053 per owner or operator. Overall, the Department does not anticipate that this final-form rulemaking will result in any significant adverse impact on small businesses.

Public outreach

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) and the Small Business Compliance Advisory Committee (SBCAC) in the development of the proposed rulemaking. On December 14, 2017, the Department presented concepts to AQTAC on a potential rulemaking incorporating the 2016 O&G CTG recommendations. The Department returned to AQTAC on December 13, 2018, for an informational presentation on a preliminary draft Annex A. The proposed rulemaking was presented for a vote to AQTAC on April 11, 2019, and SBCAC on April 17, 2019. Both committees concurred with the Department's recommendation to move the proposed rulemaking forward to the Board for consideration.

The Department also conferred with the Citizens Advisory Council's (CAC) Policy and Regulatory Oversight Committee concerning the proposed rulemaking on May 7, 2019. On June 18, 2019, the full CAC concurred with the Department's recommendation to move the proposed rulemaking forward to the Board for consideration.

The Department also met with industry and environmental stakeholders to receive additional input on the

proposed rulemaking. On January 24, 2019, the Department updated the Pennsylvania Grade Crude Development Advisory Council on the status of the proposed rulemaking. On March 21, 2019, the Department provided an informational presentation to the Oil and Gas Technical Advisory Board. On July 8, 2019, the Department met with industry stakeholders, including representatives from the Marcellus Shale Coalition, Penn Energy, Southwestern Energy, Range Resources and Chesapeake Energy. On August 27, 2019, the Department met with environmental stakeholders, including representatives from PennFuture, Environmental Defense Fund and the Clean Air Council.

This final-form rulemaking was presented to AQTAC on December 9, 2021, the CAC Policy and Regulatory Oversight Committee on January 12, 2022, and the full CAC on January 18, 2022, and SBCAC on January 27, 2022.

E. Summary of Final-Form Rulemaking and Changes from Proposed to Final-Form Rulemaking

§ 121.1. Definitions

This section contains definitions relating to the air quality regulations. This final-form rulemaking amends the terms “CPMS—continuous parameter monitoring system,” “fugitive emissions” and “responsible official,” and adds the abbreviation “ppm” to support the final-form amendments to Chapter 129.

There are no changes made to this section from the proposed rulemaking to this final-form rulemaking.

§ 129.121. General provisions and applicability

Subsection (a) establishes that this final-form rulemaking will apply Statewide to the owner or operator of the following: natural gas-driven continuous bleed pneumatic controllers, natural gas-driven diaphragm pumps, reciprocating compressors, centrifugal compressors, fugitive emissions components and storage vessels installed at unconventional well sites, gathering and boosting stations and natural gas processing plants, as well as storage vessels in the natural gas transmission and storage segment.

Subsection (a) is amended in this final-form rulemaking to replace “in existence” with “constructed” to clarify that the existing sources applicable under this final-form rulemaking are those that are constructed on or before the date of final publication. Subsection (a) is also amended in this final-form rulemaking to add “installed at an unconventional well site, a gathering and boosting station or a natural gas processing plant” to clarify that this final-form rulemaking is only applicable to unconventional sources in the oil and natural gas industry. Subsection (a)(1) is amended in this final-form rulemaking to clarify the requirements for storage vessels by removing “in all segments except natural gas distribution” and replacing it with “at an unconventional well site, a gathering and boosting station, a natural gas processing plant and in the natural gas transmission and storage segment.” Subsection (a)(2) is amended in this final-form rulemaking to add “continuous bleed” to clarify that the natural gas-driven pneumatic controllers applicable under this final-form rulemaking as a source of VOC emissions are continuous bleed.

Subsection (b) provides that compliance with the requirements of this final-form rulemaking assures compliance with the requirements of a permit issued under §§ 129.91—129.95 (relating to stationary sources of NO_x and VOCs) or §§ 129.96—129.100 (relating to additional

RACT requirements for major sources of NO_x and VOCs) except to the extent the operating permit contains more stringent requirements.

There is no change made to subsection (b) from the proposed rulemaking to this final-form rulemaking.

§ 129.122. Definitions, acronyms and EPA methods

Section 129.122 adds definitions, acronyms and EPA methods applicable to this final-form rulemaking.

Subsection (a) is amended in this final-form rulemaking to make clarifying edits to the following terms: “bleed rate,” “connector,” “first attempt at repair,” “flare,” “flow line,” “fugitive emissions component,” “in-house engineer,” “leak,” “natural gas-driven continuous bleed pneumatic controller,” “natural gas processing plant,” “natural gas transmission and storage segment,” “TOC-total organic compounds,” “VRU-vapor recovery unit” and “well site.”

Subsection (a) is also amended in this final-form rulemaking to delete the following unnecessary terms: “completion combustion device,” “compressor station,” “continuous bleed,” “fuel gas,” “fuel gas system,” “natural gas and oil production segment,” “natural gas processing segment,” “transmission compression station” and “underground storage vessel.”

Subsection (a) is further amended in this final-form rulemaking to add the following terms: “UIC,” “UIC class I oilfield disposal well,” “UIC class II oilfield disposal well,” “unconventional formation,” “unconventional well” and “unconventional well site.”

Subsection (b) lists the EPA methods referenced in this final-form rulemaking. There is no change made to subsection (b) from the proposed rulemaking to this final-form rulemaking.

§ 129.123. Storage vessels

Subsection (a)(1) establishes the applicability threshold for the owner or operator of a storage vessel based on potential VOC emissions.

Subsection (a)(1) is amended in this final-form rulemaking to remove the various potential to emit amounts and installation dates included in the proposed rulemaking and to instead have this final-form rulemaking apply to owners or operators of storage vessels that have the potential to emit 2.7 TPY or greater VOC emissions. The more stringent 2.7 TPY threshold is based on the threshold used under Exemption 38(b) of the Air Quality Permit Exemptions List, which has been in effect since August 10, 2013.

Subsection (a)(2) establishes the methodology required for calculating the potential VOC emissions of a storage vessel. Subsection (a)(2)(i) is amended in this final-form rulemaking to add that the maximum average daily throughput is as defined in § 129.122 and to extend the calculation requirement from the date of publication to 60 days after. Subsection (a)(2)(ii) is amended in this final-form rulemaking to replace “must” with “may” to be consistent with the stringency in the 2016 O&G CTG.

Subsection (b) establishes the compliance requirements for the owner or operator of a storage vessel to reduce VOC emissions by 95.0% by weight or greater by either routing emissions to a control device or installing a floating roof that meets the requirements of 40 CFR Part 60, Subpart Kb (relating to standards of performance for volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984). If the owner or operator decides to route emissions to a

control device, the cover and closed vent systems must meet the requirements in § 129.128 (relating to covers and closed vent systems).

There is no change made to subsection (b) from the proposed rulemaking to this final-form rulemaking.

Subsection (c) provides for exceptions to the emissions limitations and control requirements in subsection (b) based on the actual VOC emissions of a storage vessel and lists compliance demonstration requirements for owners or operators claiming an exception.

Subsection (c)(1) is amended in this final-form rulemaking to remove subparagraph (i) which had provided an exception for storage vessels with a VOC potential to emit limit of 6.0 TPY, if actual VOC emissions are less than 4.0 TPY as determined on a 12-month rolling basis. Clarifying edits were also made to the exception in subparagraph (ii) due to the removal of subparagraph (i) and to have the actual VOC emissions determined on a 12-month rolling sum instead of basis.

Subsection (c)(2)(i) is amended in this final-form rulemaking to require the calculation of actual VOC emissions once per calendar month instead of monthly beginning on or before 30 days after final publication. The monthly calculations must also be separated by at least 15 calendar days, but not more than 45 calendar days, instead of 30 calendar days and be based on the monthly average throughput instead of the maximum daily throughput. Subparagraph (ii) is also amended to require compliance with subsection (b) within 1 year of the date of the monthly calculation instead of 30 calendar days and to remove language that is no longer needed. Additionally, subparagraph (iii) is deleted in this final-form rulemaking.

Subsection (d) lists three categorical exemptions from the emissions limitations and control requirements of subsection (b).

There is no change made to subsection (d) from the proposed rulemaking to this final-form rulemaking.

Subsection (e) lists the requirements for removing a storage vessel from service. There is no change made to subsection (e) from the proposed rulemaking to this final-form rulemaking.

Subsection (f) lists the requirements for a storage vessel returned to service. There is no change made to subsection (f) from the proposed rulemaking to this final-form rulemaking.

Subsection (g) references the recordkeeping and reporting requirements under § 129.130(b) (relating to recordkeeping and reporting) and § 129.130(k) for owners or operators of storage vessels subject to this section. Subsection (g) is amended in this final-form rulemaking to correct a cross-reference.

§ 129.124. Natural gas-driven continuous bleed pneumatic controllers

Subsection (a) establishes the applicability for the owner or operator of a natural gas-driven pneumatic controller based on the controller's location. Subsection (b) provides for certain exceptions related to this subsection. Subsection (c) establishes VOC emissions limitation requirements. Subsection (d) sets forth compliance demonstration requirements. Subsection (e) identifies the recordkeeping and reporting requirements.

This section is amended in this final-form rulemaking to add "continuous bleed" to all references to natural gas-driven pneumatic controllers as the Board further

clarified under § 129.121 that this final-form rulemaking applies to natural gas-driven continuous bleed pneumatic controllers. Subsection (c) is also amended to clarify that only natural gas-driven continuous bleed pneumatic controllers with a natural gas bleed rate greater than 6.0 standard cubic feet per hour, at a location other than a natural gas processing plant, are required to maintain a natural gas bleed rate of less than or equal to 6.0 standard cubic feet per hour. Additionally, the Board made a revision to clarify that all natural gas-driven continuous bleed pneumatic controllers are required to maintain a natural gas bleed rate of zero standard cubic feet per hour, if they are located at a natural gas processing plant. These changes were made to ensure that the requirement is consistent with the Federal new source performance standards (NSPS) requirements. Subsections (d) and (e) are amended to clarify that the tagging and recordkeeping and reporting requirements are only for natural gas-driven continuous bleed pneumatic controllers affected under subsection (c). Subsection (e) is amended in this final-form rulemaking to correct a cross-reference.

§ 129.125. Natural gas-driven diaphragm pumps

Subsection (a) establishes the applicability for the owner or operator of a natural gas-driven diaphragm pump based on the pump's location. There is no change made to subsection (a) from the proposed rulemaking to this final-form rulemaking.

Subsection (b) establishes the compliance requirements for the owner or operator of a natural gas-driven diaphragm pump to reduce VOC emissions by 95.0% by weight or greater. For natural gas-driven diaphragm pumps located at an unconventional well site, the owner or operator shall reduce VOC emissions by connecting the natural gas-driven diaphragm pump to a control device through a closed vent system that meets the requirements of § 129.128(b) and routing the emissions to a control device or process that meets the requirements of § 129.129 (relating to control devices). For natural gas-driven diaphragm pumps located at a natural gas processing plant, the owner or operator shall reduce VOC emissions by maintaining an emission rate of zero standard cubic feet per hour.

Subsection (b) is amended in this final-form rulemaking to remove the phrase "reduce the VOC emissions by 95.0% by weight or greater. The owner or operator shall" from subsection (b) and add it to subsection (b)(1). Subsection (b)(1) is amended in this final-form rulemaking to add "unconventional" before "well site."

Subsection (c) provides for three exceptions to the emissions limitations and control requirements in subsection (b) based on the presence of a control device, the capability of the control device, or technical infeasibility of routing emissions to the control device.

Subsection (c) is amended in this final-form rulemaking to correct references, to make a few slight formatting changes and to renumber due to those changes.

Subsection (d) provides for a categorical exemption for the owner or operator of a natural gas-driven diaphragm pump located at a well site which operates less than 90 days per calendar year, so long as the owner or operator maintains records of the operating days.

Subsection (e) establishes the compliance requirements for the owner or operator when removing a control device or process to which emissions from a natural gas-driven diaphragm pump are routed.

There are no changes made to subsections (d) and (e) from the proposed rulemaking to this final-form rulemaking.

Subsection (f) references the recordkeeping and reporting requirements listed under § 129.130(d) and (k)(3) for owners or operators of natural gas-driven diaphragm pumps.

Subsection (f) is amended in this final-form rulemaking to correct a cross-reference.

§ 129.126. Compressors

Subsection (a) establishes the applicability for the owner or operator of a reciprocating compressor or centrifugal compressor based on the compressor's location.

There is no change made to subsection (a) from the proposed rulemaking to this final-form rulemaking.

Subsection (b) establishes the compliance requirements for the owner or operator of a reciprocating compressor choosing to either replace the rod packing or use a rod packing emissions collection system.

Subsection (b) is amended in this final-form rulemaking to delete "except as specified in subsection (d)" from subsection (b) and to add further clarifying language to paragraph (2).

Subsection (c) establishes the compliance requirements for the owner or operator of a centrifugal compressor to reduce VOC emissions by 95.0% by weight or greater by connecting to a control device through a cover and closed vent system that meets the requirements of § 129.128.

Subsection (c) is amended in this final-form rulemaking to remove a "relating to" reference that is no longer needed.

Subsection (d) lists a categorical exemption from the emissions limitation and control requirements of subsection (c) for centrifugal compressors located at a well site or at an adjacent well site where the compressor services more than one well site.

Subsection (d) is amended in this final-form rulemaking to remove the categorical exemption from the emissions limitation and control requirements of subsection (b) and to only allow the categorical exemption from the emissions limitation and control requirements of subsection (c) to apply to the owner or operator of a centrifugal compressor. In this final-form rulemaking, the owner or operator of a reciprocating compressor is no longer applicable under the exemption.

Subsection (e) references the recordkeeping and reporting requirements listed under § 129.130(e) and (k)(3)(iv) for owners or operators of reciprocating compressors and under § 129.130(f) and (k)(3)(v) for owners or operators of centrifugal compressors.

Subsection (e) is amended in this final-form rulemaking to correct two cross-references.

§ 129.127. Fugitive emissions components

This section is renumbered in this final-form rulemaking due to the Board's addition of the average production calculation procedure for a well site in subsection (b).

Subsection (a) establishes the applicability for the owner or operator of a fugitive emissions component based on the component's location.

Subsection (a) is amended in this final-form rulemaking to delete "A" and add "an unconventional" before "well site" in subsection (a)(1). Subsection (a)(1) is also

amended to remove the phrase "with a well that produces, on average, greater than 15 barrels of oil equivalent per day."

Subsection (b) is added to this final-form rulemaking and establishes the average production calculation procedure for a well site.

Subsection (c), formerly subsection (b) in the proposed rulemaking, establishes the compliance requirements for unconventional well sites based on the gas to oil ratio (GOR) of the well and the production of the well site and the individual wells on the well site.

Subsection (c) is amended in this final-form rulemaking to renumber due to formatting changes, remove "a producing" from "requirements for a producing well site," add "an unconventional" before "well site" and remove "the owner or operator of a producing well site shall perform the following." The Board also removes "determine the GOR of the well using generally accepted methods" and replaces it with "for a well site consisting of only oil wells, the owner or operator shall" in paragraph (1). The Board adds new language to paragraph (1)(i) and adds "of the oil well site" and removes "the owner or operator shall" in paragraph (1)(ii). The Board also adds "of the oil well site," removes "the owner or operator shall perform the following:" and adds "meet the requirements of paragraph (2) or paragraph (3) based on the results of subsection (b)(1)" in paragraph (1)(iii). The Board adds new language in paragraph (2). The Board adds the word "initial" before AVO inspection and removes "within 60 days after" and replaces it with "on or before" 60 days after final publication in paragraph (2)(i). The Board also adds "thereafter" to indicate that the monthly inspections occur after the initial AVO inspections and extended the time period between the monthly inspections from 30 calendar days to 45 calendar days in paragraph (2)(i). Additionally, the Board adds the word "initial" before LDAR inspection and removed "within 60 days after" and replaces it with "on or before" 60 days after final publication in paragraph (2)(ii). The Board also adds "thereafter" to indicate that the quarterly inspections occur after the initial LDAR inspections and extended the time period between the quarterly inspections from 90 calendar days to 120 calendar days in paragraph (2)(ii).

Under subsection (c)(3), the Board also adds new AVO and LDAR inspection requirements for a well site producing, on average, equal to or greater than 15 barrels of oil equivalent per day, with at least one well producing, on average, equal to or greater than 5 barrels of oil equivalent per day but less than 15 barrels of oil equivalent per day.

Under subsection (c)(4), subsection (c)(2) in the proposed rulemaking, the Board removes "the owner or operator of a producing well site required to conduct an LDAR inspection under paragraph (1)(ii)(B) may track the percentage of leaking components identified during the LDAR inspection;" adds "of a producing well site shall calculate the average production of the well site under subsection (b) for the previous calendar year not later than February 15 and;" adds the word "required" before LDAR inspection; and removes "required under paragraph (1)(ii)(B)."

Under subsection (c)(4)(i), the Board also removes "if the percentage of leaking components is less than 2% for two consecutive quarterly inspections, the owner or operator may reduce the LDAR inspection frequency to semianually with inspections separated by at least 120 calendar days but not more than 180 calendar days" and

replaces it with “if two consecutive calculations show reduced production, the owner or operator may adopt the requirements applicable to the reduced production level.”

Under subsection (c)(4)(ii), the Board also removes “if the percentage of leaking components is equal to or greater than 2%, the owner or operator shall resume the LDAR inspection frequency specified in paragraph (1)(ii)(B)” and replaces it with “if a calculation shows higher production, the owner or operator shall adopt the requirements applicable to the higher production level immediately.”

Additionally, the Board adds subsection (c)(5) to this final-form rulemaking to include an option for the owner or operator of a well site producing, on average, equal to or greater than 15 BOE per day, with at least one well producing, on average, equal to or greater than 5 BOE per day but less than 15 BOE per day to request an exemption from the new LDAR inspection requirements of paragraph (3)(ii). Subsection (c)(5) outlines the process and requirements for submitting a written request for an exemption. The Department will submit each exemption determination to the Administrator of the EPA for approval as a revision to the SIP and the owner or operator shall bear the costs of public hearings and notifications, including newspaper notices, required for the SIP submittal. In accordance with section 7.5(b) of the APCA (35 P.S. § 4007.5(b)), the Department will also provide public notice of each SIP revision in the *Pennsylvania Bulletin*.

Subsection (d) establishes the LDAR inspection requirements for shut-in unconventional well sites.

Subsection (d), formerly subsection (c) in the proposed rulemaking, is amended in this final-form rulemaking to add the word “unconventional” before “well” and the word “site” after “well” to clarify that the LDAR inspection requirements are for the unconventional well site as a whole and not an individual well. The Board also adds “after the unconventional well site is put into production” in paragraph (2).

Subsection (e), formerly subsection (d) in the proposed rulemaking, establishes the compliance requirements for the owner or operator of a natural gas gathering and boosting station or natural gas processing plant to implement monthly AVO inspections and quarterly LDAR inspections.

Subsection (e) is amended in this final-form rulemaking to add the word “initial” before AVO inspection and remove “within 30 days after” and replace it with “on or before” 60 days after final publication in paragraph (1). The Board also adds “thereafter” to indicate that the monthly inspections occur after the initial AVO inspections and extended the time period between the monthly inspections from 30 calendar days to 45 calendar days in paragraph (1). Additionally, the Board adds the word “initial” before LDAR inspection and removed “within 60 days after” and replaced it with “on or before” 60 days after final publication in paragraph (2). The Board also adds “thereafter” to indicate that the quarterly inspections occur after the initial LDAR inspections and extended the time period between the quarterly inspections from 90 calendar days to 120 calendar days in paragraph (2).

Subsection (f), formerly subsection (e) in the proposed rulemaking, provides an option for owners or operators to request an extension of the LDAR inspection interval. There is no change made to subsection (f) from the proposed rulemaking to this final-form rulemaking.

Subsection (g), formerly subsection (f) in the proposed rulemaking, establishes the requirement for owners or operators to develop and maintain a written fugitive emissions monitoring plan. Subsection (g) is amended in this final-form rulemaking to correct cross references in paragraph (6)(i)—(iii). The Board also increases the one survey per year requirement from no more than 12 months apart to no more than 13 months apart in paragraph (10)(iii).

Subsection (h), formerly subsection (g) in the proposed rulemaking, establishes the verification procedures for optical gas imaging (OGI) equipment identified in the fugitive emissions monitoring plan. Subsection (h) is amended in this final-form rulemaking to correct a cross reference. The Board also removes the word “daily” and adds “each day prior to use” in paragraph (2). Additionally, the Board removes “that determines how the equipment operator will perform the” and adds “by using the” and “procedures” in paragraph (5). The Board also made grammatical corrections in paragraph (5)(i)—(iii).

Subsection (i), formerly subsection (h) in the proposed rulemaking, establishes the verification procedures for gas leak detection equipment using EPA Method 21 identified in the fugitive emissions monitoring plan.

Subsection (i) is amended in this final-form rulemaking to correct a cross reference.

Subsection (j), formerly subsection (i) in the proposed rulemaking, establishes the requirement for a fugitive emissions detection device to be operated and maintained in accordance with the manufacturer-recommended procedures and as required by the test method or a Department approved method. There is no change made to subsection (j) from the proposed rulemaking to this final-form rulemaking.

Subsection (k), formerly subsection (j) in the proposed rulemaking, establishes that the owner or operator may opt to perform the no detectable emissions procedure of section 8.3.2 of EPA Method 21. There is no change made to subsection (k) from the proposed rulemaking to this final-form rulemaking.

Subsection (l), formerly subsection (k) in the proposed rulemaking, establishes the requirements to repair a leak detected from a fugitive emissions component and to resurvey the fugitive emissions component within 30 days of the leak repair. The LDAR inspection requirements in this final-form rulemaking are in line with the LDAR inspection requirements listed in General Plan Approval and/or General Operating Permit for Natural Gas Compressor Stations, Processing Plants, and Transmission Stations (GP-5) the General Plan Approval and/or General Operating Permit for Unconventional Natural Gas Well Site Operations and Remote Pigging Stations (GP-5A) and Exemption 38 of the Air Quality Permit Exemptions list. The EPA recognized the Commonwealth’s LDAR inspection requirements in GP-5A and GP-5 as an alternative means of emission limitation (AMEL) under the reconsideration of the 2016 NSPS. Since the LDAR inspection program is recognized as AMEL for the 2016 NSPS, and the requirements of the 2016 NSPS and the 2016 O&G CTG are identical, the EPA should also accept the Commonwealth’s LDAR inspection program in this final-form rulemaking as AMEL. By establishing consistent LDAR inspection requirements for both new and existing sources, the Department is providing owners and operators with the ability to merge both types of sources into one LDAR inspection program.

Subsection (l) is amended in this final-form rulemaking to remove “there are no detectable emissions consistent

with section 8.3.2 of EPA method 21” and replace it with “there is no visible leak image when using OGI equipment calibrated according to subsection (h)” in paragraph (4)(i). The Board also corrects a cross reference in paragraph (4)(ii). Additionally, the Board removes “there is no visible leak image when using OGI equipment calibrated according to subsection (g)” and replaces it with “there are no detectable emissions consistent with section 8.3.2 of EPA method 21” in paragraph (4)(iii).

Subsection (m), formerly subsection (l) in the proposed rulemaking, references the recordkeeping and reporting requirements for owners or operators of fugitive emissions components listed under § 129.130(g) and (k)(3)(vi). Subsection (m) is amended in this final-form rulemaking to correct a cross-reference.

§ 129.128. *Covers and closed vent systems*

Subsection (a) establishes the requirements for the owner or operator of a cover on a storage vessel, reciprocating compressor or centrifugal compressor, including a monthly AVO inspection requirement. The monthly AVO inspection requirement is consistent with the AVO inspection requirement for fugitive emissions components.

Subsection (a) is amended in this final-form rulemaking to add the word “initial” before AVO inspection and to remove “within 30 days after” and replace it with “on or before” 60 days after final publication to extend the time period to conduct the initial AVO inspection in paragraph (4). The Board also adds “thereafter” to indicate that the monthly inspections occur after the initial AVO inspections and extended the time period between the monthly inspections from 30 calendar days to 45 calendar days in paragraph (4). Additionally, the Board corrects cross references in paragraphs (6) and (7).

Subsection (b) establishes the design, operation and repair requirements for the owner or operator of a closed vent system installed on a subject source.

Subsection (b) is amended in this final-form rulemaking to add the word “initial” before AVO inspection and to remove “within 30 days after” and replace it with “on or before” 60 days after final publication to extend the time period to conduct the initial AVO inspection in paragraph (2)(i). The Board adds “thereafter” to indicate that the monthly inspections occur after the initial AVO inspections and extended the time period between the monthly inspections from 30 calendar days to 45 calendar days in paragraph (2)(i). The Board removes “within 30 days after _____” (*Editor’s Note:* the blank refers to the effective date of this rulemaking, when published as a final-form rulemaking.), with quarterly inspections separated by at least 60 calendar days but not more than 90 calendar days” and replaces it with “during the facility’s scheduled LDAR inspection in accordance with § 129.127(c)(2)(ii), (c)(3)(ii) or (e)(2)” in paragraph (2)(ii). The Board removes “within 30 days after” and replaces it with “on or before” 60 days after final publication to extend the time period to verify the valve is maintained and extended the time period between the monthly inspections from 30 calendar days to 45 calendar days in paragraph (4)(ii)(B).

Additionally, the Board also corrects a cross reference in subsection (b) and paragraphs (3) and (6).

Subsection (c) establishes the requirement that the owner or operator of a closed vent system perform a design and capacity assessment and allows either a qualified professional engineer or an in-house engineer, as defined in § 129.122, to perform the assessment as

proposed in the 2016 NSPS reconsideration. There is no change made to subsection (c) from the proposed to this final-form rulemaking.

Subsection (d) establishes the requirement that the owner or operator conduct a no detectable emissions test procedure under section 8.3.2 of EPA Method 21.

Subsection (d) is amended in this final-form rulemaking to remove “test procedure under Section 8.3.2 of EPA Method 21” and replace it with “inspection required under subsection (b)(2)(ii) by performing one of the following.” The Board also removes “the owner or operator shall perform the following:” and replaces it with “use OGI equipment that meets § 129.127(h)” in paragraph (1). The Board also corrects a cross reference and adds “the owner or operator may adjust the gas leak detection instrument readings as specified in § 129.127(k)” to paragraph (2), which was previously paragraph (1)(i) in the proposed rulemaking. The Board also adds paragraph (3) which states “use another leak detection method approved by the department.” Additionally, paragraph (1)(ii) in the proposed rulemaking is now paragraph (4) in this final-form rulemaking. The Board also removes the language that was in paragraph (2) in the proposed rulemaking.

§ 129.129. *Control devices*

Subsection (a) establishes the applicability for the owner or operator of a control device based on whether the control device receives a liquid, gas, vapor or fume from one or more subject storage vessel, natural gas-driven diaphragm pump or wet seal centrifugal compressor degassing system. The owner or operator must operate each control device whenever a liquid, gas, vapor or fume is routed to the device and must maintain the records under § 129.130(j) and submit reports under § 129.130(k)(3)(ix). Subsection (a)(1)(ii) is amended in this final-form rulemaking to correct a cross-reference.

Subsection (b) establishes the general compliance requirements for the owner or operator of a control device. Subsections (c)—(i) outline specific requirements that apply for each type of control device in addition to the general requirements in subsection (b).

Subsection (b) is amended in this final-form rulemaking to lengthen the calendar days allowed between monthly inspections of control devices in paragraph (2) from 30 calendar days in the proposed rulemaking to 45 calendar days in this final-form rulemaking. The Board also amends paragraph (4)(i) to lengthen the calendar days allowed between monthly visible emissions tests from 30 calendar days in the proposed rulemaking to 45 calendar days in this final-form rulemaking. Additionally, the Board amends paragraph (5)(ii) to remove the language “outlined in the control device inspection and maintenance plan of paragraph (1)” and replace it with “applicable to the control device if the manufacturer’s repair instructions are not available.”

Subsection (c) lists the compliance requirements for a manufacturer-tested combustion device, meaning a control device tested under 40 CFR 60.5413a(d) (relating to what are the performance testing procedures for control devices used to demonstrate compliance at my centrifugal compressor and storage vessel affected facilities?). The performance testing procedure in 40 CFR 60.5413a(d) is incorporated by reference in Chapter 122 (relating to national standards of performance for new stationary sources).

Subsection (c) is amended in this final-form rulemaking to add “to demonstrate that the mass content of VOC in

the gases vented to the device is reduced by 95.0% by weight or greater” to paragraph (c)(1)(ii).

Subsection (d) lists the compliance requirements for an enclosed combustion device. There is no change made to subsection (d) from the proposed rulemaking to this final-form rulemaking.

Subsection (e) lists the compliance requirements for a flare. The flare must meet the requirements under 40 CFR 60.18(b) (relating to general control device and work practice requirements). There is no change made to subsection (e) from the proposed rulemaking to this final-form rulemaking.

Subsection (f) lists the compliance requirements for a carbon adsorption system.

Subsection (f) is amended in this final-form rulemaking to remove “or authorization by the Department’s Bureau of Waste Management” and replace it with “under 40 CFR Part 270 (relating to EPA administered permit programs: the hazardous waste permit program) that implements the requirements of 40 CFR Part 264, Subpart X (relating to miscellaneous units)” in paragraph (4)(i)(A). The Board also removes “or authorization by the Department’s Bureau of Waste Management” and replaces it with “under 40 CFR Part 270 that implements the requirements of 40 CFR Part 266, Subpart H (relating to hazardous waste burned in boilers and industrial furnaces)” in paragraph (4)(ii)(B). Additionally, the Board removes an unnecessary cross-reference from paragraph (4)(ii)(C).

Subsection (g) lists specific compliance requirements for a regenerative carbon adsorption system.

Subsection (g) is amended in this final-form rulemaking to change the number of calendar days in paragraph (1)(i)(A) from 30 calendar days to 45 calendar days, and in paragraph (1)(i)(B) and (C) from 90 calendar days to 120 calendar days.

Subsection (h) lists specific compliance requirements for a non-regenerative carbon adsorption system. There is no change made to subsection (h) from the proposed rulemaking to this final-form rulemaking.

Subsection (i) lists the compliance requirements for condensers and other non-destructive control devices. There is no change made to subsection (i) from the proposed rulemaking to this final-form rulemaking.

Subsection (j) identifies the general performance test requirements.

Subsection (j) is amended in this final-form rulemaking to renumber due to formatting changes. Subsection (j) is also amended in this final-form rulemaking to remove “conduct an initial performance test within 180 days after _____ (*Editor’s Note:* the blank refers to the effective date of this rulemaking, when published as a final-form rulemaking.) unless the owner or operator” and replace it with “the owner or operator shall do the following, as applicable” under paragraph (1). The Board also adds new performance test requirements under paragraph (1)(i)—(iii).

Subsection (k) identifies the performance test method for demonstrating compliance with the control device percent VOC emission reduction requirements referenced in subsections (c), (d), (f) and (i). There is no change made to subsection (k) from the proposed rulemaking to this final-form rulemaking.

Subsection (l) identifies the performance test method for demonstrating compliance with the outlet concentration requirements referenced in subsections (d), (f) and (i).

There is no change made to subsection (l) from the proposed rulemaking to this final-form rulemaking.

Subsection (m) lists the continuous parameter monitoring system requirements (CPMS) for control devices that are required to install CPMS. There is no change made to subsection (m) from the proposed rulemaking to this final-form rulemaking.

§ 129.130. Recordkeeping and reporting

In an effort to assist the regulated community, the Department created a separate section for all the applicable recordkeeping and reporting requirements pertaining to each regulated source.

Subsection (a) establishes the general requirement for all owners or operators of regulated sources to maintain applicable records onsite or at the nearest local field office for 5 years and for the records to be made available to the Department upon request. There is no change made to subsection (a) from the proposed rulemaking to this final-form rulemaking.

Subsection (b) establishes the specific recordkeeping requirements for storage vessels.

Subsection (b) is amended in this final-form rulemaking to remove “the applicable VOC emission threshold on” and replace it with “2.7 TPY determined as,” as well as remove “basis” and replace it with “sum” in paragraph (6)(iii). The Board also corrects a cross reference in paragraph (7).

Subsection (c) establishes the specific recordkeeping requirements for natural gas-driven pneumatic controllers.

Subsection (c) is amended in this final-form rulemaking to add “continuous bleed” to all references to natural gas-driven pneumatic controllers as the Board further clarified under § 129.121 that this final-form rulemaking applies to natural gas-driven continuous bleed pneumatic controllers. The Board also amends subsection (c) to add “required compliance” before “date” in paragraph (1). The Board also clarifies that the recordkeeping requirements apply to natural gas-driven continuous bleed pneumatic controllers under § 129.124(c).

Subsection (d) establishes the specific recordkeeping requirements for natural gas-driven diaphragm pumps.

Subsection (d) is amended in this final-form rulemaking to add “required compliance” before “date” in paragraph (1) and to correct cross references in paragraph (7).

Subsection (e) establishes the specific recordkeeping requirements for reciprocating compressors.

Subsection (e) is amended in this final-form rulemaking to add “control device or a” to paragraph (3)(i) to further clarify where the emissions from the rod packing are being routed.

Subsection (f) establishes the specific recordkeeping requirements for centrifugal compressors. There is no change made to subsection (f) from the proposed rulemaking to this final-form rulemaking.

Subsection (g) establishes the specific recordkeeping requirements for fugitive emissions components.

Subsection (g) is amended in this final-form rulemaking to correct cross references and make minor edits in paragraphs (1) and (3). The Board also adds a new paragraph (2) which states “for each well site, the average production calculations required under § 129.127(b)(1) and § 129.127(c)(4).” Additionally, the Board deletes the following language “for a well site

subject to § 129.127(b)(1)(ii) for which the owner or operator opts to comply with § 129.127(b)(2), the calculations demonstrating the percentage of leaking components” from what was paragraph (3) in the proposed rulemaking.

Subsection (h) establishes the specific recordkeeping requirements for covers.

Subsection (h) is amended in this final-form rulemaking to make a minor grammar edit.

Subsection (i) establishes the specific recordkeeping requirements for closed vent systems.

Subsection (i) is amended in this final-form rulemaking to correct a cross reference in paragraph (2).

Subsection (j) establishes the specific recordkeeping requirements for control devices. Subsection (j) is amended in this final-form rulemaking to add “that owns or operates the control device” after the name of the company in paragraph (5)(iv)(A), as well as “and affiliation” in paragraph (5)(iv)(C).

Subsection (k) establishes the reporting requirements for all owners or operators of regulated sources to submit an initial report 1 year after the effective date of this final-form rulemaking and subsequent annual reports, including an option to extend the due date of the initial report.

Subsection (k) is amended in this final-form rulemaking to make a few clarifying edits, renumber due to formatting changes and to add “continuous bleed” to the term natural gas-driven continuous bleed pneumatic controllers. Subsection (k)(1) is also amended to require the owner or operator of a source subject to § 129.121(a) to submit a report to the Air Program Manager of the appropriate Department Regional Office annually on or before June 1. The Board also adds language to subsection (k)(1) providing for the reports to be submitted in a manner prescribed by the Department and to submit the information specified in subparagraphs (i)—(ix) for each report as applicable.

F. Summary of Comments and Responses on the Proposed Rulemaking

The Board adopted the proposed rulemaking at its meeting on December 17, 2019. On May 23, 2020, the proposed rulemaking was published for a 66-day comment period at 50 Pa.B. 2633 (May 23, 2020). Three public hearings were held virtually on June 23, 24 and 25, 2020. Over 100 individuals provided verbal testimony. The comment period closed on July 27, 2020. The Board received over 4,500 comments, including comments from the House and Senate Environmental Resources and Energy Committees (ERE Committees), members of the General Assembly and the Independent Regulatory Review Commission (IRRC). The majority of the commentators expressed their support of the VOC RACT requirements, noting the need to address air emissions from the oil and gas sector. The comments received on the proposed rulemaking are summarized in this section and are addressed in a comment and response document which is available on the Department’s web site.

IRRC states that section 2 of the RRA (71 P.S. § 745.2) explains why the General Assembly felt it was necessary to establish a regulatory review process. IRRC also notes that section 2(a) of the RRA states, “[t]o the greatest extent possible, this act is intended to encourage the resolution of objections to a regulation and the reaching of a consensus among the commission, the standing committees, interested parties and the agency.” The vast

majority of public comments are from individuals and environmental advocacy organizations in support of the proposed rulemaking, but still urging the Department to adopt more restrictive requirements in this final-form rulemaking. Numerous comments were also from parties representing the oil and gas industries who believe that the regulatory mandates for existing sources should not be more stringent than requirements for new or modified sources or the EPA’s 2016 O&G CTG. Since the issues raised by the commentators are often in direct conflict with each other, IRRC recommends that the Board continue to actively seek input from all interested parties, including lawmakers, as it develops the final version of this rulemaking.

In response, the Board and the Department have and will continue to actively seek input from all interested parties, including lawmakers. In addition to the review outlined under the RRA, members of the General Assembly, particularly the House and Senate ERE Committees, have extensive involvement in the development of the Department’s rulemakings through members appointed to the Department’s advisory committees and four seats on the Board. The Board and the Department consistently seek opportunities to engage productively with interested parties, including the Legislature. The Department’s Legislative Office works to address issues and ensure that the Legislature is informed of actions by the Department and the Board. Additionally, members of the public have several opportunities to provide input on the Department’s rulemakings. This includes the formal proposed rulemaking public comment and hearing process, as well as opportunities to provide informal public comment at the Department’s advisory committee meetings during both the proposed and final stages of development of a rulemaking.

1. This final-form rulemaking satisfies the criteria under the Regulatory Review Act.

a. *This final-form rulemaking is supported by acceptable data.*

IRRC states that section 28 of the RAF relates to the regulatory review criterion of whether the regulation is supported by acceptable data. If data is the basis for a regulation, this section of the RAF asks for a description of the data, how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. IRRC notes that the Board states that the basis for the proposed rulemaking is the Federally mandated RACT requirements found in the 2016 O&G CTG. Commentators representing the oil and gas industry assert that the 2016 O&G CTG requirements are similar to performance standards developed for “new” or “modified” sources and question the appropriateness of applying these standards to existing sources such as conventional oil and gas wells. IRRC asks the Board to explain how it determined that the proposed standards are appropriate for both the conventional and unconventional oil and gas industries in this Commonwealth.

In response, the Board amends this final-form rulemaking to clarify that the control measures are only applicable to unconventional sources of VOC emissions installed at unconventional well sites, gathering and boosting stations and natural gas processing plants. This final-form rulemaking implements control measures to reduce VOC emissions from five specific categories of air contamination sources, including storage vessels; natural gas-driven continuous bleed pneumatic controllers; natu-

ral gas-driven diaphragm pumps; reciprocating and centrifugal compressors; and fugitive emissions components.

The EPA selected these categories of sources for RACT recommendations because the information gathered and reviewed by the EPA indicated that they are significant sources of VOC emissions. In developing the 2016 O&G CTG, the EPA reviewed the oil and natural gas NSPS, including several technical support documents prepared in support of the NSPS actions for the oil and natural gas industry, as well as existing state and local VOC emission reduction approaches, and information on emissions, available VOC emission control technologies and costs. In producing and reviewing this information, the EPA's Scientific Integrity Policy establishes that the EPA adheres to the 2002 Office of Management and Budget (OMB) Information Quality Guidelines, the 2005 OMB Information Quality Bulletin for Peer Review, the EPA's Quality Policy for assuring the collection and use of sound, scientific data and information, the EPA's Peer Review Handbook for internal and external review of scientific products and the EPA's Information Quality Guidelines for maximizing the transparency, integrity and utility of information published on the EPA's web site.

During the development of the proposed rulemaking, the Department made the initial RACT determinations based on the entirety of information available to the Department, including the data and analysis provided in the 2016 O&G CTG as well as 2017 oil and gas production data reported to the Department's Oil and Gas Production Report and 2017 emissions data reported to the Department's air emissions inventory. In the time since the 2016 O&G CTG was issued by the EPA, the Department acquired additional information during the public comment period and from the 2020 oil and gas production data and air emissions data, which was used in a cost/benefit reanalysis (2020 reanalysis) to establish the RACT determinations in this final-form rulemaking.

b. *This final-form rulemaking sufficiently protects public health, safety and welfare, and this Commonwealth's natural resources.*

IRRC also remains concerned that this final-form rulemaking fulfills the Board's obligation to protect the quality and sustainability of the Commonwealth's natural resources. To that end, IRRC asks the Board to explain how the standards set forth in this final-form rulemaking meet the criterion under section 5.2(b)(2) of the RRA (71 P.S. § 745.5b(b)(2)) pertaining to the protection of the public health, safety and welfare and the effect on the Commonwealth's natural resources while imposing reasonable requirements upon the oil and natural gas industry.

In response, the Board maintains that this final-form rulemaking is protective of the public health, safety and welfare, as well as the environment because it implements VOC emission control measures that are reasonably necessary to protect the public health and welfare and the environment from harmful ground-level ozone pollution resulting from VOC emissions at unconventional oil and natural gas sources. Reduced levels of VOC and methane emissions will also promote healthful air quality and ensure the continued protection of the environment and public health and welfare. The control measures in this final-form rulemaking, when implemented, are expected to provide VOC emission reductions of approximately 2,864 TPY. The EPA estimated that the monetized health benefits of attaining the 2008 8-hour ozone NAAQS of 0.075 ppm range from \$8.3 billion to \$18 billion on a National basis by 2020. Prorating that

benefit to this Commonwealth, based on population, results in a public health benefit of \$337 million to \$732 million. Similarly, the EPA estimated that the monetized health benefits of attaining the 2015 8-hour ozone NAAQS of 0.070 ppm range from \$1.5 billion to \$4.5 billion on a national basis by 2025. Prorating that benefit to this Commonwealth, based on population, results in a public health benefit of \$63 million to \$189 million. The Board is not stating that these estimated monetized health benefits would all be the result of implementing the RACT measures contained in this final-form rulemaking, but the EPA estimates are indicative of the benefits to Commonwealth residents of attaining and maintaining the 2008 and 2015 8-hour ozone NAAQS. In addition to causing adverse human and animal health effects, the EPA has concluded that ground-level ozone affects vegetation and ecosystems, leading to reductions in agricultural crop and commercial forest yields. Furthermore, the same measures in this final-form rulemaking that control VOC emissions will also control methane emissions. When fully implemented, the control measures for VOCs are anticipated to reduce 45,278 TPY of methane as a cobenefit. Methane is a potent greenhouse gas with a higher global warming potential than carbon dioxide.

c. *This final-form rulemaking will not have a negative economic or fiscal impact to this Commonwealth.*

IRRC notes that the fiscal analysis provided by the Board estimates that the proposed rulemaking will cost operators approximately \$35.3 million (based on 2012 dollars) without consideration of the economic benefit of the saved natural gas. The value of the saved natural gas, in 2012 dollars, will yield a savings of approximately \$9.9 million, resulting in a total net cost of \$25.4 million. These figures were based on 2012 EPA cost estimates contained in the 2016 O&G CTG. Commentators question the accuracy of the fiscal analysis because the supporting data is outdated and is not specific to this Commonwealth's oil and gas industry. IRRC agrees with the concerns raised by interested parties. For IRRC to determine whether this final-form rulemaking is in the public interest, the Board must submit a revised estimate of the costs or savings, or both, to the regulated community using data that is current and Commonwealth industry specific.

In response, the Board provides a revised estimate of the cost and savings to the regulated community using current and Commonwealth-specific data in the RAF for this final-form rulemaking. The updated fiscal analysis from the Department's 2020 reanalysis estimates that implementation of the control measures in this final-form rulemaking will cost affected owners and operators as a whole approximately \$21.9 million (2021 dollars) without consideration of the economic benefit of the saved natural gas. The value of the saved natural gas using \$1.70 per thousand cubic feet (Mcf) as suggested by several commentators yields a savings of \$4.6 million (2021 dollars). This results in a total net cost of \$17.3 million (2021 dollars), which is based on some of the worst conditions of the past decade. As the price of natural gas increases, the impact on industry is mitigated; at approximately \$5 per Mcf during the 2020-2021 timeframe for the development of this final-form rulemaking, the impact on industry drops to a net cost of \$8.5 million (2021 dollars). Although the natural gas saved as a result of implementation of this final-form rulemaking is significant, when the Department made the individual RACT determinations for the sources recommended in the 2016 O&G CTG, the value of the natural gas saved was not counted.

d. *This final-form rulemaking does not conflict with existing statutes or regulations.*

IRRC notes that the Department states that it “con-
curred with the EPA’s proposal to allow in-house engi-
neers to certify the determination of technical infeasibility
to route pump emissions to a control and the design and
capacity of a closed vent system, regardless of profes-
sional licensure.” The proposed rulemaking defines “in-
house engineer” as an individual who is qualified by
education, technical knowledge and experience to make
an engineering judgment and has the required specific
technical certification. Since there is no requirement that
the individual be employed by the facility, IRRC asks the
Board to clarify the intent of this provision, including the
problem or situation that is being addressed, why it is
needed and whether the term “in-house engineer” should
be retained or, as some commentators have suggested, be
replaced with “qualified engineer.” IRRC also asks the
Board to explain how the term is consistent with the
Engineer, Land Surveyor and Geologist Registration Law
(Registration Law) (63 P.S. §§ 148—158.2) and the regu-
lations governing professional qualified engineers and
engineers-in-training. Additionally, IRRC requests that
the Board include a fiscal analysis that compares the
costs of using an “in-house engineer” versus a “qualified
professional engineer” under these sections. Finally, IRRC
states that the Board should explain how permitting an
unlicensed individual to certify the system he or she may
have designed is in the public interest.

In response, the Board explains that the EPA added the
term “in-house engineer” to the Reconsideration of
40 CFR Part 60, Subpart OOOOa (relating to standards
of performance for crude oil and natural gas facilities for
which construction, modification or reconstruction com-
menced after September 18, 2015) to address a specific
concern about the availability and costs associated with
limiting the certification of closed vent system design and
capacity or technical infeasibility of routing natural gas-
driven diaphragm pump emissions to a control to a
“qualified professional engineer” as defined in § 129.122.
Because of the interrelatedness of the NSPS and the 2016
O&G CTG requirements, the Board pro-actively added
this flexibility to the proposed rulemaking. The EPA
stated in the Reconsideration that they “believe that an
in-house engineer with knowledge of the design and
operation of the [closed vent system] is capable of per-
forming these certifications, regardless of licensure. . .”
According to the EPA, a qualified professional engineer
certification would cost \$547 while allowing an in-house
engineer to make the certification would cost \$358.
Unfortunately, the term “in-house engineer” was not
defined in the NSPS or the 2016 O&G CTG, so the Board
proposed the definition given. Based on comments re-
ceived, the Board revises the definition of “in-house
engineer” from the proposed rulemaking to this final-form
rulemaking to require that the “in-house engineer” be
employed by the same owner or operator as the respon-
sible official that signs the certification required under
§ 129.130(k).

The term “in-house engineer” is consistent with the
Registration Law and the regulations governing profes-
sional qualified engineers and engineers-in-training in
that the term narrowly defines who is permitted to
perform the certification of a natural gas-driven dia-
phragm pump or closed vent system in accordance with
section 152 of the Registration Law (63 P.S. § 152),
regarding exemption from licensure and registration.
Clause (i) of the definition in this final-form rulemaking
recognizes that in accordance with section 152(f) and (g)

of the Registration Law, the individual must be an
employee of the owner or operator. Clause (ii) of the
definition tightens the criteria of section 152(f), (g) and (j)
by requiring the individual be qualified by education,
technical knowledge and expertise in the design and
operation of a natural gas-driven diaphragm pump or
closed vent system as those subsections of the Registra-
tion Law do not specify the level of technical knowledge
required.

There are two provisions in this final-form rulemaking
that authorize use of an in-house engineer:
§§ 129.125(c)(3)(ii)(A) and 129.128(c)(1). The provision in
§ 129.125(c)(3)(ii)(A) allows an in-house engineer to per-
form an assessment to determine whether it is technically
infeasible for a natural gas-driven diaphragm pump to
connect to a control device or process. The provision in
§ 129.128(c)(1) allows an in-house engineer to perform a
design and capacity assessment to ensure an installed
closed vent system is sufficient to convey emissions to a
control device that can accommodate those emissions.
Authorizing the use of an in-house engineer in these two
limited situations is in the public interest because it will
not affect “the public safety or health or the property of
some other person or entity” in accordance with section
152(f) and (g) of the Registration Law. In fact, in the 2016
O&G CTG, the EPA allowed for this certification by either
a licensed professional engineer (PE) or an in-house
engineer because in-house engineers may be more knowl-
edgeable about site design and control than a third-party
PE.

e. *The requirements, implementation procedures and
timetables for compliance of this final-form rulemaking
are reasonable.*

IRRC notes that the effective date of the proposed
rulemaking is immediately upon publication as a final-
form rulemaking in the *Pennsylvania Bulletin*. Commen-
tators suggest that a minimum of a 60-day effective date
would give owners or operators additional time to reason-
ably transition into the new requirements so that existing
facilities are not required to immediately implement and
comply with the new rules. Others suggest that owners or
operators will need considerably more time to determine
if their sources are required to comply with the final-form
rulemaking, as well as mobilize the necessary resources
to perform the required inspections. In addition, inter-
ested parties representing the oil and gas industry re-
quest that time periods between inspections be extended
or made consistent with current 2016 O&G CTG
timeframes to avoid duplicate compliance activities. IRRC
encourages the Board to work with the regulated com-
munity to resolve issues pertaining to inspection timeframes
and recommends revising the effective date of this final-
form rulemaking to give sufficient time to the regulated
community to implement and comply with requirements
or explain why it is unnecessary to do so.

In response, this final-form rulemaking is effective
upon publication in the *Pennsylvania Bulletin*; however,
the Board notes that compliance dates are established
throughout this final-form rulemaking to provide affected
owners or operators sufficient time to identify and comply
with the applicable requirements.

IRRC notes that the Benefits, Costs and Compliance
section of the preamble describes how the VOC RACT
requirements established by the proposed rulemaking will
be incorporated into “an existing permit.” IRRC asks how
the process to incorporate the requirements into an
existing permit will be implemented based on the compli-
ance schedule in section 29F of the RAF (pertaining to

expected date by which permits, licenses or other approvals must be obtained). IRRC asks the Board to provide a more detailed explanation of the process contained in this section and how it will be implemented.

In response, the Board explains that the incorporation of the requirements of this final-form rulemaking into an existing permit will follow the requirements of § 127.463 (relating to operating permit revisions to incorporate applicable standards). Owners or operators will not be required to submit an application for amendments to an existing operating permit. Instead, the requirements will be incorporated when the permit is renewed, if less than 3 years remain in the permit term, as specified under § 127.463(c). If 3 years or more remain in the permit term, the requirements would be incorporated as applicable requirements in the permit within 18 months of the promulgation of this final-form rulemaking, as required under § 127.463(b).

IRRC states that interested parties representing environmental concerns commend the Board for including alternative leak detection methods in this final-form rulemaking. IRRC asks the Board to explain the approval process for alternative leak detection methods and whether alternative leak detection methods will be required to achieve equivalent emission reductions as currently allowed devices or methods. Additionally, IRRC asks the Board to describe the requirements and approval process for alternative leak detection methods in the preamble to this final-form rulemaking.

In response, the Board explains that the Department has adopted a performance-based approach for evaluating leak detection equipment and the equipment's documented ability to measure the compounds of interest at the detection level necessary to demonstrate compliance with the applicable requirement. In many cases, the technology has been evaluated by the EPA and appropriate quality assurance requirements have been specified. In addition to Method 21 and 40 CFR 60.18, 40 CFR 98.234 (relating to monitoring and QA/QC requirements) includes a list of other appropriate technologies and requirements. Since the Department's criteria are performance based, an owner or operator seeking to use an alternative method should provide documented evidence that the alternative technology is capable of detecting the leak at the specified leak threshold. For example, an alternative leak detection method with the appropriate performance criterion may be specified in a related, though not specifically applicable, regulation such as an NSPS or National Emission Standard for Hazardous Air Pollutants.

f. This final-form rulemaking is needed.

IRRC notes that the preamble and the RAF do not adequately describe the rationale or need for certain requirements or exclusions. Commentators representing environmental concerns identify two key provisions that they say are contrary to the goals of this final-form rulemaking. The first is the exemption of low-producing wells from the requirements of LDAR inspections. The second one is the "step down" provision that allows owners or operations to decrease the frequency of LDAR inspections if the percentage of leaking components is less than 2% for two consecutive quarterly inspections. Owners or operators would have the option to reduce the inspection frequency to semiannually. Opponents of these two measures say it is "faulty and risky" for the Department to assume that conventional operations do not emit at levels high enough to have a significant impact on air quality and climate. IRRC asks the Board to explain the

need for each provision and how determinations were made, as well as what data was used to justify the exemptions. Section 11 of the RAF also states that the Department determined that owners or operators must conduct quarterly LDAR inspections at their facilities, as opposed to the recommended semiannual frequency in the 2016 O&G CTG. IRRC asks the Board to explain the need for the quarterly LDAR inspection requirement, the low production threshold LDAR exemption and the LDAR stepdown provision, and how the determinations were made, as well as what data was used to justify the exemptions or more stringent regulations.

In response, the Board explains that the control measures in this final-form rulemaking are reasonably necessary to attain and maintain both the 2008 and 2015 ozone NAAQS. The Department removes the stepdown provision and altered the production thresholds for LDAR requirements in this final-form rulemaking. For fugitive emission components, the proposed rulemaking established monthly AVO inspections and quarterly instrument based LDAR inspections for well sites with a well that produces, on average, 15 BOE per well per day. The proposed rulemaking also established a stepdown provision which enabled owners or operators to track the percentage of leaking components at each inspection and, if in two consecutive inspections there were less than 2% of components leaking, the owner or operator could reduce the quarterly schedule of instrument based LDAR to semiannual. However, the 2020 reanalysis shows that it is cost effective to implement instrument based LDAR at unconventional well sites with an average production of 15 BOE per day, with the frequency based on individual well production on the well site. For applicable unconventional well sites with at least one well that produces equal to or greater than 15 BOE per day the owner or operator must perform quarterly instrument based LDAR inspections. For applicable unconventional well sites with at least one well that is less than 15 BOE per day and equal to or greater than 5 BOE per day, the owner or operator must perform annual instrument based LDAR inspections. The owner or operator is required to track well site production and the individual production of each well on the unconventional well site on an annual basis. The owner or operator may reduce the inspection frequency based on the production calculations which shows 2 consecutive years of production in the lower category. The owner or operator shall increase the inspection frequency immediately if the production calculations show an increase that is subject to more frequent inspections.

IRRC notes that representatives from the oil and gas industry observe that no analysis has been shared by the Board to support the Department's conclusion that the proposed requirements that are more stringent than the EPA's 2016 O&G CTG "are reasonably necessary" to achieve or maintain the NAAQS. Commentators question the need to exceed the 2016 O&G CTG when this Commonwealth is near universal compliance with the 1997, 2008 and 2015 ozone standards. IRRC further notes that the commentators explain that the state is not required to rely on the recommendations of the 2016 O&G CTG to establish the proposed rulemaking. Instead, it could make RACT determinations for a particular source on a case-by-case basis considering the technological and economic feasibility of the individual source.

In response, the Board agrees that the ambient air ozone monitoring data demonstrates that this Commonwealth is in near universal compliance with the 1997, 2008 and 2015 ozone NAAQS. The Department's analysis

of the 2020 ambient air ozone season monitoring data shows that all ozone samplers in this Commonwealth are monitoring attainment of the 2015 8-hour ozone NAAQS except three: the Bristol sampler in Bucks County, the Philadelphia Air Management Services Northeast Airport and Northeast Waste samplers in Philadelphia County. Ambient air ozone samplers in this Commonwealth are projected to monitor attainment of the 1997 and 2008 8-hour ozone NAAQS. However, the Department must ensure that the 1997, 2008 and 2015 8-hour ozone NAAQS continue to be attained and maintained by implementing permanent and Federally enforceable control measures.

Additionally, section 182(b)(2) of the CAA requires states with moderate ozone nonattainment areas to revise their SIPs to include RACT for sources of VOC emissions covered by CTG documents issued by the EPA prior to the area's date of attainment of the applicable ozone NAAQS. More importantly, section 184(b)(1)(B) of the CAA requires states in the OTR, including this Commonwealth, submit a SIP revision requiring implementation of RACT for all sources of VOC emissions in the state covered by a specific CTG and not just for those sources located in designated nonattainment areas of the state. Consequently, since this Commonwealth is not designated by the EPA as in attainment with the 2015 ozone NAAQS and is not monitoring compliance Statewide with the 2015 ozone NAAQS, the Commonwealth's SIP must include regulations applicable Statewide to control VOC emissions from oil and natural gas sources that are not regulated elsewhere in Chapter 129. These sources were selected by the EPA because data and information has indicated that they are significant sources of VOC emissions.

The Department is obligated under the CAA to analyze the source sector, as defined in the 2016 O&G CTG, and regulate sources that have control techniques or equipment that is "reasonably available." The EPA issues guidance, in the form of a CTG, in place of regulations where the guidelines will be "substantially as effective as regulations" in reducing VOC emissions from a product or source category in ozone nonattainment areas. In other words, the 2016 O&G CTG has no legally binding effects. While the EPA provided information and RACT recommendations through the 2016 O&G CTG for VOC emissions, it is up to the Department to determine what is RACT for each source category of VOC emissions. As explicitly stated by the EPA in the 2016 O&G CTG, state air pollution control agencies are free to implement other technically-sound approaches that are consistent with the CAA and the EPA's regulations. See 81 FR 74798, 74799 (October 27, 2016). The EPA also further clarified that "the information contained in the CTG document is provided only as guidance" and "this guidance does not change, or substitute for, requirements specified in applicable sections of the CAA or the EPA's regulations; nor is it a regulation itself." *Id.* While the EPA will ultimately need to approve the Department's RACT determinations by reviewing and approving the revision to the Commonwealth's SIP, the Department has made the initial RACT determinations in this final-form rulemaking based on the entirety of information available to the Department, including the 2016 O&G CTG.

The Department's obligation is to affirmatively determine what constitutes RACT for the source group identified in the 2016 O&G CTG and the EPA's provision of guidance and data in the 2016 O&G CTG does not obviate that legal requirement. In the time since the 2016 O&G CTG was issued by the EPA, the Department

acquired additional information and current emissions data specific to this Commonwealth that it analyzed to determine the RACT emission limitations and requirements established in this final-form rulemaking.

The Department determined that the recommendations provided in the 2016 O&G CTG for natural gas-driven continuous bleed pneumatic controllers, natural gas driven-diaphragm pumps, and centrifugal compressors are RACT for sources in this Commonwealth. The EPA recommendations in the 2016 O&G CTG for storage vessels, reciprocating compressors, and fugitive emissions components were determined not to be RACT in this Commonwealth. The Department conducted a reanalysis to determine RACT for these three categories of sources: storage vessels, reciprocating compressor rod packing and fugitive emissions components. The information used in the 2020 reanalysis was obtained from the Department's Air Emission Inventory, Oil and Gas Production Database, and information provided by industry trade associations from the public comment period.

The quarterly LDAR inspection requirement for unconventional well sites with a well that produces, on average, 15 BOE per well per day is reasonably necessary to achieve and maintain the NAAQS for ozone and is technically and economically feasible. For applicable unconventional well sites with at least one well that is less than 15 BOE per day and equal to or greater than 5 BOE per day, the owner or operator must perform annual instrument based LDAR inspections. The Department determined that this is also reasonably necessary to achieve and maintain the NAAQS for ozone and is technically and economically feasible. Additionally, the Department notes that the leak rate-based LDAR stepdown provision has been removed in this final-form rulemaking.

To address the comment about case-by-case RACT determinations, the Board was incorrect in suggesting in the preamble for the proposed rulemaking that a case-by-case RACT determination is available for this CTG-based rule. The Board decided not to exercise its discretion to conduct case-by-case RACT analysis for this final-form rulemaking. The process for submitting RACT determinations on a case-by-case basis to the EPA is administratively burdensome, particularly given the larger number of regulated facilities. Instead, for this final-form rulemaking, the Department modifies the EPA's "presumptive norm" RACT recommendations. As stated by the EPA in a *Federal Register* notice on September 17, 1979, titled, "State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas—Supplement (on Control Techniques Guidelines)": "Along with information, each CTG contains recommendations to the States of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to the industry. Where the States finds the presumptive norm applicable to an individual source or group of sources, EPA recommends that the State adopt requirements consistent with the presumptive norm level in order to include RACT limitations in the SIP." 44 FR 53761 (September 17, 1979).

g. This final-form rulemaking will not negatively impact small businesses.

IRRC notes that section 5(a)(12.1) of the RRA (71 P.S. § 745.5(a)(12.1)) requires promulgating agencies to provide a regulatory flexibility analysis and to consider various methods of reducing the impact of the proposed regulation on small business. IRRC does not believe that

the Board has met its statutory requirement of providing a regulatory flexibility analysis or considering various methods of reducing the impact the proposed regulation will have on small business in its responses to various sections and questions in the RAF. It is unclear from the RAF whether the 303 conventional wells subject to LDAR inspections are owned by small businesses. However, commentators believe most, if not all, are small businesses and strongly disagree that they will incur minimal costs as a result of the proposed rulemaking. In Section 15 of the RAF, the Board states that “further analysis is required to determine if any of the affected sources are owned or operated by small businesses.” IRRC asks how the Board determined that costs would be minimal if it is unknown whether any of the affected sources are owned by small businesses. IRRC agrees with the commentators that further analysis is needed to determine the financial impact on small businesses and asks the Board to provide the required regulatory flexibility analysis when it submitted this final-form rulemaking.

In response, the Board notes that as stated in the RAF for the proposed rulemaking, of the 71,229 conventional wells reporting production, only 303 were found to be above the 15 BOE/day production threshold as reported in the Department’s 2017 oil and gas production database and would have fugitive emissions component requirements. Upon further analysis by the Board, it seems that only 199 of the previously identified 303 conventional wells were potentially subject to the proposed LDAR requirements for fugitive emissions. In the analysis for the proposed rulemaking, the Board examined individual wells, not well sites. It is difficult to determine at the individual well level how many are owned or operated by small businesses as there may be several wells per well site. However, the costs to the owners or operators of those 199 conventional wells would have been minimal, because the Board’s cost analysis for quarterly LDAR was based on hiring a contractor, not purchasing equipment, hiring and training personnel, and conducting quarterly surveys. Even so, the Board amends this final-form rulemaking to clarify that the control measures are only applicable to unconventional sources installed at unconventional well sites, gathering and boosting stations and natural gas processing plants.

The Board identified 577 client ID numbers for potentially affected owners or operators of unconventional facilities in this Commonwealth using the Department’s eFACTS and AIMS databases and the North American Industry Classification Codes covered by the 2016 O&G CTG. These facilities include approximately 3,388 unconventional well sites, 486 gathering and boosting stations, and 15 natural gas processing facilities in this Commonwealth. Of these potential 577 owners or operators, approximately, 306 may meet the definition of small business as defined in section 3 of the RRA. However, it is possible that far fewer than the 577 owners or operators will be subject to the control measures of this final-form rulemaking, depending on the amount of VOC emissions that are emitted by the affected sources they own or operate or if they are subject to other regulations in Chapter 129 or if the same or more stringent permit conditions are already incorporated in their operating permit. While many of the anticipated costs are due to new regulatory requirements, many of the costs associated with this final-form rulemaking are from what the Board believes are best management practices and controls that affected owners or operators may already be implementing.

Additional details on small businesses and the effects of this final-form rulemaking on small businesses can be found in Sections 15, 24 and 27 of the RAF.

2. Act 52 of 2016 issues related to this final-form rulemaking.

IRRC comments that section 7(b) of the Pennsylvania Grade Crude Development Act (58 P.S. § 1207(b)), also known as Act 52 of 2016, requires any rulemaking concerning conventional oil and gas wells that is considered by the Board must “be undertaken separately and independently of unconventional wells or other subjects and shall include a regulatory analysis form submitted to the Independent Regulatory Review Commission that is restricted to the subject of conventional oil and gas wells.” IRRC notes that lawmakers and commentators state that the Board has violated clear legislative directives by proposing a VOC emissions rule that includes requirements for conventional oil and gas well owners and operators along with, not “separately and independently” from, requirements for unconventional well operations. IRRC further notes that the Board has not prepared or submitted an RAF restricted to the need and impact of the rulemaking on the conventional oil and gas industry. IRRC highlights that lawmakers request that the provisions that apply to the conventional oil and gas industry be withdrawn from the rulemaking. IRRC asks the Board to explain how it has and will comply with the legislative directives of Act 52 of 2016.

The Board amends this final-form rulemaking to clarify that the control measures are only applicable to unconventional sources of VOC emissions installed at unconventional well sites, gathering and boosting stations and natural gas processing plants. Given the concerns expressed by the commentators, the Board will develop a separate rulemaking and RAF for the RACT requirements for sources of VOC emissions installed at conventional well sites.

At its March 15, 2022, meeting, the Board adopted the “Control of VOC Emissions from Oil and Natural Gas Sources” final-form rulemaking, which contained regulations applicable to both conventional and unconventional oil and natural gas sources of VOC emissions. After the final-form rulemaking was submitted to IRRC for final consideration, the House Environmental Resources and Energy Committee (Committee) voted to send a letter to IRRC disapproving the regulation and requesting IRRC’s disapproval as well. The Committee’s primary concern with the regulation centered on language in Act 52 of 2016. The Committee’s letter stated that Act 52 of 2016 requires the Board to submit two rulemaking packages—one that applies only to conventional oil and natural gas sources and the other which would cover all other sources in the rulemaking.

The Committee’s letter to IRRC initiated the concurrent regulatory review resolution process. Section 7(d) of the RRA (71 P.S. § 745.7(d)) establishes a process that allows the General Assembly to adopt a resolution that disapproves and permanently bars a final regulation from taking effect. Once the Committee reports the resolution, the General Assembly has 30 calendar days or 10 legislative days, whichever is longer, to vote on the resolution. If the resolution is adopted, the Governor then has the opportunity to veto, and the General Assembly would again have 30 calendar days or 10 legislative days, whichever is longer, to override the veto. Because the legislative session day calendar is subject to change, it is uncertain when the resolution process may conclude. The process could extend into 2023, which would prevent the

Department from submitting this final-form rulemaking to the EPA before the Federal highway sanctions deadline on December 16, 2022.

While the Board disagrees with the Committee's interpretation of Act 52 of 2016, to address the Committee's concerns and avoid the delay that a resolution would cause, the Board withdrew this final-form rulemaking from IRRC's consideration and revised it. This revised final-form rulemaking encompasses the VOC regulations applicable only to unconventional oil and natural gas sources. The Department will develop and present to the Board a separate rulemaking for sources of VOC emissions installed at conventional oil and natural gas well sites.

3. The EPA is no longer withdrawing the 2016 O&G CTG.

IRRC notes that the Board states in Section 9 of the RAF that "[e]ven though a finalized withdrawal of the 2016 O&G CTG would relieve the state of the requirement to address RACT for existing oil and gas sources, the Department is still obligated to reduce ozone and VOC emissions to ensure that the NAAQS are attained and maintained under section 110 of the CAA. 42 U.S.C.A. § 7410." Commentators have asked the Board to consider another public comment period should the Federal regulations or guidelines be significantly changed before promulgation of this final-form rulemaking. IRRC asks the Board to explain how it will proceed if there are significant changes made to the 2016 O&G CTG or 40 CFR Part 60, Subparts OOOO (relating to standards of performance for crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after August 23, 2011, and on or before September 18, 2015) and OOOOa prior to the promulgation of the final-form rulemaking.

In response, the Board explains that the relevant Federal regulations and the 2016 O&G CTG have not significantly changed and will not change prior to promulgation of this final-form rulemaking. In March of 2020, the Department received notice that the EPA had decided not to proceed with the withdrawal of the 2016 O&G CTG. The EPA announced in the OMB's Spring 2020 Unified Agenda and Regulatory Plan that the CTG will remain in place as published on October 27, 2016. On November 16, 2020, the EPA issued a final rule entitled "Findings of Failure To Submit State Implementation Plan Revisions in Response to the 2016 Oil and Natural Gas Industry Control Techniques Guidelines for the 2008 Ozone NAAQS and for States in the Ozone Transport Region (OTR)." 85 FR 72963 (November 16, 2020). This Commonwealth was one of the five states issued a finding of failure to submit a SIP revision incorporating the 2016 O&G CTG RACT requirements by October 27, 2018. The EPA's finding triggers the sanction clock under the CAA. The Commonwealth must submit this final-form rulemaking as a SIP revision and the EPA must determine that the submittal is complete within 18 months of the effective date (December 16, 2020) of the EPA's finding, that is, by June 16, 2022, or sanctions may be imposed.

4. Provisions of this final-form rulemaking were amended for clarity.

IRRC notes that § 129.121(a) provides that the proposed rulemaking would apply to the owners or operators of storage vessels in all segments except natural gas distribution; natural gas-driven continuous bleed pneumatic controllers; natural gas driven diaphragm pumps; reciprocating compressors; centrifugal compressors; or fu-

gitive emissions component which were in existence on or before the effective date of this final-form rulemaking. Commentators ask how "existing" will be interpreted under this final-form rulemaking since there may be facilities that have initiated construction but are not yet operational on the effective date of this final-form rulemaking. IRRC asks the Board to explain, in the preamble to this final-form rulemaking, how "existing" will be interpreted under this chapter.

In response, the Board revises the applicability section, § 129.121(a), of this final-form rulemaking by removing the phrase "in existence" and replacing it with "constructed" to clarify that the requirements apply to sources constructed on or before the effective date of this final-form rulemaking. Sources constructed after the effective date will not be subject to this final-form rulemaking. However, new sources are subject to best available technology (BAT) requirements, so it is likely that the requirements for new sources will be equivalent to or more stringent than the RACT requirements of this final-form rulemaking.

IRRC mentions that subparagraph (iii) of the definition of "deviation" includes a failure to meet an emission limit, operating limit, or work practice standard during startup, shutdown or malfunction as a "deviation" regardless of whether a failure is permitted by these rules. IRRC requests that the Board clarify this definition because commentators have asked the Board to make clear that failure to meet a limit or standard should not be considered a "deviation" if permit conditions are met.

In response, the Board explains that a deviation under subparagraph (iii) is not considered to be a violation of this final-form rulemaking, or a permit and deviations must be recorded and reported as required under § 129.130. A facility that has a permit must evaluate the terms and conditions of the permit and the requirements of this final-form rulemaking and comply with the most stringent requirement. The deviation must be evaluated against the most stringent requirement. The Board will evaluate these instances for compliance with the applicable requirements and standards. Additionally, the definition of "deviation" is consistent with the EPA's guidance in the 2016 O&G CTG.

IRRC suggests that for consistency, the definition of "first attempt at repair" should be revised to replace "organic material" with "VOCs."

In response, the Board explains that in the proposed rulemaking it used the definition of "first attempt at repair" from the EPA's regulations at 40 CFR Part 60, Subpart VVa (relating to Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006). While the term "first attempt at repair" is used in Sections A, D and G in the 2016 O&G CTG, it was not defined. After the EPA's Reconsideration of the NSPS, a definition that differed slightly from that in Subpart VVa was added to Subpart OOOOa. As the definition of "first attempt at repair" from Subpart OOOOa is closer in line with the usage in the 2016 O&G CTG, the Board revised the definition from the proposed rulemaking to this final-form rulemaking. The Board removed the proposed definition which stated, "action taken for the purpose of stopping or reducing leakage of organic material to the atmosphere using best practices" and replaces it with "for purposes of § 129.127 (relating to fugitive emissions components): an action using best practices taken to stop or reduce fugitive emissions to the

atmosphere.” The Board also clarifies that the term includes tightening bonnet bolts, replacing bonnet bolts, tightening packing gland nuts and injecting lubricant into lubricated packing. This change accommodates the revision suggested by the commentators.

IRRC asks what the Board means by the phrase “an engineering judgment” in the definition of “in-house engineer” and suggests that the Board define this term or explain why it is unnecessary to do so.

In response, the Board removes the phrase “an engineering judgment” and made further revisions to the definition of “in-house engineer” in this final-form rulemaking. Instead of the phrase “an engineering judgment,” the Board revises the definition of “in-house engineer” in this final-form rulemaking to require the engineer to be qualified by having expertise in the design and operation of a natural gas-driven diaphragm pump or closed vent system.

IRRC notes that subparagraph (i) in the definition of “leak” reads “A positive indication, whether audible, visual or odorous, determined during an AVO inspection.” IRRC also agrees with commentators who have suggested that this subparagraph be amended for clarity to state “A positive indication of a leak. . .”

In response, the Board revised subparagraph (i) of the definition of “leak” from the proposed rulemaking to this final-form rulemaking by removing “A positive indication, whether audible, visual or odorous, determined” and replacing it with “Through audible, visual or odorous evidence.” The Board further clarifies the definition of “leak” by adding that it is “an emission detected” and providing for methods for detecting the emission. Additionally, the Board did not add “A positive indication of a leak. . .” to the definition as suggested by the commentators in accordance with § 2.11(h) (relating to definitions) of the *Pennsylvania Code and Bulletin Style Manual*. Section 2.11(h) states that “the term being defined may not be included as part of the definition.”

IRRC suggests that the phrase “For purposes of this section, §§ 129.121 and 129.123—129.130” in the definition of “TOC—Total organic compounds” is unnecessary and should be deleted from the definition. In response, the Board agrees that the phrase “For purposes of this section, §§ 129.121 and 129.123—129.130” is redundant and removes that phrase from the definition in this final-form rulemaking.

IRRC questions the need for the provision in subparagraph (ii) of the definition of “qualified professional engineer” providing that “The individual making this certification must be currently licensed in this Commonwealth or another state in which the responsible official, as defined in § 121.1 (relating to definitions), is located and with which the Commonwealth offers reciprocity.” In response, the Board explains that the EPA defined “qualified professional engineer” in the 2016 O&G CTG as “an individual who is licensed by a state as a Professional Engineer to practice one or more disciplines of engineering and who is qualified by education, technical knowledge and experience to make the specific technical certifications required under this subpart. Professional engineers making these certifications must be currently licensed in at least one state in which the certifying official is located.” Therefore, the requirement that the “qualified professional engineer” be licensed in one of the states where the responsible official does business is part of the EPA’s RACT recommendation. The Board adds the requirement for reciprocity due to requirements that an

engineer be legally qualified to engage in the practice of engineering and that the standards of the other state or territory be at least equal to the standards of this Commonwealth.

IRRC recommends that the definitions of “conventional well” and “unconventional well” as defined in 25 Pa. Code §§ 78.1 and 78a.1 (relating to definitions) be included by reference in § 129.122(a). In response, the Board removes the references to “conventional well” and “unconventional well” from § 129.123(a) from the proposed rulemaking to this final-form rulemaking. Section 129.123(a) was the only section that included the terms “conventional well” and “unconventional well” in the proposed rulemaking. However, the Board adds definitions for “unconventional formation,” “unconventional well” and “unconventional well site” in this final-form rulemaking since the applicability section was amended to clarify that this final-form rulemaking only applies to unconventional sources installed at an “unconventional well site.” The definitions of “unconventional formation” and “unconventional well” in this final-form rulemaking are identical to the definitions in § 78a.1.

IRRC notes that § 129.123(a)(2)(i) requires that potential VOC emissions for conventional, unconventional, gathering and boosting station and at a facility in the natural gas transmission and storage segment use a generally accepted model or calculation methodology, based on the maximum average daily throughput prior to the effective date of the rulemaking. Commentators ask the Department to revise this section to allow all generally accepted models or calculation methodologies and request the language referencing historical data be deleted. However, commentators stated that use of past maximum averages that are no longer representative of the facilities’ throughputs will not provide an accurate emissions profile to justify the proposed compliance requirements. IRRC requests that the Board explain its rationale for and the reasonableness of the provision relating to historical data.

In response, the Board revises § 129.123(a)(2)(i) in this final-form rulemaking to add that the maximum average daily throughput is as defined in § 129.122 and to extend the calculation requirement from the date of publication to 60 days after. This revision is made to provide clarity, to be more representative of the facility operations and to provide a more accurate emissions profile.

IRRC notes that § 129.123(a)(2)(ii) provides that the determination of potential VOC emissions must consider requirements under a legally and practically enforceable limit established in an operating permit or plan approval approved by the Department. IRRC requests that the Board explain in the preamble to this final-form rulemaking whether state permitting programs such as GP-5, GP-5A and Exemption 38 of the Air Quality Permit Exemptions list will be considered satisfactory for this requirement.

In response, the Board explains that when calculating the potential VOC emissions for this final-form rulemaking, an owner or operator must ensure that they are complying with existing VOC limits in an operating permit or plan approval, including but not limited to GP-5 and GP-5A. Section 129.123(a)(2)(ii) has been revised to replace “must” with “may” to read “The determination of potential VOC emissions may consider requirements under a legally and practically enforceable limit established in an operating permit or plan approval approved by the Department.” It was not the EPA’s recommendation, nor the Board’s intent, to require that

legally and practically enforceable limits be considered when calculating potential VOC emissions to determine applicability to the rule. The limits in GP-5 and GP-5A are both legally and practically enforceable, so they could be used when calculating potential VOC emissions to determine applicability to this final-form rulemaking. However, the only legally and practically enforceable limit that reduces VOC emissions is installation of a control device capable of meeting 95.0% reduction or greater by weight. Therefore, doing so is more of a demonstration that the storage vessel is already in compliance with the requirements of this final-form rulemaking. On the other hand, the conditions of Exemption 38 do not rise to the Federal definition of legally and practically enforceable, so therefore cannot be used when calculating potential VOC emissions to determine applicability to this final-form rulemaking.

IRRC notes that § 129.123(b)(1)(iii) requires routing emissions to a control device or process that meets the applicable requirements of § 129.129. Commentators note that § 129.129 contains requirements specific only to “control devices” and not to “processes.” IRRC requests that the Board explain the intent of the proposed language and revise it if necessary. IRRC also notes that similar language appears in §§ 129.125(b)(1)(ii), 129.126(c)(2), 129.128(a)(2)(ii) and 129.128(b)(1).

In response, the Board explains that the requirements for “processes” can be found in § 129.129(d) of this final-form rulemaking. In particular, § 129.129(d)(1)(iv) of the proposed rulemaking, regarding compliance requirements for an enclosed combustion device, established the requirements for the use of a boiler or process heater—a “process”—to control the VOC emissions. VOC emissions routed to a boiler or process heater are considered controlled if the vent stream containing the VOC emissions is injected into the flame zone of the boiler or process heater. The Board retains this requirement in this final-form rulemaking.

IRRC notes that § 129.124(d) requires the owner or operator to tag each affected natural gas-driven pneumatic controller with the date the controller is required to comply with the requirements of this section and an identification number that ensures traceability to the records for that controller. IRRC asks the Board to explain the rationale for this requirement, including why it believes it is reasonable. In response, the Board explains that the requirement is based on the EPA’s recommendation from the 2016 O&G CTG, and the Department has determined that the tagging would facilitate the determination that the owners or operators are in compliance with this final-form rulemaking, and is not overly burdensome.

IRRC asks the Board to specify a timeframe in § 129.127(a) that will be used to determine per-day average production figures for the 15 BOE per day applicability threshold or explain why it is unnecessary to do so. In response, the Board adds a calculation procedure to estimate the average production of a well site in § 129.127(b) of this final-form rulemaking. The owner or operator of a well site shall calculate the average production in BOE per day of the well site using the previous 12 calendar months of operation as reported to the Department.

IRRC asks the Board to clarify whether the adjustments to the LDAR inspection intervals in proposed § 129.127(b) are required under proposed § 129.127(e). In response, the Board explains that the LDAR inspection frequency reductions under § 129.127(c)(4)(i) of this final-

form rulemaking, which replaces subsection (b)(2)(i) of the proposed rulemaking, do not require an owner or operator to request an extension of the LDAR inspection frequency under § 129.127(f) of this final-form rulemaking. Section 129.127(f) was § 129.127(e) in the proposed rulemaking.

IRRC notes that § 129.127(e) permits the owner or operator of an affected facility to request, in writing, an extension of the LDAR inspection interval. IRRC asks the Board to explain the need for an extension, including under what conditions or circumstances an owner or operator may request an extension. IRRC also asks whether certain conditions or requirements are needed to request an extension, how owners or operators will be informed about those conditions or requirements and what the maximum amount of time is that an extension may be granted.

In response, the Board notes that proposed § 129.127(e) is now § 129.127(f) in this final-form rulemaking. The Board explains that the flexibility granted to an owner or operator by allowing them to request an extension of the LDAR inspection interval may be for any reason. Examples for requesting an extension of the inspection frequency could include that the owner or operator’s inspection equipment requires repair and will be unavailable when the inspection is due, the owner or operator has numerous facilities and it will take longer than the time allowed under this final-form rulemaking to determine applicability, plan, and perform the initial inspections, or it is not possible to have a contractor perform the required inspection when it is due because there are no contractors available by that date. However, the conditions required for and the duration of the extension will be determined on a case-by-case basis by the Air Program Manager of the appropriate Department Regional Office when approving the extension request.

IRRC notes that § 129.129(b)(5)(ii) refers to an “inspection and maintenance plan” in § 129.129(b)(1) that does not exist. IRRC asks the Board to clarify the intent of this subsection and revise, if necessary. In response, the Board revises the language of § 129.129(b)(5)(ii) from the proposed rulemaking to this final-form rulemaking to remove the reference to an “inspection and maintenance plan” and to instead require the use of the best combustion engineering practice applicable to the control device if the manufacturer’s repair instructions are not available.

IRRC asks the Board to delete the reference to subsection (c)(1)(ii) in § 129.129(k)(5) since subsection (c)(1)(ii) does not require or refer to a weight-percent VOC emission reduction requirement. In response, the Board did not remove the reference to subsection (c)(1)(ii) in § 129.129(k)(5) and instead revises the language of § 129.129(c)(1)(ii) from the proposed rulemaking to this final-form rulemaking to add a weight-percent VOC emission reduction requirement.

IRRC notes that §§ 129.129(j)(1)(v)(D) and 129.129(j)(1)(vi)(B) provide for requests for extension of initial performance test reports and asks the Board to refer to IRRC’s comments regarding the LDAR inspection interval extension requests in § 129.127(e) as the questions apply also to this subsection.

In response, the Board explains that the allowance for an owner or operator to request an extension of the initial performance test requirements provides flexibility to the owner or operator. The owner or operator may request an extension for any reason. For example, it is possible that an operator could request an extension due to scheduling

issues with source testing contractors. However, the conditions required for and the duration of the extension will be determined on a case-by-case basis by the Air Program Manager of the appropriate Department Regional Office when reviewing and approving/denying the extension request.

IRRC notes that § 129.130(d)(1) requires the records for each natural gas-driven diaphragm pump to include the date, location and manufacturer specifications for each pump. IRRC requests that the Board revise this section to clarify the date referenced. In response, the Board revises the language of § 129.130(d)(1) from the proposed rulemaking to this final-form rulemaking to clarify that the date is the “required compliance” date.

IRRC notes that § 129.130(g)(2)(ii)(G)(II) requires the “instrument reading of each fugitive emission component” that meets the definition of a leak under the rulemaking. IRRC asks if this subsection should be revised for consistency to account for leaks that are detected with OGI equipment. In response, the Board did not revise this subsection and explains that the instrument reading for OGI equipment is a visible leak.

IRRC notes that Section 15 of the RAF indicates that the table in Section 23 provides a breakdown of the cost data for the industry. The figures provided in the table in Section 23 of the RAF represent industry-wide cost and savings estimates. IRRC recommends that the Board either include in the chart as described in the RAF for this final-form rulemaking or remove this statement if one does not exist.

In response, the Board revises the response to Question 15 of the RAF to detail the breakdown of cost data for the industry on a per owner or operator and a per facility basis. The response to Question 19 of the RAF details the individual source costs, including the total industry cost based on the estimated number of affected sources in each category. The response to Question 23 still provides a breakdown of the total costs to the industry. Additionally, the Board removes the reference in the response to Question 15 to the table in the response to Question 23 as suggested.

IRRC recommends that in § 121.1, under the term “responsible official” subparagraph (iv) clause (B) after “or Chapter 129,” the Board should include parentheses containing a description of what the chapter is relating to. In response, the Board respectfully disagrees with the suggestion as the parenthetical description is provided once per section the first time the referenced chapter is cited, in accordance with § 5.12(a)(4) (relating to cross-references) of the *Pennsylvania Code and Bulletin Style Manual*. The definition of “Compliant Coating” in § 121.1 references Chapter 129 and includes the parenthetical “(relating to standards of sources)” with the description of Chapter 129.

IRRC notes that § 129.122(a) states that “the following words and terms, when used in this section, §§ 129.121 and 129.123—120.130, have the following meaning. . .” IRRC suggests inserting “shall” before “have” and revising “section” to “chapter.” Additionally, IRRC recommends deleting “section” replacing it with “chapter” in the definitions for “deviation” and “TOC—Total organic compounds.”

In response, the Board respectfully disagrees with these recommendations and did not add the word “shall” as suggested as the phrasing used in § 129.122(a) is consistent with other sections in Chapter 129 as well as the phrasing used in § 121.1. This is also consistent with

§ 6.7(a) (relating to use of “shall,” “will,” “must” and “may”) of the *Pennsylvania Code and Bulletin Style Manual*. Section 6.7(a) states that the term “shall” “expresses a duty or obligation. The subject of the sentence must be a person, committee or other nongovernmental entity that is required to or has the power to make a decision or take an action.” Additionally, the definitions in § 129.122(a) apply only to §§ 129.121—129.130, not the entirety of Chapter 129; therefore, the Board did not revise “section” to read “chapter” as recommended.

IRRC notes that the following terms and definitions appear in § 129.122(a) but are not used in the text of the Annex: “completion combustion device,” “fuel gas,” “fuel gas system,” “natural gas and oil production segment,” “natural gas processing segment,” “transmission compression station,” and “underground storage vessel.” IRRC suggests that these terms and definitions be deleted. In response, the Board agrees with this suggestion and deletes these terms from this final-form rulemaking.

IRRC recommends that for consistency the Board include a reference to the recordkeeping and reporting requirements found in § 129.130(i)(2) in § 129.128(d). In response, the Board notes that the recordkeeping and reporting requirements for closed vent systems in § 129.130(i)(2) are found in § 129.128(b)(6). The provisions of § 129.128(d) specify the procedures for the no detectable emissions inspection required in § 129.128(b)(2)(ii).

IRRC recommends amending § 129.130(k) to replace “can” with “may” so that the statement reads “The due date of the initial report may be extended with the written approval of the Air Program Manager of the appropriate Department Regional Office.” In response, the Board agrees with this recommendation and revises § 129.130(k)(1)(ii) to replace “can” with “may.”

5. The Board has fulfilled its duties as a trustee as set forth in Article I, Section 27 of the Pennsylvania Constitution.

Commentators, including members of the General Assembly, referenced the Commonwealth’s Environmental Rights Amendment in Article I, Section 27 of the Pennsylvania Constitution, Pa.Const. Art. I, § 27, and note that it states, “The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment.” They commented that the Board and the Department must satisfy their constitutional responsibilities.

In response, the Board has fulfilled its duties as a trustee of the environment, set forth in Article I, Section 27 of the Pennsylvania Constitution and the Pennsylvania Supreme Court Ruling on the Environmental Rights Amendment in *Pennsylvania Environmental Defense Foundation v. Commonwealth of Pennsylvania*, 161 A.3d 911 (Pa. 2017) during the development of this final-form rulemaking. This final-form rulemaking was developed under the authority of sections 5(a)(1) and (8) of the APCA. The APCA is built on a precautionary principle to protect the air resources of this Commonwealth for the protection of public health and welfare and the environment, including plant and animal life and recreational resources, as well as development, attraction and expansion of industry, commerce and agriculture. Implementation of the VOC emission control measures in this final-form rulemaking will help the Department protect the air resources of this Commonwealth as well as public health and welfare by reducing harmful VOC and methane emissions from the oil and gas industry. The Depart-

ment recognizes the rights of this Commonwealth's residents and the Commonwealth's obligations under the Pennsylvania Constitution and must meet those obligations in every action the agency takes. Because this final-form rulemaking simultaneously reduces VOC and methane emissions, resulting in considerable health and other benefits, the Department is satisfied that its Article I, Section 27 obligations have been met with development of this final-form rulemaking.

G. Benefits, Costs and Compliance

Benefits

The Department estimates that implementation of the control measures could reduce VOC emissions by as much as 2,864 TPY. Approximately 411 TPY of these VOC emission reductions are due to the RACT determinations by the Department that reduce emissions over and above the EPA's RACT recommendations. These reductions would benefit the health and welfare of the approximately 12.8 million residents and the numerous animals, crops, vegetation and natural areas of this Commonwealth by reducing the amount of ground-level ozone air pollution resulting from these sources.

Adoption of the VOC emission control measures and other requirements in this final-form rulemaking would allow the Commonwealth to make substantial progress in achieving and maintaining the 1997, 2008 and 2015 8-hour ozone NAAQS statewide. Implementation of and compliance with the VOC emission reduction measures would also assist the Commonwealth in reducing the levels of ozone precursor emissions that contribute to potential nonattainment of the 2015 ozone NAAQS. As a result, the VOC emission control measures are reasonably necessary to attain and maintain the health-based and welfare-based 8-hour ozone NAAQS in this Commonwealth and to satisfy related CAA requirements. Achieving and maintaining the ground-level ozone NAAQS provides healthful air quality which attracts and retains residents and industry, supports healthy environmental conditions for agriculture and the ecosystems of this Commonwealth, and reduces transport of VOC emissions and ground-level ozone to downwind states.

While this final-form rulemaking requires VOC emission reductions, methane emissions are also reduced as a cobenefit, because both VOC and methane are emitted from oil and gas operations. Except for storage vessels, the requirements for control of emissions are not dependent on an applicability threshold for VOC, meaning that most requirements have no minimum level of VOC emissions under which sources are granted an exemption. The control measures implemented for VOC emissions simultaneously control methane emissions and could reduce methane emissions by as much as 45,278 TPY with 33 TPY from the installation of controls for storage vessels, 14,741 TPY from pneumatic controllers, 135 TPY from pneumatic pumps, 1,172 TPY from replacement of reciprocating compressor rod packings at well sites and 29,197 TPY from fugitive emissions components through the performance of LDAR inspections. Approximately 6,124 TPY of the methane emission reductions are due to the technically and economically feasible VOC RACT determination by the Department that is over and above the reductions from EPA's VOC RACT recommendations.

Additionally, as previously discussed, this final-form rulemaking is consistent with Governor Tom Wolf's strategy to reduce emissions of methane from the oil and natural gas industry in this Commonwealth. Methane is a potent greenhouse gas with a global warming potential

more than 28 times that of carbon dioxide over a 100-year time period, according to the EPA. The EPA has identified methane, the primary component of natural gas, as the second-most prevalent greenhouse gas emitted in the United States from human activities. According to Federal estimates, the natural gas and oil industries account for a quarter of United States methane emissions. In addition to climate change impacts, methane and VOC emissions have harmful effects on air quality and human health. Thus, reducing methane leaks from unconventional oil and natural gas sources is essential to reducing global greenhouse gas emissions and protecting public health.

Adverse health and welfare effects of ground-level ozone on humans, animals and the environment

Exposure to high levels of ground-level ozone air pollution correlates to increased respiratory disease and higher mortality rates. Ozone can inflame and damage the lining of the lungs. Within a few days, the damaged cells are shed and replaced. Over a long time period, lung tissue may become permanently scarred, resulting in permanent loss of lung function and a lower quality of life. When ambient ozone levels are high, more people with asthma have attacks that require a doctor's attention or use of medication. Ozone also makes people more sensitive to allergens including pet dander, pollen and dust mites, all of which can trigger asthma attacks. The EPA has concluded that there is an association between high levels of ambient ozone and increased hospital admissions for respiratory ailments including asthma. While children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to high levels of ambient ozone while engaged in activities that involve physical exertion. High levels of ground-level ozone also affect animals including pets, livestock and wildlife, in ways similar to humans.

In addition to causing adverse human and animal health effects, the EPA has concluded that ground-level ozone affects vegetation and ecosystems, leading to reductions in agricultural crop and commercial forest yields. Ozone damage to the foliage of trees and other plants can decrease the aesthetic value of ornamental species used in residential landscaping, as well as the natural beauty of parks and recreation areas. Through deposition, ground-level ozone also contributes to pollution in the Chesapeake Bay. These effects can have adverse impacts including loss of species diversity and changes to habitat quality and water and nutrient cycles. The implementation of additional measures to address ground-level ozone precursor emissions impacts on air quality in this Commonwealth is necessary to protect the public health and welfare and the environment.

Adverse effects of ground-level ozone on this Commonwealth's economy

The economic value of the impacts of ground-level ozone on this Commonwealth's farm crops, fruit industries, forests, parks and timber due to high concentrations of ground-level ozone can be calculated, through things such as crop yield loss from both reduced growth and smaller, lower-quality seeds and tubers with less oil or protein. If ozone episodes last a few days, visible injury to some leaf crops, including lettuce, spinach and tobacco, as well as visible injury to the leaves of ornamental plants, including grass, flowers and shrubs, can appear. Other types of welfare loss may not be quantifiable, such as the reduced aesthetic value of trees growing in heavily visited parks.

Information about the economic benefit of the agricultural industry to this Commonwealth is provided by the Department of Agriculture. In 2019, this Commonwealth had more than 53,157 farms occupying more than 7.3 million acres of farmland which account for 75,475 direct jobs and \$9 billion in direct economic output from production agriculture. In addition to production agriculture, the industry also raises revenue and supplies jobs through support services such as food and beverage processing, marketing, transportation, farm equipment, forestry production and processing, and landscaping. In total, production agriculture and agribusiness support 232,463 direct jobs and contribute \$59.7 billion to this Commonwealth's economy. The agriculture industry, including forestry, contributes 593,600 total direct, indirect, and induced jobs and \$132.5 billion in total direct, indirect, and induced output. Reducing ground-level ozone concentrations will serve to protect agricultural yield and reduce losses to production agriculture and agribusiness in this Commonwealth.

This Commonwealth is forested over a total of 16.6 million acres, which represents 58% of its land area. Federal, State and local government hold 5.1 million acres in public ownership, with the remaining 11.7 million acres in private ownership. The forest product industry only owns 0.4 million acres of forest, with the remainder held by an estimated 750,000 individuals, families, partnerships or corporations. This Commonwealth leads the Nation in volume of hardwood with over 120.5 billion board feet of standing sawtimber. Recent data shows that the State's forest growth-to-harvest rate is better than 2 to 1. As the leading producer of hardwood lumber in the United States, this Commonwealth also leads in the export of hardwood lumber, exporting nearly \$463 million in 2019, and over \$1.1 billion in lumber, logs, furniture and paper products to more than 70 countries around the world. Production is estimated at 1 billion board feet of lumber annually. This vast renewable resource puts the hardwoods industry at the forefront of manufacturing in this Commonwealth. Forestry production and processing account for 69,437 direct jobs and \$21.8 billion in direct economic output and direct value added to this Commonwealth's economy. Reducing ground-level ozone concentrations will serve to protect the Commonwealth's position as the leader of growing volume of hardwood species and producer of hardwood lumber in the Nation.

The Department of Conservation and Natural Resources (DCNR) is the steward of the State-owned forests and parks. DCNR awards millions of dollars in construction contracts each year to build and maintain the facilities in its parks and forests. Hundreds of concessions throughout the park system help complete the park experience for both State and out-of-State visitors. State forests, parks and game lands make up 3.9 million acres of forest land. This Commonwealth's 2.2 million-acre State forest system, found in 48 of this Commonwealth's 67 counties, comprises 13% of the forested area in this Commonwealth. The State forest represents one of the largest expanses of public forestland in the eastern United States, making it a priceless public asset. Ozone damage to the foliage of trees and other plants can decrease the aesthetic value of ornamental species used in residential landscaping, as well as the natural beauty of parks and recreation areas. However, the effects of the reduced aesthetic value of trees in heavily visited parks may not be quantifiable. Reducing the concentration of ground-level ozone will help maintain the benefits to this Commonwealth's economy due to tourism.

In sum, adoption and implementation of the VOC emission control measures in this final-form rulemaking for the owners or operators of certain sources in the oil and natural gas industry is reasonably necessary to allow the Commonwealth to continue its progress in attaining and maintaining the public health-based and welfare-based 8-hour ozone NAAQS and to satisfy related CAA requirements. The VOC emission reductions achieved through implementation of the regulatory requirements established in this final-form rulemaking and the associated decrease in formation of ground-level ozone will benefit the health and welfare of the residents of this Commonwealth as well as the health of tourists and visitors, with improved ambient air quality and healthier environments. The decrease in ground-level ozone formation will also benefit farmers, loggers, hunters and outdoor enthusiasts and the numerous animals, crops, vegetation and natural areas of this Commonwealth. The agriculture and timber industries and related businesses will benefit directly from reduced economic losses that result from ozone damage to crops and timber. Likewise, the natural areas and infrastructure within this Commonwealth and downwind states will benefit directly from reduced environmental damage and economic losses due to ground-level ozone.

Additionally, this final-form rulemaking may create economic opportunities for VOC emission control technology innovators, manufacturers, and distributors through an increased demand for new or improved equipment. In addition, the owners or operators of regulated facilities may be required to install and operate an emissions monitoring system or equipment necessary for an emissions monitoring method to comply with this final-form rulemaking, thereby creating an economic opportunity for the emissions monitoring industry.

Monetized public health benefits of attaining the 2015 ozone NAAQS

The EPA estimated that the monetized health benefits of attaining the 2015 8-hour ozone NAAQS of 0.070 ppm range from \$1.5 billion to \$4.5 billion on a National basis by 2025. Prorating that benefit to this Commonwealth, based on population, results in a public health benefit of \$63 million to \$189 million. The Department is not stating that these estimated monetized health benefits would all be the result of implementing the RACT measures, but the EPA estimates are indicative of the benefits to Commonwealth residents of attaining the 2015 8-hour ozone NAAQS through the implementation of a suite of measures to control VOC emissions in the aggregate from different source categories.

Compliance costs

Compliance costs will vary for each facility depending on which compliance option is chosen by the owner or operator. The costs were adjusted to 2021 dollars using the CPI adjustment using May as the reference month.

The annualized cost of \$25,194 in 2012 dollars to control one storage vessel with a control device is based on the data in the 2016 O&G CTG, which is equivalent to \$30,909 in 2021 dollars. The Department's additional analysis demonstrated that the annualized cost of routing emissions from a storage vessel to a control device ranges from \$9,501 to \$22,871 in 2021 dollars based on the data in the Department's Technical Support Document (TSD) for the General Plan Approval/General Operating Permit BAQ-GPA/BP-5 (GP-5) for natural gas compression stations, processing plants, and transmission stations and the General Plan Approval/General Operating Permit

BAQ-GPA/GP-5A (GP-5A) for unconventional natural gas well site operations and remote pigging stations. The Department used the EPA's annualized cost estimate of \$30,909 in 2021 dollars to be conservative when estimating the effect on the oil and natural gas industry. The Department identified a total of 3,889 facilities with storage vessels from the Department's databases. There are 12 facilities with 44 storage vessels that emit 2.7 TPY or more of VOC with a total industry cost of \$370,908 per year. The Department estimates that implementation of the final-form control measures could reduce VOC emissions by as much as 211 TPY from the installation of controls for storage vessels. This results in an average cost of approximately \$1,758 per ton of VOC emissions reduced per year. Approximately 16 TPY of the VOC emissions reduction from this requirement is due to the technically and economically feasible RACT determination by the Department that is over and above the reductions from EPA's RACT recommendations.

The annualized cost of \$296 in 2012 dollars to replace a continuous high-bleed pneumatic controller with a low-bleed pneumatic controller is based on the data in the 2016 O&G CTG, which is \$347 per year in 2021 dollars. The Department identified a total of 3,874 facilities with an estimated 8,572 affected pneumatic controllers. The total industry cost is \$2,974,484 per year. Using the EPA's estimate of natural gas emissions per controller and this Commonwealth's average natural gas composition, the Department estimates that implementation of the final-form control measures could reduce VOC emissions by as much as 766 TPY from pneumatic controllers located at these facilities. The requirements for natural gas-driven continuous bleed pneumatic controllers are identical to the EPA's 2016 O&G CTG recommendation which the EPA has determined to be cost-effective.

The annualized cost of \$774 in 2012 dollars to control one natural gas-driven diaphragm pump is based on the data in the 2016 O&G CTG, which is \$907 per year in 2021 dollars. The Department identified 17 well sites with an estimated 40 affected diaphragm pumps. The total industry cost is \$36,265 per year. Using the EPA's estimate of natural gas emissions per pump, this Commonwealth's average natural gas composition, and a 95.0% emissions reduction, the Department estimates that implementation of the final-form control measures could reduce VOC emissions by as much as 7 TPY from natural gas-driven diaphragm pumps. The requirements for natural gas-driven diaphragm pumps are identical to the EPA's 2016 O&G CTG recommendation which the EPA has determined to be cost-effective.

The annualized cost of \$782 in 2021 dollars to replace the rod packings for one reciprocating compressor at an unconventional well site is based on the data in the Department's TSD for GP-5 and GP-5A. The Department identified 448 well sites reporting a total of 535 engines. The Department assumes that all of the engines drive reciprocating compressors. The total industry cost is \$418,456 per year. The Department estimates that implementation of the final-form control measures could reduce VOC emissions by as much as 61 TPY due to the replacement of reciprocating compressor rod packings located at well sites. The Department has determined this requirement to be cost-effective since the annualized cost, the sum of the annualized capital cost and the annual operating expenses, is only \$782 per year. Annualized cost is one of many factors that the Department can consider when determining the cost-effectiveness of a control device or control technique. The 61 TPY of the VOC emissions reduction from this requirement is due to the

technically and economically feasible RACT determination by the Department that is over and above the reductions from the EPA's RACT recommendations.

There are an estimated 423 gathering and boosting stations with at least 527 reciprocating compressors and an estimated 11 natural gas processing plants with at least 30 reciprocating compressors. The Department assumes that the owners or operators of these facilities are complying with the requirements of Subparts OOOO and OOOOa as none of these facilities were constructed prior to 2011. Therefore, they would have to do nothing further under this final-form rulemaking.

The annualized cost of \$2,553 in 2012 dollars to control one wet seal degassing system for a centrifugal compressor is based on the data in the 2016 O&G CTG which is \$2,990 in 2021 dollars. The Department identified three gathering and boosting stations reporting at least seven turbines and two processing plants reporting at least two turbines. The Department assumes that all of the turbines drive centrifugal compressors. These centrifugal compressors are all likely to be dry seal centrifugal compressors and the owners or operators of these sources would not have applicable VOC emission control requirements under this final-form rulemaking. If one or more of these compressors is a wet seal centrifugal compressor, the owner or operator would be subject to the applicable wet seal degassing system VOC emission control requirements of this final-form rulemaking. VOC emissions would be reduced by 95.0% at a cost of \$2,990 per year per wet seal degassing system in 2021 dollars. The requirements for wet seal centrifugal compressor degassing systems are identical to the EPA's 2016 O&G CTG recommendation which the EPA has determined to be cost effective.

In the 2016 O&G CTG, the annualized cost in 2012 dollars to conduct annual LDAR inspections at an unconventional well site is \$1,318, to conduct quarterly LDAR inspections at an unconventional well site is \$4,220 and to conduct quarterly LDAR inspections at a gathering and boosting station is \$25,049. These costs are \$1,554, \$4,937 and \$29,307 in 2021 dollars, respectively. The Department's TSD for GP-5 and GP-5A also contained cost data for implementing LDAR programs, which are more conservative than the annual costs in the EPA's 2016 O&G CTG as the costs in the TSD are based on a contractor's quote. The annual cost for implementing an annual LDAR inspection program is \$1,681 in 2021 dollars at an unconventional well site. The annual cost, in 2021 dollars, for implementing a quarterly LDAR inspection program is \$6,723 at an unconventional well site and \$13,447 for a gathering and boosting station or natural gas processing plant. It should be noted that the estimates for unconventional well sites assumed there are 1,000 components to monitor and that for gathering and boosting stations or natural gas processing plants there are 2,000 components to monitor. The EPA's assumptions for the number of components to monitor are between 127 and 671 for well sites and 3,091 for gathering and boosting stations or processing plants.

The Department identified a total of 3,889 facilities covered by this final-form rulemaking, including unconventional well sites, gathering and boosting stations, and natural gas processing plants. The calculation of fugitive emissions before control were based on estimates of the amount of natural gas leaked. The breakdown between the amounts of VOC and methane emissions is calculated using this Commonwealth's natural gas composition ratio

of 4.47% VOC and 86.03% methane. The value of natural gas saved is calculated using the assumed cost of \$1.70 per Mcf of natural gas in 2021 dollars.

There are approximately six unconventional well sites with no LDAR program currently in place that the Department assumes will be required to implement an annual LDAR program. The total annualized cost is \$10,086 reducing VOC emissions by approximately 1 TPY for a total cost per ton of VOC reduced of \$410,086. The 1 TPY of the VOC emissions reduction from this requirement is due to the technically and economically feasible RACT determination by the Department that is over and above the reductions from the EPA's RACT recommendations.

There are approximately 1,461 unconventional well sites with no LDAR program currently in place that the Department assumes will be required to implement a quarterly LDAR program. The total annualized cost is \$9,822,303 reducing VOC emissions by approximately 501 TPY. The Department has determined this requirement to be cost-effective since the annualized cost is only \$6,723 per year. Approximately 125 TPY of the VOC emissions reduction from this requirement is due to the technically and economically feasible RACT determination by the Department that is over and above the reductions from the EPA's RACT recommendations.

There are approximately 499 unconventional well sites currently required to perform annual LDAR that the Department assumes will be required to implement a quarterly LDAR program. The total annualized cost is \$2,516,255 reducing VOC emissions by approximately 314 TPY. The Department has determined this requirement to be cost-effective since the incremental annualized cost is only \$5,043 per year. Approximately 79 TPY of the VOC emissions reduction from this requirement is due to the technically and economically feasible RACT determination by the Department that is over and above the reductions from the EPA's RACT recommendations.

There are approximately 650 unconventional well sites currently required to perform semiannual LDAR that the Department assumes will be required to implement a quarterly LDAR program. The total annualized cost is \$2,185,125 reducing VOC emissions by approximately 517. The Department has determined this requirement to be cost-effective since the incremental annualized cost is only \$3,362 per year. Approximately 129 TPY of the VOC emissions reduction from this requirement is due to the technically and economically feasible RACT determination by the Department that is over and above the reductions from the EPA's RACT recommendations.

There are approximately 263 gathering and boosting stations with no LDAR program currently in place based on their construction date, the lack of LDAR requirements in their permits, or that have no reported fugitive emissions components. The Department assumes these facilities will be required to implement a quarterly LDAR program. The total annualized cost is \$3,536,561. Using the EPA's estimate of fugitive natural gas emissions per gathering and boosting station and this Commonwealth's average natural gas composition, the Department estimates a VOC emissions reduction of 473 TPY. The requirements for quarterly LDAR at natural gas gathering and boosting stations are identical to the EPA's 2016 O&G CTG recommendation which the EPA has determined to be cost-effective.

There is one gathering and boosting station with an annual LDAR program currently in place that the De-

partment assumes will be required to implement a quarterly program. The total annualized cost is \$10,085. The requirements for quarterly LDAR at natural gas gathering and boosting stations are identical to the EPA's 2016 O&G CTG recommendation which the EPA has determined to be cost-effective.

There is one natural gas processing plant with no LDAR program currently in place that the Department assumes will be required to implement a quarterly LDAR program. The total annualized cost is \$13,447 reducing VOC emissions by approximately 12 TPY for a total cost per ton of VOC reduced of \$1,121.

The total industry cost is approximately \$18,094,239 in 2021 dollars. The Department estimates that these final-form control measures could reduce VOC emissions by 1,819 TPY or more from the subject fugitive emissions components due to implementation of the required LDAR inspection program at these facilities.

Based on the previous compliance costs, and the number of applicable sources, the Department estimates that this final-form rulemaking will cost affected owners or operators approximately \$21.9 million (based on 2021 dollars) per year without consideration of the economic benefit of the saved natural gas. The value of the saved natural gas, assuming a natural gas price of \$1.70 per Mcf in 2021 dollars, yields a savings of approximately \$4.6 million, resulting in a total net cost of approximately \$17.3 million for this final-form rulemaking.

This estimate consists of two major categories of data. The first is the cost per year to control each piece of equipment or site affected, which came from either the 2016 O&G CTG or the Department's TSD for GP-5 and GP-5A, as detailed in the response to Question 17 of the RAF. The second is the number of potentially affected facilities, which were obtained from several data sources including the Department's Oil and Gas Production Report, eFACTS and AIMS. The cost per year to control each piece of equipment or site affected was multiplied by the number of each in this Commonwealth. The costs for each category of sources were added together to come up with a final estimated cost and savings.

The VOC RACT requirements established by this final-form rulemaking will not require the owner or operator to obtain an operating permit or submit an application for amendments to an existing operating permit. These requirements will be incorporated into the existing operating permit when the permit is renewed, if less than 3 years remain in the permit term, as specified under § 127.463(c) (relating to operating permit revisions to incorporate applicable standards). If 3 years or more remain in the permit term, the requirements would be incorporated as applicable requirements in the permit within 18 months of the promulgation of this final-form rulemaking, as required under § 127.463(b).

Compliance assistance plan

The Department will continue to educate and assist the public and the regulated community in understanding the requirements and how to comply with them throughout the rulemaking process. The Department will continue to work with the Department's provider of Small Business Stationary Source Technical and Environmental Compliance Assistance. These services are currently provided by the Environmental Management Assistance Program (EMAP) of the Pennsylvania Small Business Development Centers. The Department has partnered with EMAP to fulfill the Department's obligation to provide confidential technical and compliance assistance to small businesses

as required by the APCA, section 507 of the CAA (42 U.S.C.A. § 7661f) and authorized by the Small Business and Household Pollution Prevention Program Act (35 P.S. §§ 6029.201—6029.209).

In addition to providing one-on-one consulting assistance and onsite assessments, EMAP also operates a toll-free phone line to field questions from small businesses in this Commonwealth, as well as businesses wishing to start up in, or relocate to, this Commonwealth. EMAP operates and maintains a resource-rich environmental assistance web site and distributes an electronic newsletter to educate and inform small businesses about a variety of environmental compliance issues.

Paperwork requirements

The recordkeeping and reporting requirements for owners and operators of applicable sources under this final-form rulemaking are minimal because the records required align with the records already required to be kept for emission inventory purposes and for other Federal and State requirements. To minimize the burden of these requirements, the Department allows electronic submission of most planning, reporting and recordkeeping forms required by this final-form rulemaking.

H. Pollution Prevention

The Pollution Prevention Act (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance.

This final-form rulemaking helps to ensure that the residents of this Commonwealth benefit from reduced emissions of VOC and methane from regulated sources. Reduced levels of VOC and methane promote healthful air quality and ensure the continued protection of the environment and public health and welfare.

I. Sunset Review

This Board is not establishing a sunset date for this final-form rulemaking because it is needed for the Department to carry out its statutory authority. The Department will closely monitor this final-form rulemaking effectiveness and recommend updates to the Board as necessary.

J. Regulatory Review

Under section 5(a) of the RRA (71 P.S. § 745.5(a)), on April 27, 2020, the Department submitted a copy of the notice of proposed rulemaking, published at 50 Pa.B. 2633, to IRRC and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the RRA, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(e) of the RRA, IRRC met on July 21, 2022, and approved this final-form rulemaking. This final-form rulemaking is deemed approved by the General Assembly.

K. Findings of the Board

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law, and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) At least a 60-day public comment period was provided as required by law and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 50 Pa.B. 2633.

(4) These regulations are reasonably necessary and appropriate for administration and enforcement of the authorizing acts identified in section C of this order.

(5) These regulations are reasonably necessary to attain and maintain the ozone NAAQS and to satisfy related CAA requirements.

L. Order of the Board

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapters 121 and 129, are amended by amending § 121.1 and adding §§ 129.121—129.130 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(Editor’s Note: Proposed § 129.124 was renamed from natural gas-driven pneumatic controllers to natural gas-driven continuous bleed pneumatic controllers in this final-form rulemaking.)

(b) The Chairperson of the Board shall submit this final-form rulemaking to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson of the Board shall submit this final-form rulemaking to IRRC and the House and Senate Committees as required by the RRA.

(d) The Chairperson of the Board shall certify this final-form rulemaking and deposit it with the Legislative Reference Bureau as required by law.

(e) This final-form rulemaking will be submitted to the EPA as a revision to the Commonwealth’s SIP.

(f) This final-form rulemaking shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

RAMEZ ZIADEH, P.E.,
Acting Chairperson

(Editor’s Note: See 52 Pa.B. 4479 (August 6, 2022) for IRRC’s approval order.)

Fiscal Note: Fiscal Note 7-544 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

The definitions in section 3 of the act (35 P.S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

CPMS—continuous parameter monitoring system—The equipment necessary to meet the data acquisition and availability requirements to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents), and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and to record average operational parameter values on a continuous basis.

* * * * *

Fugitive emissions—Emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

* * * * *

PM-10—Particulate matter with an effective aerodynamic diameter of less than or equal to a nominal 10 micrometer body as measured by the applicable reference method or an equal method.

ppm—Parts per million.

ppmvd—Parts per million dry volume.

* * * * *

Responsible official—An individual who is:

(i) For a corporation: a president, secretary, treasurer or vice president of the corporation in charge of a principal business function, or another person who performs similar policy or decision making functions for the corporation, or an authorized representative of the person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for, or subject to, a permit and one of the following applies:

(A) The facility employs more than 250 persons or has gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars).

(B) The delegation of authority to the representative is approved, in advance, in writing, by the Department.

(ii) For a partnership or sole proprietorship: a general partner or the proprietor, respectively.

(iii) For a municipality, State, Federal or other public agency: a principal executive officer or ranking elected official. A principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency—for example, a regional administrator of the EPA.

(iv) For affected sources:

(A) The designated representatives in so far as actions, standards, requirements or prohibitions under Title IV of the Clean Air Act (42 U.S.C.A. §§ 7641 and 7642) or the regulations thereunder are concerned.

(B) The designated representative or a person meeting provisions of subparagraphs (i)—(iii) for any other purpose under 40 CFR Part 70 (relating to operating permit programs), Chapter 127 (relating to construction, modification, reactivation and operation of sources) or Chapter 129.

* * * * *

CHAPTER 129. STANDARDS FOR SOURCES

CONTROL OF VOC EMISSIONS FROM UNCONVENTIONAL OIL AND NATURAL GAS SOURCES

Sec.

- 129.121. General provisions and applicability.
129.122. Definitions, acronyms and EPA methods.
129.123. Storage vessels.
129.124. Natural gas-driven continuous bleed pneumatic controllers.
129.125. Natural gas-driven diaphragm pumps.
129.126. Compressors.
129.127. Fugitive emissions components.
129.128. Covers and closed vent systems.
129.129. Control devices.
129.130. Recordkeeping and reporting.

§ 129.121. General provisions and applicability.

(a) Applicability. Beginning December 10, 2022, this section and §§ 129.122—129.130 apply to an owner or operator of one or more of the following unconventional oil and natural gas sources of VOC emissions installed at an unconventional well site, a gathering and boosting station or a natural gas processing plant in this Commonwealth which were constructed on or before December 10, 2022:

- (1) Storage vessels at:
(i) An unconventional well site.
(ii) A gathering and boosting station.
(iii) A natural gas processing plant.
(iv) The natural gas transmission and storage segment.
(2) Natural gas-driven continuous bleed pneumatic controllers.
(3) Natural gas-driven diaphragm pumps.
(4) Reciprocating compressors and centrifugal compressors.
(5) Fugitive emissions components.

(b) Existing RACT permit. Compliance with the requirements of this section and §§ 129.122—129.130 assures compliance with the requirements of a permit issued under §§ 129.91—129.95 (relating to stationary sources of NOx and VOCs) or §§ 129.96—129.100 (relating to additional RACT requirements for major sources of NOx and VOCs) to the owner or operator of a source subject to subsection (a) prior to December 10, 2022, to control, reduce or minimize VOC emissions from oil and natural gas sources listed in subsection (a), except to the extent the operating permit contains more stringent requirements.

§ 129.122. Definitions, acronyms and EPA methods.

(a) Definitions and acronyms. The following words and terms, when used in this section, §§ 129.121 (relating to

general provisions and applicability) and 129.123—129.130, have the following meanings, unless the context clearly indicates otherwise:

AVO—Audible, visual and olfactory.

Bleed rate—The rate in standard cubic feet per hour at which natural gas is continuously vented from a natural gas-driven continuous bleed pneumatic controller.

Centrifugal compressor—

(i) A machine for raising the pressure of natural gas by drawing in low-pressure natural gas and discharging significantly higher-pressure natural gas by means of mechanical rotating vanes or impellers.

(ii) The term does not include a screw compressor, sliding vane compressor or liquid ring compressor.

Closed vent system—A system that is not open to the atmosphere and that is composed of hard-piping, ductwork, connections and, if necessary, flow-inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device or back to a process.

Condensate—Hydrocarbon liquid separated from natural gas that condenses due to changes in the temperature, pressure, or both, and remains liquid at standard conditions.

Connector—

(i) A flanged fitting, screwed fitting or other joined fitting used to connect two pipes or a pipe and a piece of process equipment or that closes an opening in a pipe that could be connected to another pipe.

(ii) The term does not include a joined fitting welded completely around the circumference of the interface.

Control device—An enclosed combustion device, vapor recovery system or flare.

Custody transfer—The transfer of natural gas after processing or treatment, or both, in the producing operation or from a storage vessel or an automatic transfer facility or other equipment, including a product loading rack, to a pipeline or another form of transportation.

Deviation—An instance in which the owner or operator of a source subject to this section, §§ 129.121 and 129.123—129.130 fails to meet one or more of the following:

(i) A requirement or an obligation established in this section, § 129.121 or §§ 129.123—129.130, including an emission limit, operating limit or work practice standard.

(ii) A term or condition that is adopted to implement an applicable requirement in this section, § 129.121 or §§ 129.123—129.130 and which is included in the operating permit for the affected source.

(iii) An emission limit, operating limit or work practice standard in this section, § 129.121 or §§ 129.123—129.130 during startup, shutdown or malfunction, regardless of whether a failure is permitted by this section, § 129.121 or §§ 129.123—129.130.

FID—Flame ionization detector.

First attempt at repair—For purposes of § 129.127 (relating to fugitive emissions components):

(i) An action using best practices taken to stop or reduce fugitive emissions to the atmosphere.

(ii) The term includes:

(A) Tightening bonnet bolts.

(B) Replacing bonnet bolts.

(C) Tightening packing gland nuts.

(D) Injecting lubricant into lubricated packing.

Flare—

(i) A thermal oxidation system using an open flame without an enclosure.

(ii) The term does not include a horizontally or vertically installed ignition device or pit flare used to combust otherwise vented emissions from completions.

Flow line—A pipeline used to transport oil or gas, or both, to processing equipment, compression equipment, storage vessel or other collection system for further handling or to a mainline pipeline.

Fugitive emissions component—

(i) A piece of equipment that has the potential to emit fugitive emissions of VOC at a well site, a gathering and boosting station or a natural gas processing plant, including the following:

(A) A valve.

(B) A connector.

(C) A pressure relief device.

(D) An open-ended line.

(E) A flange.

(F) A compressor.

(G) An instrument.

(H) A meter.

(I) A cover or closed vent system not subject to § 129.128 (relating to covers and closed vent systems).

(J) A thief hatch or other opening on a controlled storage vessel not subject to § 129.123 (relating to storage vessels).

(ii) The term does not include a device, such as a natural gas-driven continuous bleed pneumatic controller or a natural gas-driven diaphragm pump, that vents as part of normal operations if the gas is discharged from the device's vent.

GOR—*gas-to-oil ratio*—The ratio of the volume of gas at standard temperature and pressure that is produced from a volume of oil when depressurized to standard temperature and pressure.

Gathering and boosting station—

(i) A permanent combination of one or more compressors that collects natural gas from one or more well sites and moves the natural gas at increased pressure into a gathering pipeline to the natural gas processing plant or into the pipeline.

(ii) The term does not include the combination of one or more compressors located at a well site or located at an onshore natural gas processing plant.

Hard-piping—Pipe or tubing that is manufactured and properly installed using good engineering judgment and standards.

Hydraulic fracturing—The process of directing pressurized fluids containing a combination of water, proppant and added chemicals to penetrate tight formations, such as shale or coal formations, that subsequently require high rate, extended flowback to expel fracture fluids and solids during a completion.

Hydraulic refracturing—Conducting a subsequent hydraulic fracturing operation at a well that has previously undergone a hydraulic fracturing operation.

In-house engineer—An individual who is both of the following:

(i) Employed by the same owner or operator as the responsible official that signs the certification required under § 129.130(k) (relating to recordkeeping and reporting).

(ii) Qualified by education, technical knowledge and expertise in the design and operation of a natural gas-driven diaphragm pump or closed vent system to make the technical certification required under § 129.125(c)(3)(ii) (relating to natural gas-driven diaphragm pumps) or § 129.128(c)(3), or both, as applicable.

Intermediate hydrocarbon liquid—A naturally occurring, unrefined petroleum liquid.

LDAR—Leak detection and repair.

Leak—An emission detected using one or more of the following methods:

(i) Through audible, visual or odorous evidence during an AVO inspection.

(ii) By OGI equipment calibrated according to § 129.127(h) (relating to fugitive emissions components).

(iii) With a concentration of 500 ppm or greater as methane or equivalent by a gas leak detector calibrated according to § 129.127(i).

(iv) Using an alternative leak detection method approved by the Department in § 129.127(c)(2)(ii)(C), (c)(3)(ii)(C) or (e)(2)(iii).

Maximum average daily throughput—The single highest daily average throughput during the 30-day potential to emit evaluation period employing generally accepted methods.

Monitoring system malfunction—

(i) A sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data.

(ii) The term does not include a system failure caused by poor maintenance or careless operation.

Natural gas distribution segment—The delivery of natural gas to the end user by a distribution company after the distribution company receives the natural gas from the natural gas transmission and storage segment.

Natural gas-driven diaphragm pump—

(i) A positive displacement pump powered by pressurized natural gas that uses the reciprocating action of flexible diaphragms in conjunction with check valves to pump a fluid.

(ii) The term does not include either of the following:

(A) A pump in which a fluid is displaced by a piston driven by a diaphragm.

(B) A lean glycol circulation pump that relies on energy exchange with the rich glycol from the contactor.

Natural gas-driven continuous bleed pneumatic controller—An automated instrument used for maintaining a process condition such as liquid level, pressure, delta-pressure or temperature powered by a continuous flow of pressurized natural gas.

Natural gas liquids—The hydrocarbons, such as ethane, propane, butane and pentane, that are extracted from field gas.

Natural gas processing plant—

(i) A processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both.

(ii) The term does not include a Joule-Thompson valve, a dew point depression valve or an isolated or standalone Joule-Thompson skid.

Natural gas transmission and storage segment—The term includes the following:

(i) The pipelines used for the long-distance transport of natural gas, excluding processing.

(ii) The natural gas transmission stations which include the following:

(A) The land, mains, valves, meters, boosters, regulators, storage vessels, dehydrators and compressors.

(B) The driving units and appurtenances associated with the items listed in clause (A).

(C) The equipment used for transporting gas from a production plant, delivery point of purchased gas, gathering system, storage area or other wholesale source of gas to one or more distribution areas.

(iii) The aboveground storage facilities and underground storage facilities that transport and store natural gas between the natural gas processing plant and natural gas distribution segment.

OGI—Optical gas imaging.

Open-ended valve or line—A valve, except a safety relief valve, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open piping.

Produced water—Water that is extracted from the earth from an oil or natural gas production well or that is separated from crude oil, condensate or natural gas after extraction.

Qualified professional engineer—

(i) An individual who is licensed by a state as a Professional Engineer to practice one or more disciplines of engineering and who is qualified by education, technical knowledge and experience to make the required specific technical certification.

(ii) The individual making this certification must be currently licensed in this Commonwealth or another state in which the responsible official, as defined in § 121.1 (relating to definitions), is located and with which the Commonwealth offers reciprocity.

Quality assurance or quality control activity—An activity such as a system accuracy audit and a zero and span adjustment that ensures the proper calibration and operation of monitoring equipment.

Reciprocating compressor—A piece of equipment that employs linear movement of a driveshaft to increase the pressure of a process gas by positive displacement.

Reciprocating compressor rod packing—

(i) A series of flexible rings in machined metal cups that fit around the reciprocating compressor piston rod to create a seal limiting the amount of compressed natural gas that escapes to the atmosphere.

(ii) Another mechanism that provides the same function.

Removed from service—A storage vessel that has been physically isolated and disconnected from the process for a purpose other than maintenance.

Repaired—A piece of equipment that is adjusted or otherwise altered to eliminate a leak and is remonitored to verify that emissions from the equipment are at or below the applicable leak limitation.

Returned to service—A storage vessel that was removed from service which has been:

(i) Reconnected to the original source of liquids or has been used to replace another storage vessel.

(ii) Installed in another location and introduced with crude oil, condensate, intermediate hydrocarbon liquids or produced water.

Routed to a process or route to a process—The emissions are conveyed by means of a closed vent system to an enclosed portion of a process that is operational where the emissions are controlled in one or more of the following ways:

(i) Predominantly recycled or consumed, or both, in the same manner as a material that fulfills the same function in the process.

(ii) Transformed by chemical reaction into materials that are not regulated.

(iii) Incorporated into a product.

(iv) Recovered for beneficial use.

Sensor—A device that measures a physical quantity or the change in a physical quantity such as temperature, pressure, flow rate, pH or liquid level.

Storage vessel—

(i) A container used to collect crude oil, condensate, intermediate hydrocarbon liquids or produced water that is constructed primarily of non-earthen materials which provide structural support.

(ii) The term includes a container described in subparagraph (i) that is skid-mounted or permanently attached to something that is mobile which has been located at a site for 180 or more consecutive days.

(iii) The term does not include the following:

(A) A process vessel such as a surge control vessel, bottoms receiver or knockout vessel.

(B) A pressure vessel used to store a liquid or a gas and is designed to operate in excess of 204.9 kilopascals (29.7 pounds per square inch, absolute) and to not vent to the atmosphere as a result of compression of the vapor headspace during filling of the vessel.

(C) A container described in subparagraph (i) with a capacity greater than 100,000 gallons used to recycle water that has been passed through two-stage separation.

Surface site—A combination of one or more graded pad sites, gravel pad sites, foundations, platforms or the immediate physical location upon which equipment is physically affixed.

TOC—total organic compounds—The results of EPA Method 25A.

UIC—Underground injection control.

UIC Class I oilfield disposal well—A well with a UIC Class I permit that meets the definition in 40 CFR 144.6(a)(2) (relating to classification of wells) and receives eligible fluids from oil and natural gas exploration and production operations.

UIC Class II oilfield disposal well—A well with a UIC Class II permit where wastewater resulting from oil and natural gas production operations is injected into underground porous rock formations not productive of oil or gas and sealed above and below by unbroken, impermeable strata.

Unconventional formation—A geological shale formation existing below the base of the Elk Sandstone or its geologic equivalent stratigraphic interval where natural gas generally cannot be produced at economic flow rates or in economic volumes except by vertical or horizontal well bores stimulated by hydraulic fracture treatments or by using multilateral well bores or other techniques to expose more of the formation to the well bore.

Unconventional well—A bore hole drilled or being drilled for the purpose of or to be used for the production of natural gas from an unconventional formation.

Unconventional well site—A location with one or more unconventional wells.

VRU—vapor recovery unit—A device used to recover vapor and route it to a process, flow line or other equipment.

Well—A hole drilled for producing oil or natural gas or into which a fluid is injected.

Wellhead—

(i) The piping, casing, tubing and connected valves protruding above the earth's surface for an oil or natural gas well.

(ii) The wellhead ends where the flow line connects to a wellhead valve.

(iii) The term does not include other equipment at the well site except for a conveyance through which gas is vented to the atmosphere.

Well site—

(i) One or more surface sites that are constructed for the drilling and subsequent operation of an unconventional well or injection well.

(ii) For purposes of the fugitive emissions standards in § 129.127, the term also means a separate tank battery surface site collecting crude oil, condensate, intermediate hydrocarbon liquids or produced water from a well not located at the well site, for example, a centralized tank battery.

(iii) For purposes of the fugitive emissions standards in § 129.127, the term does not include:

(A) A UIC Class I oilfield disposal well.

(B) A UIC Class II oilfield disposal well and disposal facility.

(C) The flange immediately upstream of the custody meter assembly.

(D) Equipment, including fugitive emissions components, located downstream of the flange in clause (C).

(b) *EPA methods*. The EPA methods referenced in this section and §§ 129.123—129.130 are those listed as follows, unless the context clearly indicates otherwise:

EPA Method 1—EPA Method 1, 40 CFR Part 60, Appendix A-1 (relating to test methods 1 through 2F), regarding sample and velocity traverses for stationary sources.

EPA Method 1A—EPA Method 1A, 40 CFR Part 60, Appendix A-1, regarding sample and velocity traverses for stationary sources with small stacks or ducts.

EPA Method 2—EPA Method 2, 40 CFR Part 60, Appendix A-1, regarding determination of stack gas velocity and volumetric flow rate (Type S pitot tube).

EPA Method 2A—EPA Method 2A, 40 CFR Part 60, Appendix A-1, regarding direct measurement of gas volume through pipes and small ducts.

EPA Method 2C—EPA Method 2C, 40 CFR Part 60, Appendix A-1, regarding determination of gas velocity and volumetric flow rate in small stacks or ducts (standard pitot tube).

EPA Method 2D—EPA Method 2D, 40 CFR Part 60, Appendix A-1, regarding measurement of gas volume flow rates in small pipes and ducts.

EPA Method 3A—EPA Method 3A, 40 CFR Part 60, Appendix A-2 (relating to test methods 2G through 3C), regarding determination of oxygen and carbon dioxide concentrations in emissions from stationary sources (instrumental analyzer procedure).

EPA Method 3B—EPA Method 3B, 40 CFR Part 60, Appendix A-2, regarding gas analysis for the determination of emission rate correction factor or excess air.

EPA Method 4—EPA Method 4, 40 CFR Part 60, Appendix A-3 (relating to test methods 4 through 5I), regarding determination of moisture content in stack gases.

EPA Method 18—EPA Method 18, 40 CFR Part 60, Appendix A-6 (relating to test methods 16 through 18), regarding measurement of gaseous organic compound emissions by gas chromatography.

EPA Method 21—EPA Method 21, 40 CFR Part 60, Appendix A-7 (relating to test methods 19 through 25E), regarding determination of volatile organic compound leaks.

EPA Method 22—EPA Method 22, 40 CFR Part 60, Appendix A-7, regarding visual determination of fugitive emissions from material sources and smoke emissions from flares.

EPA Method 25A—EPA Method 25A, 40 CFR Part 60, Appendix A-7, regarding determination of total gaseous organic concentration using a flame ionization analyzer.

§ 129.123. Storage vessels.

(a) Applicability.

(1) *Potential VOC emissions.* Except as specified in subsections (c) and (d), this section applies to the owner or operator of a storage vessel subject to § 129.121(a)(1) (relating to general provisions and applicability) that has the potential to emit 2.7 TPY or greater VOC emissions.

(2) Calculation of potential VOC emissions.

(i) The potential VOC emissions in paragraph (1) must be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput as defined in § 129.122 (relating to definitions, acronyms and EPA methods) prior to February 8, 2023, for an existing storage vessel.

(ii) The determination of potential VOC emissions may consider requirements under a legally and practically enforceable limit established in an operating permit or plan approval approved by the Department.

(iii) Vapor from the storage vessel that is recovered and routed to a process through a VRU is not required to be included in the determination of potential VOC emissions for purposes of determining applicability, if the owner or operator meets the following:

(A) The cover requirements in § 129.128(a) (relating to covers and closed vent systems).

(B) The closed vent system requirements in § 129.128(b).

(iv) If the apparatus that recovers and routes vapor to a process is removed from operation or is operated inconsistently with § 129.128, the owner or operator shall determine the storage vessel's potential VOC emissions under this paragraph within 30 calendar days of the date of apparatus removal or inconsistent operation.

(b) *VOC emissions limitations and control requirements.* Except as specified in subsections (c) and (d), beginning December 10, 2023, the owner or operator of a storage vessel subject to this section shall reduce VOC emissions by 95.0% by weight or greater. The owner or operator shall comply with paragraph (1) or paragraph (2) as applicable.

(1) *Route the VOC emissions to a control device.* The owner or operator shall do the following:

(i) Equip the storage vessel with a cover that meets the requirements of § 129.128(a).

(ii) Connect the storage vessel to a control device or process through a closed vent system that meets the requirements of § 129.128(b).

(iii) Route the emissions from the storage vessel to a control device or a process that meets the applicable requirements of § 129.129 (relating to control devices).

(iv) Demonstrate that the VOC emissions are reduced as specified in § 129.129(k).

(2) *Equip the storage vessel with a floating roof.* The owner or operator shall install a floating roof that meets the requirements of 40 CFR 60.112b(a)(1) or (2) (relating to standard for volatile organic compounds (VOC)) and the relevant monitoring, inspection, recordkeeping and reporting requirements in 40 CFR Part 60, Subpart Kb (relating to standards of performance for volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984).

(c) Exceptions.

(1) The emissions limitations and control requirements in subsection (b) do not apply to the owner or operator of a storage vessel that maintains actual VOC emissions less than 2.7 TPY determined as a 12-month rolling sum. An owner or operator claiming this exception shall perform the compliance demonstration requirements under paragraph (2) and maintain the records under subsection (g), as applicable.

(2) The owner or operator of a storage vessel claiming exception under this subsection shall perform the following:

(i) Beginning on or before January 9, 2023, calculate the actual VOC emissions once per calendar month using a generally accepted model or calculation methodology. The monthly calculations must meet the following:

(A) Be separated by at least 15 calendar days but not more than 45 calendar days.

(B) Be based on the monthly average throughput for the previous 30 calendar days.

(ii) Comply with subsection (b) within 1 year of the date of the monthly calculation showing that actual VOC emissions from the storage vessel have increased to 2.7 TPY VOC or greater.

(d) *Exemptions.* The emissions limitations and control requirements in subsection (b) do not apply to the owner or operator of a storage vessel that meets one or more of the following:

(1) Is skid-mounted or permanently attached to something that is mobile for which records are available to document that it has been located at a site for less than 180 consecutive days. An owner or operator claiming this exemption shall maintain the records under subsection (g), as applicable.

(2) Is used in the natural gas distribution segment.

(3) Is controlled under 40 CFR Part 60, Subpart Kb or 40 CFR Part 63, Subpart G, Subpart CC, Subpart HH or Subpart WW.

(e) *Requirements for a storage vessel removed from service.* A storage vessel subject to this section that is removed from service is not an affected source for the period that it is removed from service if the owner or operator performs the following:

(1) Completely empties and degasses the storage vessel so that the storage vessel no longer contains crude oil, condensate, produced water or intermediate hydrocarbon liquids. A storage vessel where liquid is left on walls, as bottom clingage or in pools due to floor irregularity is considered to be completely empty.

(2) Submits a notification in the next annual report required under § 129.130(k)(1) (relating to recordkeeping and reporting) identifying each storage vessel removed from service during the reporting period and the date of its removal from service.

(f) *Requirements for a storage vessel returned to service.* The owner or operator of a storage vessel identified in subsection (e) that is returned to service shall submit a notification in the next annual report required under § 129.130(k)(1) identifying each storage vessel that has been returned to service during the reporting period and the date of its return to service.

(g) *Recordkeeping and reporting requirements.* The owner or operator of a storage vessel subject to this section shall maintain the records under § 129.130(b) and submit the reports under § 129.130(k)(3)(i).

§ 129.124. Natural gas-driven continuous bleed pneumatic controllers.

(a) *Applicability.* This section applies to the owner or operator of a natural gas-driven continuous bleed pneumatic controller subject to § 129.121(a)(2) (relating to general provisions and applicability) located prior to the point of custody transfer of oil to an oil pipeline or of natural gas to the natural gas transmission and storage segment.

(b) *Exception.* An owner or operator may use a natural gas-driven continuous bleed pneumatic controller subject to this section with a bleed rate greater than the applicable requirements in subsection (c) based on functional requirements. An owner or operator claiming this exception shall perform the compliance demonstration requirements under subsection (d) and maintain the records under subsection (e), as applicable.

(c) *VOC emissions limitation requirements.* Except as specified in subsection (b), beginning December 10, 2023, the owner or operator of a natural gas-driven continuous bleed pneumatic controller subject to this section shall do the following:

(1) Ensure each natural gas-driven continuous bleed pneumatic controller with a natural gas bleed rate

greater than 6.0 standard cubic feet per hour, at a location other than a natural gas processing plant, maintains a natural gas bleed rate of less than or equal to 6.0 standard cubic feet per hour.

(2) Ensure each natural gas-driven continuous bleed pneumatic controller maintains a natural gas bleed rate of zero standard cubic feet per hour, if located at a natural gas processing plant.

(3) Perform the compliance demonstration requirements under subsection (d).

(d) *Compliance demonstration requirements.* The owner or operator shall tag each natural gas-driven continuous bleed pneumatic controller affected under subsection (c) with the following:

(1) The date the natural gas-driven continuous bleed pneumatic controller is required to comply with this section.

(2) An identification number that ensures traceability to the records for that natural gas-driven continuous bleed pneumatic controller.

(e) *Recordkeeping and reporting requirements.* The owner or operator of a natural gas-driven continuous bleed pneumatic controller affected under subsection (c) shall maintain the records under § 129.130(c) (relating to recordkeeping and reporting) and submit the reports under § 129.130(k)(3)(ii).

§ 129.125. Natural gas-driven diaphragm pumps.

(a) *Applicability.* This section applies to the owner or operator of a natural gas-driven diaphragm pump subject to § 129.121(a)(3) (relating to general provisions and applicability) located at a well site or natural gas processing plant.

(b) *VOC emissions limitation and control requirements.* Except as specified in subsections (c) and (d), beginning December 10, 2023, the owner or operator of a natural gas-driven diaphragm pump subject to this section shall comply with the following:

(1) *Unconventional well site.* The owner or operator of a natural gas-driven diaphragm pump located at a well site shall reduce the VOC emissions by 95.0% by weight or greater. The owner or operator shall do the following:

(i) Connect the natural gas-driven diaphragm pump to a control device or process through a closed vent system that meets the applicable requirements of § 129.128(b) (relating to covers and closed vent systems).

(ii) Route the emissions from the natural gas-driven diaphragm pump to a control device or a process that meets the applicable requirements of § 129.129 (relating to control devices).

(iii) Demonstrate that the VOC emissions are reduced as specified in § 129.129(k).

(2) *Natural gas processing plant.* The owner or operator of a natural gas-driven diaphragm pump located at a natural gas processing plant shall maintain an emission rate of zero standard cubic feet per hour.

(c) *Exceptions.* The emissions limitations and control requirements in subsection (b) do not apply to the owner or operator of a natural gas-driven diaphragm pump located at a well site which meets one or more of the following:

(1) Routes emissions to a control device which is unable to reduce VOC emissions by 95.0% by weight or

greater and there is no ability to route VOC emissions to a process. An owner or operator that claims this exception shall do the following:

(i) Maintain the records under § 129.130(d)(4) (relating to recordkeeping and reporting).

(ii) Connect the natural gas-driven diaphragm pump to the control device through a closed vent system that meets the requirements of § 129.128(b).

(iii) Demonstrate the percentage by which the VOC emissions are reduced as specified in § 129.129(k).

(2) Has no available control device or process. An owner or operator that claims this exception shall do the following:

(i) Maintain the records under § 129.130(d)(5).

(ii) Certify that there is no available control device or process in the next annual report required by § 129.130(k)(1).

(iii) Route emissions from the natural gas-driven diaphragm pump within 30 days of the installation of a control device or process. Once the emissions are routed to a control device or process, the certification of subparagraph (ii) is no longer required and the applicable requirements of this section shall be met.

(3) Is technically infeasible of connecting to a control device or process. An owner or operator that claims this exception shall do the following:

(i) Maintain the records under § 129.130(d)(6).

(ii) Perform an assessment of technical infeasibility which must meet the following:

(A) Be prepared under the supervision of an in-house engineer or qualified professional engineer.

(B) Include a technical analysis of safety considerations, the distance from an existing control device, the pressure losses and differentials in the closed vent system and the ability of the control device to handle the increase in emissions routed to them.

(C) Be certified, signed and dated by the engineer supervising the assessment, including the statement: "I certify that the assessment of technical infeasibility was prepared under my supervision. I further certify that the assessment was conducted and this report was prepared under the requirements of 25 Pa. Code § 129.125(c)(3). Based on my professional knowledge and experience, and inquiry of personnel involved in the assessment, the certification submitted herein is true, accurate, and complete. I am aware that there are penalties for knowingly submitting false information."

(d) *Exemptions.* The emissions limitations and control requirements in subsection (b) do not apply to the owner or operator of a natural gas-driven diaphragm pump located at a well site which operates less than 90 days per calendar year. An owner or operator claiming this exemption shall maintain the records under § 129.130(d)(3).

(e) *Removal of control device or process.* The owner or operator of a natural gas-driven diaphragm pump located at a well site that routes emissions to a control device or process which is removed or is no longer available shall comply with one of the exceptions in subsection (c), as applicable.

(f) *Recordkeeping and reporting requirements.* The owner or operator of a natural gas-driven diaphragm

pump subject to this section shall maintain the records under § 129.130(d) and submit the reports under § 129.130(k)(3)(iii).

§ 129.126. Compressors.

(a) *Applicability.* This section applies to the owner or operator of a reciprocating compressor or centrifugal compressor subject to § 129.121(a)(4) (relating to general provisions and applicability) that meets the following:

(1) *Reciprocating compressor.* Each reciprocating compressor located between the wellhead and point of custody transfer to the natural gas transmission and storage segment.

(2) *Centrifugal compressor.* Each centrifugal compressor using wet seals that is located between the wellhead and point of custody transfer to the natural gas transmission and storage segment.

(b) *VOC emissions control requirements for a reciprocating compressor.* Beginning December 10, 2023, the owner or operator of a reciprocating compressor subject to this section shall meet one of the following:

(1) Replace the reciprocating compressor rod packing on or before one of the following:

(i) The reciprocating compressor has operated for 26,000 hours. The number of hours of operation must be continuously monitored beginning on the later of:

(A) The date of the most recent reciprocating compressor rod packing replacement.

(B) December 10, 2022, for a reciprocating compressor rod packing that has not yet been replaced.

(ii) The reciprocating compressor has operated for 36 months. The number of months of operation must be continuously monitored beginning on the later of:

(A) The date of the most recent reciprocating compressor rod packing replacement.

(B) December 10, 2025, for a reciprocating compressor rod packing that has not yet been replaced.

(2) Route the VOC emissions to a control device or a process that meets § 129.129 (relating to control devices) by using a reciprocating compressor rod packing emissions collection system that operates under negative pressure and meets the cover requirements of § 129.128(a) (relating to covers and closed vent systems) and the closed vent system requirements of § 129.128(b).

(c) *VOC emissions limitation and control requirements for a centrifugal compressor.* Except as specified in subsection (d), the owner or operator of a centrifugal compressor subject to this section shall perform the following:

(1) Reduce the VOC emissions from each centrifugal compressor wet seal fluid degassing system by 95.0% by weight or greater.

(2) Equip the wet seal fluid degassing system with a cover that meets the requirements of § 129.128(a) through a closed vent system that meets the requirements of § 129.128(b) to a control device or a process that meets the applicable requirements of § 129.129.

(3) Demonstrate that the VOC emissions are reduced as specified in § 129.129(k).

(d) *Exemptions.* Subsection (c) does not apply to the owner or operator of a centrifugal compressor that meets the following:

(1) Is located at a well site.

(2) Is located at an adjacent well site and services more than one well site.

(e) *Recordkeeping and reporting requirements.* The owner or operator of a reciprocating compressor or centrifugal compressor subject to this section shall do the following, as applicable:

(1) For a reciprocating compressor, maintain the records under § 129.130(e) (relating to recordkeeping and reporting) and submit the reports under § 129.130(k)(3)(iv).

(2) For a centrifugal compressor, maintain the records under § 129.130(f) and submit the reports under § 129.130(k)(3)(v).

§ 129.127. Fugitive emissions components.

(a) *Applicability.* This section applies to the owner or operator of a fugitive emissions component subject to § 129.121(a)(5) (relating to general provisions and applicability), located at one or more of the following:

- (1) An unconventional well site.
- (2) A natural gas gathering and boosting station.
- (3) A natural gas processing plant.

(b) *Average production calculation procedure for a well site.* Beginning on or before January 9, 2023:

(1) The owner or operator of a well site subject to subsection (a)(1) shall calculate the average production in barrels of oil equivalent per day of the well site using the previous 12 calendar months of operation as reported to the Department and thereafter as specified in subsection (c)(4) for the previous calendar year. The owner or operator shall do the following:

(i) For each well at the well site with production reported to the Department:

(A) Record the barrels of oil produced for each active well.

(B) Convert the natural gas production for each active well to equivalent barrels of oil by dividing the standard cubic feet of natural gas produced by 6,000 standard cubic feet per barrel of oil equivalent.

(C) Convert the condensate production for each active well to equivalent barrels of oil by multiplying the barrels of condensate by 0.9 barrels of oil equivalent per barrel of condensate.

(ii) Calculate the total production for each active well, in barrels of oil equivalent, by adding the results of subparagraph (i)(A)—(C) for each active well.

(iii) Sum the results of subparagraph (ii) for all active wells at the well site and divide by 365 or 366 days for the previous 12 calendar months or the previous calendar year, as applicable.

(2) If the owner or operator does not know the production of an individual well at the well site, the owner or operator shall comply with subsection (c)(2).

(c) *Requirements for an unconventional well site.*

(1) For a well site consisting of only oil wells, the owner or operator shall:

(i) Determine the GOR of the oil well site using generally accepted methods.

(ii) If the GOR of the oil well site is less than 300 standard cubic feet of gas per barrel of oil produced, maintain the records under § 129.130(g)(1) (relating to recordkeeping and reporting).

(iii) If the GOR of the oil well site is equal to or greater than 300 standard cubic feet of gas per barrel of oil produced, meet the requirements of paragraph (2) or paragraph (3) based on the results of subsection (b)(1).

(2) For a well site producing, on average, equal to or greater than 15 barrels of oil equivalent per day, with at least one well producing, on average, equal to or greater than 15 barrels of oil equivalent per day, the owner or operator shall:

(i) Conduct an initial AVO inspection on or before February 8, 2023, with monthly inspections thereafter separated by at least 15 calendar days but not more than 45 calendar days.

(ii) Conduct an initial LDAR inspection program on or before February 8, 2023, with quarterly inspections thereafter separated by at least 60 calendar days but not more than 120 calendar days using one or more of the following:

- (A) OGI equipment.
- (B) A gas leak detector that meets the requirements of EPA Method 21.
- (C) Another leak detection method approved by the Department.

(3) For a well site producing, on average, equal to or greater than 15 barrels of oil equivalent per day, and at least one well producing, on average, equal to or greater than 5 barrels of oil equivalent per day but less than 15 barrels of oil equivalent per day, the owner or operator shall:

(i) Conduct an initial AVO inspection on or before February 8, 2023, with monthly inspections thereafter separated by at least 15 calendar days but not more than 45 calendar days.

(ii) Conduct an initial LDAR inspection program on or before May 9, 2023, with annual inspections thereafter separated by at least 335 calendar days but not more than 395 calendar days using one or more of the following:

- (A) OGI equipment.
- (B) A gas leak detector that meets the requirements of EPA Method 21.
- (C) Another leak detection method approved by the Department.

(4) The owner or operator of a producing well site shall calculate the average production of the well site under subsection (b) for the previous calendar year not later than February 15 and may adjust the frequency of the required LDAR inspection as follows:

(i) If two consecutive calculations show reduced production, the owner or operator may adopt the requirements applicable to the reduced production level.

(ii) If a calculation shows higher production, the owner or operator shall adopt the requirements applicable to the higher production level immediately.

(5) The owner or operator of a well site subject to paragraph (3) may submit to the appropriate Department Regional Office a request, in writing, for an exemption from the requirements of paragraph (3)(ii).

(i) The written request must include the following:

- (A) Name and location of the well site.

(B) A demonstration that the requirements of paragraph (3)(i) are not technically or economically feasible for the well site.

(C) Sufficient methods for demonstrating compliance with all applicable standards or regulations promulgated under the Clean Air Act or the Act.

(D) Sufficient methods for demonstrating compliance with this section, §§ 129.121—129.126 and 129.128—129.130.

(ii) The Department will review the complete written request submitted in accordance with subparagraph (i) and approve or deny the request in writing.

(iii) The Department will submit each exemption determination approved under subparagraph (ii) to the Administrator of the EPA for approval as a revision to the SIP. The owner or operator shall bear the costs of public hearings and notifications, including newspaper notices, required for the SIP submittal.

(iv) The owner or operator of the well site identified in subparagraph (i)(A) shall remain subject to the requirements of paragraphs (1), (3)(i) and (4).

(d) *Requirements for a shut-in unconventional well site.* The owner or operator of an unconventional well site that is temporarily shut-in is not required to perform an LDAR inspection of the well site until one of the following occurs, whichever is first:

(1) Sixty days after the unconventional well site is put into production.

(2) The date of the next required LDAR inspection after the unconventional well site is put into production.

(e) *Requirements for a natural gas gathering and boosting station or a natural gas processing plant.* The owner or operator of a natural gas gathering and boosting station or a natural gas processing plant shall conduct the following:

(1) An initial AVO inspection on or before February 8, 2023, with monthly inspections thereafter separated by at least 15 calendar days but not more than 45 calendar days.

(2) An initial LDAR inspection program on or before February 8, 2023, with quarterly inspections thereafter separated by at least 60 calendar days but not more than 120 calendar days using one or more of the following:

(i) OGI equipment.

(ii) A gas leak detector that meets the requirements of EPA Method 21.

(iii) Another leak detection method approved by the Department.

(f) *Requirements for extension of the LDAR inspection interval.* The owner or operator of an affected facility may request, in writing, an extension of the LDAR inspection interval from the Air Program Manager of the appropriate Department Regional Office.

(g) *Fugitive emissions monitoring plan.* The owner or operator shall develop, in writing, an emissions monitoring plan that covers the collection of fugitive emissions components at the subject facility within each company-defined area. The written plan must include the following elements:

(1) The technique used for determining fugitive emissions.

(2) A list of fugitive emissions detection equipment, including the manufacturer and model number, that may be used at the facility.

(3) A list of personnel that may conduct the monitoring surveys at the facility, including their training and experience.

(4) The procedure and timeframe for identifying and fixing a fugitive emissions component from which fugitive emissions are detected, including for a component that is unsafe-to-repair.

(5) The procedure and timeframe for verifying fugitive emissions component repairs.

(6) The procedure and schedule for verifying the fugitive emissions detection equipment is operating properly.

(i) For OGI equipment, the verification must be completed as specified in subsection (h).

(ii) For gas leak detection equipment using EPA Method 21, the verification must be completed as specified in subsection (i).

(iii) For a Department-approved method, a copy of the request for approval that shows the method's equivalence to subsection (h) or subsection (i).

(7) A sitemap.

(8) If using OGI, a defined observation path that meets the following:

(i) Ensures that all fugitive emissions components are within sight of the path.

(ii) Accounts for interferences.

(9) If using EPA Method 21, a list of the fugitive emissions components to be monitored and an identification method to locate them in the field.

(10) A written plan for each fugitive emissions component designated as difficult-to-monitor or unsafe-to-monitor which includes the following:

(i) A method to identify a difficult-to-monitor or unsafe-to-monitor component in the field.

(ii) The reason each component was identified as difficult-to-monitor or unsafe-to-monitor.

(iii) The monitoring schedule for each component identified as difficult-to-monitor or unsafe-to-monitor. The monitoring schedule for difficult-to-monitor components must include at least one survey per year no more than 13 months apart.

(h) *Verification procedures for OGI equipment.* An owner or operator that identifies OGI equipment in the fugitive emissions monitoring plan in subsection (g)(6)(i) shall complete the verification by doing the following:

(1) Demonstrating that the OGI equipment is capable of imaging a gas:

(i) In the spectral range for the compound of highest concentration in the potential fugitive emissions.

(ii) That is half methane, half propane at a concentration of 10,000 ppm at a flow rate of less than or equal to 60 grams per hour (2.115 ounces per hour) from a 1/4-inch diameter orifice.

(2) Performing a verification check each day prior to use.

(3) Determining the equipment operator's maximum viewing distance from the fugitive emissions component and how the equipment operator will ensure that this distance is maintained.

(4) Determining the maximum wind speed during which monitoring can be performed and how the equipment operator will ensure monitoring occurs only at wind speeds below this threshold.

(5) Conducting the survey by using the following procedures:

(i) Ensuring an adequate thermal background is present to view potential fugitive emissions.

(ii) Dealing with adverse monitoring conditions, such as wind.

(iii) Dealing with interferences, such as steam.

(6) Following the manufacturer's recommended calibration and maintenance procedures.

(i) *Verification procedures for gas leak detection equipment using EPA Method 21.* An owner or operator that identifies gas leak detection equipment using EPA Method 21 in the fugitive emissions monitoring plan in subsection (g)(6)(ii) shall complete the verification by doing the following:

(1) Verifying that the gas leak detection equipment meets:

(i) The requirements of Section 6.0 of EPA Method 21 with a fugitive emissions definition of 500 ppm or greater calibrated as methane using an FID-based instrument.

(ii) A site-specific fugitive emission definition that would be equivalent to subparagraph (i) for other equipment approved for use in EPA Method 21 by the Department.

(2) Using the average composition of the fluid, not the individual organic compounds in the stream, when performing the instrument response factor of Section 8.1.1 of EPA Method 21.

(3) Calculating the average stream response factor on an inert-free basis for process streams that contain nitrogen, air or other inert gases that are not organic hazardous air pollutants or VOCs.

(4) Calibrating the gas leak detection instrument in accordance with Section 10.1 of EPA Method 21 on each day of its use using zero air, defined as a calibration gas with less than 10 ppm by volume of hydrocarbon in air, and a mixture of methane in air at a concentration less than 10,000 ppm by volume as the calibration gases.

(5) Conducting the surveys which, at a minimum, must comply with the relevant sections of EPA Method 21, including Section 8.3.1.

(j) *Fugitive emissions detection devices.* Fugitive emissions detection devices must be operated and maintained in accordance with manufacturer-recommended procedures and as required by the test method or a Department-approved method.

(k) *Background adjustment.* For LDAR inspections using a gas leak detector in accordance with EPA Method 21, the owner or operator may choose to adjust the gas leak detection instrument readings to account for the background organic concentration level as determined by the procedures of Section 8.3.2 of EPA Method 21.

(l) *Repair and resurvey provisions.* The owner or operator shall repair a leak detected from a fugitive emissions component as follows:

(1) A first attempt at repair must be made within 5 calendar days of detection, and repair must be completed no later than 15 calendar days after the leak is detected unless:

(i) The purchase of a part is required. The repair must be completed no later than 10 calendar days after the receipt of the purchased part.

(ii) The repair is technically infeasible because of one of the following reasons:

(A) It requires vent blowdown.

(B) It requires facility shutdown.

(C) It requires a well shut-in.

(D) It is unsafe to repair during operation of the unit.

(iii) A repair that is technically infeasible under subparagraph (ii) must be completed at the earliest of the following:

(A) After a planned vent blowdown.

(B) The next facility shutdown.

(C) Within 2 years.

(2) The owner or operator shall resurvey the fugitive emissions component no later than 30 calendar days after the leak is repaired.

(3) For a repair that cannot be made during the monitoring survey when the leak is initially found, the owner or operator shall do one of the following:

(i) Take a digital photograph of the fugitive emissions component which includes:

(A) The date the photo was taken.

(B) Clear identification of the component by location, such as by latitude and longitude or other descriptive landmarks visible in the picture.

(ii) Tag the component for identification purposes.

(4) A gas leak is considered repaired if:

(i) There is no visible leak image when using OGI equipment calibrated according to subsection (h).

(ii) A leak concentration of less than 500 ppm as methane is detected when the gas leak detector probe inlet is placed at the surface of the fugitive emissions component for a gas leak detector calibrated according to subsection (i).

(iii) There are no detectable emissions consistent with Section 8.3.2 of EPA Method 21.

(iv) There is no bubbling at the leak interface using the soap solution bubble test specified in Section 8.3.3 of EPA Method 21.

(m) *Recordkeeping and reporting requirements.* The owner or operator of a fugitive emissions component subject to this section shall maintain the records under § 129.130(g) and submit the reports under § 129.130(k)(3)(vi).

§ 129.128. Covers and closed vent systems.

(a) *Requirements for a cover on a storage vessel, reciprocating compressor or centrifugal compressor.* The owner or operator shall perform the following for a cover of a source subject to § 129.123(b)(1)(i) or § 129.126(b)(2) or (c)(2) (relating to storage vessels; and compressors), as applicable:

(1) Ensure that the cover and all openings on the cover form a continuous impermeable barrier over each subject source as follows:

(i) The entire surface area of the liquid in the storage vessel.

(ii) The entire surface area of the liquid in the wet seal fluid degassing system of a centrifugal compressor.

(iii) The rod packing emissions collection system of a reciprocating compressor.

(2) Ensure that each cover opening is covered by a gasketed lid or cap that is secured in a closed, sealed position except when it is necessary to use an opening for one or more of the following:

(i) To inspect, maintain, repair or replace equipment.

(ii) To route a liquid, gas, vapor or fume from the source to a control device or a process that meets the applicable requirements of § 129.129 (relating to control devices) through a closed vent system designed and operated in accordance with subsection (b).

(iii) To inspect or sample the material in a storage vessel.

(iv) To add material to or remove material from a storage vessel, including openings necessary to equalize or balance the internal pressure of the storage vessel following changes in the level of the material in the storage vessel.

(3) Ensure that each storage vessel thief hatch is equipped, maintained and operated with the following:

(i) A mechanism to ensure that the lid remains properly seated and sealed under normal operating conditions, including when working, standing or breathing, or when flash emissions may be generated.

(ii) A gasket made of a suitable material based on the composition of the fluid in the storage vessel and weather conditions.

(4) Conduct an initial AVO inspection on or before February 8, 2023, with monthly inspections thereafter separated by at least 15 calendar days but not more than 45 calendar days for defects that could result in air emissions. Defects include the following:

(i) A visible crack, hole or gap in the cover.

(ii) A visible crack, hole or gap between the cover and the separator wall.

(iii) A broken, cracked or otherwise damaged seal or gasket on a closure device.

(iv) A broken or missing hatch, access cover, cap or other closure device.

(5) Inspect only those portions of the cover that extend to or above the surface and the connections on those portions of the cover, including fill ports, access hatches and gauge wells that can be opened to the atmosphere for a storage vessel that is partially buried or entirely underground.

(6) Repair a detected leak or defect as specified in § 129.127(l) (relating to fugitive emissions components).

(7) Maintain the records under § 129.130(h) (relating to recordkeeping and reporting) and submit the report under § 129.130(k)(3)(vii).

(b) *Requirements for a closed vent system.* The owner or operator shall perform the following for each closed vent system installed on a source subject to § 129.123(b)(1)(ii), § 129.125(b)(1)(i) or (c)(1)(ii) (relating to natural gas-driven diaphragm pumps) or § 129.126(b)(2) or (c)(2):

(1) Design the closed vent system to route the liquid, gas, vapor or fume emitted from the source to a control device or process that meets the applicable requirements in § 129.129.

(2) Operate the closed vent system with no detectable emissions as determined by the following:

(i) Conduct an initial AVO inspection on or before February 8, 2023, with monthly inspections thereafter separated by at least 15 calendar days but not more than 45 calendar days for defects that could result in air emissions. Defects include the following:

(A) A visible crack, hole or gap in piping.

(B) A loose connection.

(C) A liquid leak.

(D) A broken or missing cap or other closure device.

(ii) Conducting a no detectable emissions inspection as specified in subsection (d) during the facility's scheduled LDAR inspection in accordance with § 129.127(c)(2)(ii), (c)(3)(ii) or (e)(2).

(3) Repair a detected leak or defect as specified in § 129.127(l).

(4) Except as specified in subparagraph (iii), if the closed vent system contains one or more bypass devices that could be used to divert the liquid, gas, vapor or fume from routing to the control device or to the process under paragraph (1), perform one or more of the following:

(i) Install, calibrate, operate and maintain a flow indicator at the inlet to the bypass device so when the bypass device is open it does one of the following:

(A) Sounds an alarm.

(B) Initiates a notification by means of a remote alarm to the nearest field office.

(ii) Secure the bypass device valve installed at the inlet to the bypass device in the non-diverting position using the following procedure:

(A) Installing either of the following:

(I) A car-seal.

(II) A lock-and-key configuration.

(B) Visually inspecting the mechanism in clause (A) to verify that the valve is maintained in the non-diverting position on or before February 8, 2023, with monthly inspections separated by at least 15 calendar days but not more than 45 calendar days.

(C) Maintaining the records under § 129.130(i)(4).

(iii) Subparagraphs (i) and (ii) do not apply to a low leg drain, high point bleed, analyzer vent, open-ended valve or line, or safety device.

(5) Conduct an assessment that meets the requirements of subsection (c).

(6) Maintain the records under § 129.130(i) and submit the reports under § 129.130(k)(3)(viii).

(c) *Requirements for closed vent system design and capacity assessment.* An owner or operator that installs a closed vent system under subsection (b) shall perform a design and capacity assessment which must include the following:

(1) Be prepared under the supervision of an in-house engineer or qualified professional engineer.

(2) Verify the following:

(i) That the closed vent system is of sufficient design and capacity to ensure that the emissions from the emission source are routed to the control device or process.

(i) That the control device or process is of sufficient design and capacity to accommodate the emissions from the emission source.

(3) Be certified, signed and dated by the engineer supervising the assessment, including the statement: "I certify that the closed vent design and capacity assessment was prepared under my supervision. I further certify that the assessment was conducted and this report was prepared under the requirements of 25 Pa. Code § 129.128(c). Based on my professional knowledge and experience, and inquiry of personnel involved in the assessment, the certification submitted herein is true, accurate, and complete. I am aware that there are penalties for knowingly submitting false information."

(d) *No detectable emissions procedures.* The owner or operator shall conduct the no detectable emissions inspection required under subsection (b)(2)(ii) by performing one of the following:

- (1) Use OGI equipment that meets § 129.127(h).
- (2) Use a gas leak detection instrument that meets § 129.127(i). The owner or operator may adjust the gas leak detection instrument readings as specified in § 129.127(k).
- (3) Use another leak detection method approved by the Department.
- (4) Determine if a potential leak interface operates with no detectable emissions, if the gas leak detection instrument reading is not a leak as defined in § 129.122(a) (relating to definitions, acronyms and EPA methods).

§ 129.129. Control devices.

(a) *Applicability.* This section applies to the owner or operator of each control device that receives a liquid, gas, vapor or fume from a source subject to § 129.123(b)(1)(iii), § 129.125(b)(1)(ii) or (c)(1), or § 129.126(b)(2) or (c)(2) (relating to storage vessels; natural gas-driven diaphragm pumps; and compressors).

- (1) The owner or operator shall perform the following:
 - (i) Operate each control device whenever a liquid, gas, vapor or fume is routed to the control device.
 - (ii) Maintain the records under § 129.130(j) (relating to recordkeeping and reporting) and submit the reports under § 129.130(k)(3)(ix).
- (2) The owner or operator may route the liquid, gas, vapor or fume from more than one source subject to § 129.123(b)(1)(iii), § 129.125(b)(1)(ii) or (c)(1), or § 129.126(b)(2) or (c)(2) to a control device installed and operated under this section.

(b) *General requirements for a control device.* The owner or operator of a control device subject to this section shall install and operate one or more control devices listed in subsections (c)—(i). The owner or operator shall meet the following requirements, as applicable:

- (1) Operate the control device following the manufacturer's written operating instructions, procedures and maintenance schedule to ensure good air pollution control practices for minimizing VOC emissions.
- (2) Ensure that the control device is maintained in a leak-free condition by conducting a physical integrity check according to the manufacturer's instructions, with monthly inspections separated by at least 15 calendar days but not more than 45 calendar days.

(3) Maintain a pilot flame while operating the control device and monitor the pilot flame by installing a heat sensing CPMS as specified under subsection (m)(3). If the heat sensing CPMS indicates the absence of the pilot flame or if the control device is smoking or shows other signs of improper equipment operation, ensure the control device is returned to proper operation by performing the following procedures:

- (i) Checking the air vent for obstruction and clearing an observed obstruction.
- (ii) Checking for liquid reaching the combustor.

(4) Operate the control device with no visible emissions, except for periods not to exceed a total of 1 minute during a 15-minute period as determined by conducting a visible emissions test according to Section 11 of EPA Method 22.

- (i) Each monthly visible emissions test shall be separated by at least 15 calendar days but not more than 45 calendar days.
- (ii) The observation period for the test in subparagraph (i) shall be 15 minutes.
- (5) Repair the control device if it fails the visible emissions test of paragraph (4) as specified in subparagraph (i) or subparagraph (ii) and return the control device to compliant operation.

- (i) The manufacturer's repair instructions, if available.
- (ii) The best combustion engineering practice applicable to the control device if the manufacturer's repair instructions are not available.

(6) Ensure the control device passes the EPA Method 22 visual emissions test described in paragraph (4) following return to operation from a maintenance or repair activity.

(7) Record the inspection, repair and maintenance activities for the control device in a maintenance and repair log.

(c) *Compliance requirements for a manufacturer-tested combustion device.* The owner or operator of a control device subject to this section that installs a control device tested under 40 CFR 60.5413a(d) (relating to what are the performance testing procedures for control devices used to demonstrate compliance at my centrifugal compressor and storage vessel affected facilities?) shall meet subsection (b)(1)—(7) and the following:

- (1) Maintain the inlet gas flow rate at less than or equal to the maximum flow rate specified by the manufacturer. This is confirmed by one of the following:
 - (i) Installing, operating and maintaining a flow CPMS that meets subsection (m)(1) and (2)(i) to measure gas flow rate at the inlet to the control device.
 - (ii) Conducting a periodic performance test under subsection (k) instead of installing a flow CPMS to demonstrate that the mass content of VOC in the gases vented to the device is reduced by 95.0% by weight or greater.
- (2) Submit an electronic copy of the performance test results to the EPA as required by 40 CFR 60.5413a(d) in accordance with 40 CFR 60.5413a(e)(6).

(d) *Compliance requirements for an enclosed combustion device.* The owner or operator of a control device subject to this section that installs an enclosed combustion device, such as a thermal vapor incinerator, catalytic vapor incinerator, boiler or process heater, shall meet subsection (b)(1)—(7) and the following:

(1) Ensure the enclosed combustion control device is designed and operated to meet one of the following performance requirements:

(i) To reduce the mass content of VOC in the gases vented to the device by 95.0% by weight or greater, as determined under subsection (k).

(ii) To reduce the concentration of TOC in the exhaust gases at the outlet to the device to a level less than or equal to 275 ppmvd as propane corrected to 3% oxygen as determined under subsection (l).

(iii) To operate at a minimum temperature of 760 °Celsius (1,400 °Fahrenheit), if it is demonstrated during the performance test conducted under subsection (k) that combustion zone temperature is an indicator of destruction efficiency.

(iv) To introduce the vent stream into the flame zone of the boiler or process heater if a boiler or process heater is used as the control device.

(2) Install, calibrate, operate and maintain a CPMS according to the manufacturer's specifications and subsection (m) to measure the values of the operating parameters appropriate to the control device as follows:

(i) For a thermal vapor incinerator that demonstrates under subsection (m)(6)(i) that combustion zone temperature is an accurate indicator of performance, a temperature CPMS that meets subsection (m)(1) and (4) with the temperature sensor installed at a location representative of the combustion zone temperature.

(ii) For a catalytic vapor incinerator, a temperature CPMS capable of monitoring temperature at two locations and that meets subsection (m)(1) and (4) with one temperature sensor installed in the vent stream at the nearest feasible point to the catalyst bed inlet and a second temperature sensor installed in the vent stream at the nearest feasible point to the catalyst bed outlet.

(iii) For a boiler or process heater that demonstrates under subsection (m)(6)(i) that combustion zone temperature is an accurate indicator of performance, a temperature CPMS that meets subsection (m)(1) and (4) with the temperature sensor installed at a location representative of the combustion zone temperature. The monitoring requirements do not apply if the boiler or process heater meets either of the following:

(A) Has a design heat input capacity of 44 megawatts (150 MMBtu per hour) or greater.

(B) Introduces the vent stream with the primary fuel or uses the vent stream as the primary fuel.

(iv) For a control device complying with paragraph (1)(ii), an organic concentration CPMS that meets subsection (m)(1) and (5) that measures the concentration level of organic compounds in the exhaust vent stream from the control device.

(3) Operate the control device in compliance with the operating parameter value established under subsection (m)(6).

(4) Calculate the daily average of the monitored operating parameter for each operating day, using the valid data recorded by the monitoring system under subsection (m)(7).

(5) Ensure that the daily average of the monitoring parameter value calculated under paragraph (4) complies with the parameter value established under paragraph (3) as specified in subsection (m)(9).

(6) Operate the CPMS installed under paragraph (2) whenever the source is operating, except during the times specified in subsection (m)(8)(iii).

(e) *Compliance requirements for a flare.* The owner or operator of a control device subject to this section that installs a flare designed and operated in accordance with 40 CFR 60.18(b) (relating to general control device and work practice requirements) shall meet subsection (b)(3)—(7).

(f) *Compliance requirements for a carbon adsorption system.* The owner or operator of a control device subject to this section that installs a carbon adsorption system shall meet subsection (b)(1) and (2) and the following:

(1) Design and operate the carbon adsorption system to reduce the mass content of VOC in the gases vented to the device as demonstrated by one of the following:

(i) Determining the VOC emission reduction is 95.0% by weight or greater as specified in subsection (k).

(ii) Reducing the concentration of TOC in the exhaust gases at the outlet to the device to a level less than or equal to 275 ppmvd as propane corrected to 3% oxygen as determined under subsection (l).

(iii) Conducting a design analysis in accordance with subsection (g)(6) or subsection (h)(2) as applicable.

(2) Include a carbon replacement schedule in the design of the carbon adsorption system.

(3) Replace the carbon in the control device with fresh carbon on a regular schedule that is no longer than the carbon service life established according to the design analysis in subsection (g)(6) or subsection (h)(2) or according to the replacement schedule in paragraph (2).

(4) Manage the spent carbon removed from the carbon adsorption system in paragraph (3) by one of the following:

(i) Regenerating or reactivating the spent carbon in one of the following:

(A) A thermal treatment unit for which the owner or operator has been issued a permit under 40 CFR Part 270 (relating to EPA administered permit programs: the hazardous waste permit program) that implements the requirements of 40 CFR Part 264, Subpart X (relating to miscellaneous units).

(B) A unit equipped with operating organic air emission controls in accordance with an emissions standard for VOC under a subpart in 40 CFR Part 60 (relating to standards of performance for new stationary sources) or 40 CFR Part 63 (relating to National emission standards for hazardous air pollutants for source categories).

(ii) Burning the spent carbon in one of the following:

(A) A hazardous waste incinerator, boiler or industrial furnace for which the owner or operator complies with the requirements of 40 CFR Part 63, Subpart EEE (relating to National emission standards for hazardous air pollutants from hazardous waste combustors) and has submitted a Notification of Compliance under 40 CFR 63.1207(j) (relating to what are the performance testing requirements?).

(B) An industrial furnace for which the owner or operator has been issued a permit under 40 CFR Part 270 that implements the requirements of 40 CFR Part 266, Subpart H (relating to hazardous waste burned in boilers and industrial furnaces).

(C) An industrial furnace designed and operated in accordance with the interim status requirements of 40 CFR Part 266, Subpart H.

(g) *Additional compliance requirements for a regenerative carbon adsorption system.* The owner or operator of a control device subject to this section that installs a regenerative carbon adsorption system shall meet subsection (f) and the following:

(1) Install, calibrate, operate and maintain a CPMS according to the manufacturer's specifications and the applicable requirements of subsection (m) to measure the values of the operating parameters appropriate to the control device as follows:

(i) For a source complying with subsection (f)(1)(i), a flow CPMS system that meets the requirements of subsection (m)(1) and (2)(ii) to measure and record the average total regeneration steam mass flow or volumetric flow during each carbon bed regeneration cycle. The owner or operator shall inspect the following:

(A) The mechanical connections for leakage with monthly inspections separated by at least 15 calendar days but not more than 45 calendar days.

(B) The components of the flow CPMS for physical and operational integrity if the flow CPMS is not equipped with a redundant flow sensor with quarterly inspections separated by at least 60 calendar days but not more than 120 calendar days.

(C) The electrical connections of the flow CPMS for oxidation and galvanic corrosion if the flow CPMS is not equipped with a redundant flow sensor with quarterly inspections separated by at least 60 calendar days but not more than 120 calendar days.

(ii) For a source complying with subsection (f)(1)(i), a temperature CPMS that meets the requirements of subsection (m)(1) and (4) to measure and record the average carbon bed temperature for the duration of the carbon bed steaming cycle and measure the actual carbon bed temperature after regeneration and within 15 minutes of completing the cooling cycle.

(iii) For a source complying with subsection (f)(1)(ii), an organic concentration CPMS that meets subsection (m)(1) and (5) that measures the concentration level of organic compounds in the exhaust vent stream from the control device.

(2) Operate the control device in compliance with the operating parameter value established under subsection (m)(6).

(3) Calculate the daily average of the applicable monitored operating parameter for each operating day, using the valid data recorded by the CPMS as specified in subsection (m)(7).

(4) Ensure that the daily average of the monitoring parameter value calculated under paragraph (3) complies with the parameter value established under paragraph (2) as specified in subsection (m)(9).

(5) Operate the CPMS installed in paragraph (1) whenever the source is operating, except during the times specified in subsection (m)(8)(iii).

(6) Ensure that the design analysis to meet subsection (f)(1)(iii) and (2) for the regenerable carbon adsorption system meets the following:

(i) Includes an analysis of the vent stream, including the following information:

(A) Composition.

(B) Constituent concentrations.

(C) Flowrate.

(D) Relative humidity.

(E) Temperature.

(ii) Establishes the following parameters for the regenerable carbon adsorption system:

(A) Design exhaust vent stream organic compound concentration level.

(B) Adsorption cycle time.

(C) Number and capacity of carbon beds.

(D) Type and working capacity of activated carbon used for the carbon beds.

(E) Design total regeneration stream flow over the period of each complete carbon bed regeneration cycle.

(F) Design carbon bed temperature after regeneration.

(G) Design carbon bed regeneration time.

(H) Design service life of the carbon.

(h) *Additional compliance requirements for a non-regenerative carbon adsorption system.* The owner or operator of a control device subject to this section that installs a non-regenerative carbon adsorption system shall meet subsection (f) and the following:

(1) Monitor the design carbon replacement interval established in subsection (f)(2) or paragraph (2). The design carbon replacement interval must be based on the total carbon working capacity of the control device and the source operating schedule.

(2) Ensure that the design analysis to meet subsection (f)(1)(iii) and (2) for a non-regenerable carbon adsorption system, such as a carbon canister, meets the following:

(i) Includes an analysis of the vent stream including the following information:

(A) Composition.

(B) Constituent concentrations.

(C) Flowrate.

(D) Relative humidity.

(E) Temperature.

(ii) Establishes the following parameters for the non-regenerable carbon adsorption system:

(A) Design exhaust vent stream organic compound concentration level.

(B) Capacity of the carbon bed.

(C) Type and working capacity of activated carbon used for the carbon bed.

(D) Design carbon replacement interval based on the total carbon working capacity of the control device and the source operating schedule.

(iii) Incorporates dual carbon canisters in case of emission breakthrough occurring in one canister.

(i) *Compliance requirements for a condenser or non-destructive control device.* The owner or operator of a control device subject to this section that installs a condenser or other non-destructive control device shall meet subsection (b)(1) and (2) and the following:

(1) Design and operate the condenser or other non-destructive control device to reduce the mass content of VOC in the gases vented to the device as demonstrated by one of the following:

(i) Determining the VOC emissions reduction is 95.0% by weight or greater under subsection (k).

(ii) Reducing the concentration of TOC in the exhaust gases at the outlet to the device to a level less than or equal to 275 ppmvd as propane corrected to 3% oxygen as determined under subsection (l).

(iii) Conducting a design analysis in accordance with paragraph (7).

(2) Prepare a site-specific monitoring plan that addresses the following CPMS design, data collection, and quality assurance and quality control elements:

(i) The performance criteria and design specifications for the CPMS equipment, including the following:

(A) The location of the sampling interface that allows the CPMS to provide representative measurements. For a temperature CPMS that meets the requirements of subsection (m)(1) and (4) the sensor must be installed in the exhaust vent stream as detailed in the procedures of the site-specific monitoring plan.

(B) Equipment performance checks, system accuracy audits or other audit procedures.

(I) Performance evaluations of each CPMS shall be conducted in accordance with the site-specific monitoring plan.

(II) CPMS performance checks, system accuracy audits or other audit procedures specified in the site-specific monitoring plan shall be conducted at least once every 12 months.

(ii) Ongoing operation and maintenance procedures in accordance with 40 CFR 60.13(b) (relating to monitoring requirements).

(iii) Ongoing reporting and recordkeeping procedures in accordance with 40 CFR 60.7(c), (d) and (f) (relating to notification and record keeping).

(3) Install, calibrate, operate and maintain a CPMS according to the site-specific monitoring plan described in paragraph (2) and the applicable requirements of subsection (m) to measure the values of the operating parameters appropriate to the control device as follows:

(i) For a source complying with paragraph (1)(i), a temperature CPMS that meets subsection (m)(1) and (4) to measure and record the average condenser outlet temperature.

(ii) For a source complying with paragraph (1)(ii), an organic concentration CPMS that meets subsection (m)(1) and (5) that measures the concentration level of organic compounds in the exhaust vent stream from the control device.

(4) Operate the control device in compliance with the operating parameter value established under subsection (m)(6).

(5) Calculate the daily average of the applicable monitored operating parameter for each operating day, using the valid data recorded by the CPMS as follows:

(i) For a source complying with paragraph (1)(i), use the calculated daily average condenser outlet temperature as specified in subsection (m)(7) and the condenser performance curve established under subsection (m)(6)(iii) to determine the condenser efficiency for the current operating day. Calculate the 365-day rolling average TOC emission reduction, as appropriate, from the condenser efficiencies as follows:

(A) If there is less than 120 days of data for determining average TOC emission reduction, calculate the average TOC emission reduction for the first 120 days of operation. Compliance is demonstrated with paragraph (1)(i) if the 120-day average TOC emission reduction is equal to or greater than 95.0% by weight.

(B) After 120 days and no more than 364 days of operation, calculate the average TOC emission reduction as the TOC emission reduction averaged over the number of days of operation for which there is data. Compliance is demonstrated with paragraph (1)(i) if the average TOC emission reduction is equal to or greater than 95.0% by weight.

(C) If there is data for 365 days or more of operation, compliance is demonstrated with the TOC emission reduction if the rolling 365-day average TOC emission reduction calculated in subparagraph (i) is equal to or greater than 95.0% by weight.

(ii) For a source complying with paragraph (1)(ii), calculate the daily average concentration for each operating day, using the data recorded by the CPMS as specified in subsection (m)(7). Compliance is demonstrated with paragraph (1)(ii) if the daily average concentration is less than the operating parameter under paragraph (4) as specified in subsection (m)(9).

(6) Operate the CPMS installed in accordance with paragraph (3) whenever the source is operating, except during the times specified in subsection (m)(8)(iii).

(7) Ensure that the design analysis to meet paragraph (1)(iii) for a condenser or other non-destructive control device meets the following:

(i) Includes an analysis of the vent stream including the following information:

(A) Composition.

(B) Constituent concentrations.

(C) Flowrate.

(D) Relative humidity.

(E) Temperature.

(ii) Establishes the following parameters for the condenser or other non-destructive control device:

(A) Design outlet organic compound concentration level.

(B) Design average temperature of the condenser exhaust vent stream.

(C) Design average temperatures of the coolant fluid at the condenser inlet and outlet.

(j) *General performance test requirements.* The owner or operator shall meet the following performance test requirements:

(1) The owner or operator shall do the following, as applicable:

(i) Except as specified in subparagraph (iii), conduct an initial performance test within 180 days after installation of a control device.

(ii) Except as specified in subparagraph (iii), conduct a performance test of an existing control device on or before August 7, 2023, unless the owner or operator of the control device is complying with an established performance test interval, in which case the current schedule should be maintained.

(iii) The performance test in subparagraph (i) or subparagraph (ii) is not required if the owner or operator meets one or more of the following:

(A) Installs a manufacturer-tested combustion device that meets the requirements of subsection (c).

(B) Installs a flare that meets the requirements of subsection (e).

(C) Installs a boiler or process heater with a design heat input capacity of 44 megawatts (150 MMBtu per hour) or greater.

(D) Installs a boiler or process heater which introduces the vent stream with the primary fuel or uses the vent stream as the primary fuel.

(E) Installs a boiler or process heater which burns hazardous waste that meets one or more of the following:

(I) For which an operating permit was issued under 40 CFR Part 270 (relating to EPA administered permit programs: the hazardous waste permit program) and complies with the requirements of 40 CFR Part 266, Subpart H.

(II) For which compliance with the interim status requirements of 40 CFR Part 266, Subpart H has been certified.

(III) Which complies with 40 CFR Part 63, Subpart EEE and for which a Notification of Compliance under 40 CFR 63.1207(j) was submitted to the Department.

(IV) Which complies with 40 CFR Part 63, Subpart EEE and for which a Notification of Compliance under 40 CFR 63.1207(j) will be submitted to the Department within 90 days of the completion of the initial performance test report unless a written request for an extension is submitted to the Department.

(F) Installs a hazardous waste incinerator which meets the requirements of 40 CFR Part 63, Subpart EEE and for which the Notification of Compliance under 40 CFR 63.1207(j):

(I) Was submitted to the Department.

(II) Will be submitted to the Department within 90 days of the completion of the initial performance test report unless a written request for an extension is submitted to the Department.

(G) Requests the performance test be waived under 40 CFR 60.8(b) (relating to performance tests).

(2) Conduct a periodic performance test no more than 60 months after the most recent performance test unless the owner or operator:

(i) Monitors the inlet gas flow for a manufacturer-tested combustion device under subsection (c)(1)(i).

(ii) Installs a control device exempt from testing requirements under paragraph (1)(iii)(A)—(G).

(iii) Establishes a correlation between firebox or combustion chamber temperature and the VOC performance level for an enclosed combustion device under subsection (d)(2)(iii).

(3) Conduct a performance test when establishing a new operating limit.

(k) *Performance test method for demonstrating compliance with a control device weight-percent VOC emission reduction requirement.* Demonstrate compliance with the control device weight-percent VOC emission reduction requirements of subsections (c)(1)(ii), (d)(1)(i), (f)(1)(i) and (i)(1)(i) by meeting subsection (j) and the following:

(1) Conducting a minimum of three test runs of at least 1-hour duration.

(2) Using EPA Method 1 or EPA Method 1A, as appropriate, to select the sampling sites which must be located at the inlet of the first control device and at the outlet of the final control device. References to particulate mentioned in EPA Method 1 or EPA Method 1A do not apply to this paragraph.

(3) Using EPA Method 2, EPA Method 2A, EPA Method 2C or EPA Method 2D, as appropriate, to determine the gas volumetric flowrate.

(4) Using EPA Method 25A to determine compliance with the control device percent VOC emission reduction performance requirement using the following procedure:

(i) Convert the EPA Method 25A results to a dry basis, using EPA Method 4.

(ii) Compute the mass rate of TOC using the following equations:

$$E_i = K_2 C_i M_p Q_i$$

$$E_o = K_2 C_o M_p Q_o$$

Where:

E_i = Mass rate of TOC at the inlet of the control device on a dry basis, in kilograms per hour (pounds per hour).

E_o = Mass rate of TOC at the outlet of the control device on a dry basis, in kilograms per hour (pounds per hour).

K_2 = Constant, 2.494×10^{-6} (ppm) (mole per standard cubic meter) (kilogram per gram) (minute per hour) where standard temperature (mole per standard cubic meter) is 20 °Celsius.

Or

K_2 = Constant, 1.554×10^{-7} (ppm) (lb-mole per standard cubic feet) (minute per hour), where standard temperature (lb-mole per standard cubic feet) is 68 °Fahrenheit.

C_i = Concentration of TOC, as propane, of the gas stream as measured by EPA Method 25A at the inlet of the control device, ppmvd.

C_o = Concentration of TOC, as propane, of the gas stream as measured by EPA Method 25A at the outlet of the control device, ppmvd.

M_p = Molecular weight of propane, 44.1 gram per mole (pounds per lb-mole).

Q_i = Flowrate of gas stream at the inlet of the control device in dry standard cubic meter per minute (dry standard cubic feet per minute).

Q_o = Flowrate of gas stream at the outlet of the control device in dry standard cubic meter per minute (dry standard cubic feet per minute).

(iii) Calculate the percent reduction in TOC as follows:

$$R_{cd} = \frac{E_i - E_o}{E_i} * 100\%$$

Where:

R_{cd} = Control efficiency of control device, percent.

E_i = Mass rate of TOC at the inlet to the control device as calculated in subparagraph (ii), kilograms per hour (pounds per hour).

E_o = Mass rate of TOC at the outlet of the control device as calculated in subparagraph (ii), kilograms per hour (pounds per hour).

(iv) If the vent stream entering a boiler or process heater with a performance testing requirement is introduced with the combustion air or as a secondary fuel, the owner or operator shall:

(A) Calculate E_i in subparagraph (ii) by using the TOC concentration in all combusted vent streams, primary fuels and secondary fuels as C_i .

(B) Calculate E_o in subparagraph (ii) by using the TOC concentration exiting the device as C_o .

(C) Determine the weight-percent reduction of TOC across the device in accordance with subparagraph (iii).

(5) The weight-percent reduction of TOC across the control device represents the VOC weight-percent reduction for demonstration of compliance with subsections (c)(1)(ii), (d)(1)(i), (f)(1)(i) and (i)(1)(i).

(1) *Performance test method for demonstrating compliance with an outlet concentration requirement.* Demonstrate compliance with the TOC concentration requirement of subsections (d)(1)(ii), (f)(1)(ii) and (i)(1)(ii) by meeting subsection (j) and the following:

(1) Conducting a minimum of three test runs of at least 1-hour duration.

(2) Using EPA Method 1 or EPA Method 1A, as appropriate, to select the sampling sites which must be located at the outlet of the control device. References to particulate mentioned in EPA Method 1 or EPA Method 1A do not apply to this paragraph.

(3) Using EPA Method 2, EPA Method 2A, EPA Method 2C, or EPA Method 2D, as appropriate, to determine the gas volumetric flowrate.

(4) Using EPA Method 25A to determine compliance with the TOC concentration requirement using the following procedures:

(i) Measure the TOC concentration, as propane.

(ii) For a control device subject to subsection (f) or subsection (i), the results of EPA Method 25A in subparagraph (i) may be adjusted by subtracting the concentration of methane and ethane measured using EPA Method 18 taking either:

(A) An integrated sample.

(B) A minimum of four grab samples per hour using the following procedures:

(I) Taking the samples at approximately equal intervals in time, such as 15-minute intervals during the run.

(II) Taking the samples during the same time as the EPA Method 25A sample.

(III) Determining the average methane and ethane concentration per run.

(iii) The TOC concentration must be adjusted to a dry basis, using EPA Method 4.

(iv) The TOC concentration must be corrected to 3% oxygen as follows:

(A) The oxygen concentration must be determined using the emission rate correction factor for excess air, integrated sampling and analysis procedures from one of the following methods:

(I) EPA Method 3A.

(II) EPA Method 3B.

(III) ASTM D6522-00.

(IV) ANSI/ASME PTC 19.10-1981, Part 10.

(B) The samples for clause (A) must be taken during the same time that the samples are taken for determining the TOC concentration.

(C) The TOC concentration for percent oxygen must be corrected as follows:

$$C_c = C_m \left(\frac{17.9}{20.9 - \%O_{2m}} \right)$$

Where:

C_c = TOC concentration, as propane, corrected to 3% oxygen, ppmvd.

C_m = TOC concentration, as propane, ppmvd.

$\%O_{2m}$ = Concentration of oxygen, percent by volume as measured, dry.

(m) *Continuous parameter monitoring system requirements.* The owner or operator of a source subject to § 129.121(a) (relating to general provisions and applicability) and controlled by a device listed in subsections (c)—(i) that is required to install a CPMS shall:

(1) Ensure the CPMS measures the applicable parameter at least once every hour and continuously records either:

(i) The measured operating parameter value.

(ii) The block average operating parameter value for each 1-hour period calculated using the following procedures:

(A) The block average from all measured data values during each period.

(B) If values are measured more frequently than once per minute, a single value for each minute may be used instead of all measured values.

(2) Ensure the flow CPMS has either:

(i) An accuracy of $\pm 2\%$ or better at the maximum expected flow rate.

(ii) A measurement sensitivity of 5% of the flow rate or 10 standard cubic feet per minute, whichever is greater.

(3) Ensure the heat-sensing CPMS indicates the presence of the pilot flame while emissions are routed to the control device. Heat-sensing CPMS are exempt from the calibration, quality assurance and quality control requirements in this section.

(4) Ensure the temperature CPMS has a minimum accuracy of $\pm 1\%$ of the temperature being monitored in °Celsius ($\pm 1.8\%$ in °Fahrenheit) or ± 2.5 °Celsius (± 4.5 °Fahrenheit), whichever value is greater.

(5) Ensure the organic concentration CPMS meets the requirements of Performance Specification 8 or 9 of 40 CFR Part 60, Appendix B (relating to performance specifications).

(6) Establish the operating parameter value to define the conditions at which the control device must be operated to continuously achieve the applicable performance requirement as follows:

(i) For a parameter value established while conducting a performance test under subsection (k) or subsection (l):

(A) Base each minimum operating parameter value on the value established while conducting the performance test and supplemented, as necessary, by the design analysis of subsection (g)(6), subsection (h)(2) or subsection (i)(7), the manufacturer's recommendations, or both.

(B) Base each maximum operating parameter value on the value established while conducting the performance test and supplemented, as necessary, by the design analysis of subsection (g)(6), subsection (h)(2) or subsection (i)(7), the manufacturer's recommendations, or both.

(ii) Except as specified in clause (C), for a parameter value established using a design analysis in subsection (g)(6), subsection (h)(2) or subsection (i)(7):

(A) Base each minimum operating parameter value on the value established in the design analysis and supplemented, as necessary, by the manufacturer's recommendations.

(B) Base each maximum operating parameter value on the value established in the design analysis and supplemented, as necessary, by the manufacturer's recommendations.

(C) If the owner or operator and the Department do not agree on a demonstration of control device performance using a design analysis as specified in clause (A) or (B), then the owner or operator shall perform a performance test under subsection (k) or subsection (l) to resolve the disagreement. The Department may choose to have an authorized representative observe the performance test.

(iii) For a condenser, establish a condenser performance curve showing the relationship between condenser outlet temperature and condenser control efficiency that demonstrates the condenser complies with the applicable performance requirements in subsection (i)(1) as follows:

(A) Based on the value measured while conducting a performance test under subsection (k) or subsection (l) and supplemented, as necessary, by a condenser design analysis performed under subsection (i)(7), the manufacturer's recommendations, or both.

(B) Based on the value from a condenser design analysis performed under subsection (i)(7) supplemented, as necessary, by the manufacturer's recommendations.

(7) Except for the CPMS in paragraphs (2) and (3), calculate the daily average for each monitored parameter for each operating day using the data recorded by the CPMS. Valid data points must be available for 75% of the operating hours in an operating day to compute the daily average where the operating day is:

(i) A 24-hour period if the control device operation is continuous.

(ii) The total number of hours of control device operation per 24-hour period.

(8) Except as specified in subparagraph (iii), do both of the following:

(i) Ensure the data recorded by the CPMS is used to assess the operation of the control device and associated control system.

(ii) Report the failure to collect the required data in paragraph (1) as a deviation of the monitoring requirements.

(iii) The requirements of subparagraphs (i) and (ii) do not apply during:

(A) A monitoring system malfunction.

(B) A repair associated with a monitoring system malfunction.

(C) A required monitoring system quality assurance or quality control activity.

(9) Determine compliance with the established parameter value by comparing the calculated daily average to the established operating parameter value as follows:

(i) For a minimum operating parameter established in paragraph (6)(i)(A) or paragraph (6)(ii)(A), the control device is in compliance if the calculated value is equal to or greater than the established value.

(ii) For a maximum operating parameter established in paragraph (6)(i)(B) or paragraph (6)(ii)(B), the control device is in compliance if the calculated value is less than or equal to the established value.

§ 129.130. Recordkeeping and reporting.

(a) *Recordkeeping.* The owner or operator of a source subject to §§ 129.121—129.129 shall maintain the applicable records onsite or at the nearest local field office for 5 years. The records shall be made available to the Department upon request.

(b) *Storage vessels.* The records for each storage vessel must include the following, as applicable:

(1) The identification and location of each storage vessel subject to § 129.123 (relating to storage vessels). The location of the storage vessel shall be in latitude and longitude coordinates in decimal degrees to an accuracy and precision of 5 decimals of a degree using the North American Datum of 1983.

(2) Each deviation when the storage vessel was not operated in compliance with the requirements specified in § 129.123.

(3) The identity of each storage vessel removed from service under § 129.123(e) and the date on which it was removed from service.

(4) The identity of each storage vessel returned to service under § 129.123(f) and the date on which it was returned to service.

(5) The identity of each storage vessel and the VOC potential to emit calculation under § 129.123(a)(2).

(6) The identity of each storage vessel and the actual VOC emission calculation under § 129.123(c)(2)(i) including the following information:

(i) The date of each monthly calculation performed under § 129.123(c)(2)(i).

(ii) The calculation determining the actual VOC emissions each month.

(iii) The calculation demonstrating that the actual VOC emissions are less than 2.7 TPY determined as a 12-month rolling sum.

(7) The records documenting the time the skid-mounted or mobile storage vessel under § 129.123(d)(1) is located on site. If a skid-mounted or mobile storage vessel is removed from a site and either returned or replaced within 30 calendar days to serve the same or similar function, count the entire period since the original storage vessel was removed towards the number of consecutive days.

(8) The identity of each storage vessel required to reduce VOC emissions under § 129.123(b)(1) and the demonstration under § 129.123(b)(1)(iv).

(c) *Natural gas-driven continuous bleed pneumatic controllers.* The records for each natural gas-driven continuous bleed pneumatic controller must include the following, as applicable:

(1) The required compliance date, identification, location and manufacturer specifications for each natural gas-driven continuous bleed pneumatic controller subject to § 129.124(c) (relating to natural gas-driven continuous bleed pneumatic controllers).

(2) Each deviation when the natural gas-driven continuous bleed pneumatic controller was not operated in compliance with the requirements specified in § 129.124(c).

(3) If the natural gas-driven continuous bleed pneumatic controller is located at a natural gas processing plant, the documentation that the natural gas bleed rate is zero.

(4) For a natural gas-driven continuous bleed pneumatic controller under § 129.124(b), the determination based on a functional requirement for why a natural gas bleed rate greater than the applicable standard is required. A functional requirement includes one or more of the following:

- (i) Response time.
- (ii) Safety.
- (iii) Positive actuation.

(d) *Natural gas-driven diaphragm pumps.* The records for each natural gas-driven diaphragm pump must include the following, as applicable:

(1) The required compliance date, location and manufacturer specifications for each natural gas-driven diaphragm pump subject to § 129.125 (relating to natural gas-driven diaphragm pumps).

(2) Each deviation when the natural gas-driven diaphragm pump was not operated in compliance with the requirements specified in § 129.125.

(3) For a natural gas-driven diaphragm pump under § 129.125(d), the records of the days of operation each calendar year. Any period of operation during a calendar day counts toward the 90-calendar-day threshold.

(4) For a natural gas-driven diaphragm pump under § 129.125(c)(1), maintain the following records:

(i) The records under subsection (j) for the control device type.

(ii) One of the following:

(A) The results of a performance test under § 129.129(k) or (l) (relating to control devices).

(B) A design evaluation indicating the percentage of VOC emissions reduction the control device is designed to achieve.

(C) The manufacturer's specifications indicating the percentage of VOC emissions reduction the control device is designed to achieve.

(5) For a well site with no available control device or process under § 129.125(c)(2), maintain a copy of the certification submitted under subsection (k)(3)(iii)(B)(II).

(6) The engineering assessment substantiating a claim under § 129.125(c)(3), including the certification under § 129.125(c)(3)(ii)(C).

(7) For a natural gas-driven diaphragm pump required to reduce VOC emissions under § 129.125(b)(1), the demonstration under § 129.125(b)(1)(iii).

(e) *Reciprocating compressors.* The records for each reciprocating compressor must include the following, as applicable:

(1) For a reciprocating compressor under § 129.126(b)(1)(i) (relating to compressors), the following records:

- (i) The cumulative number of hours of operation.
- (ii) The date and time of each rod packing replacement.

(2) For a reciprocating compressor under § 129.126(b)(1)(ii), the following records:

(i) The number of months since the previous replacement of the rod packing.

(ii) The date of each rod packing replacement.

(3) For a reciprocating compressor under § 129.126(b)(2), the following records:

(i) A statement that emissions from the rod packing are being routed to a control device or a process through a closed vent system under negative pressure.

(ii) The date of installation of a rod packing emissions collection system and closed vent system as specified in § 129.126(b)(2).

(4) Each deviation when the reciprocating compressor was not operated in compliance with § 129.126(b).

(f) *Centrifugal compressors.* The records for each centrifugal compressor must include the following, as applicable:

(1) An identification of each existing centrifugal compressor using a wet seal system subject to § 129.126(c).

(2) Each deviation when the centrifugal compressor was not operated in compliance with § 129.126(c).

(3) For a centrifugal compressor required to reduce VOC emissions under § 129.126(c)(1), the demonstration under § 129.126(c)(3).

(g) *Fugitive emissions components.* The records for each fugitive emissions component must include the following, as applicable:

(1) For an oil well site subject to § 129.127(c)(1)(ii) (relating to fugitive emissions components):

(i) The location of each well and its United States Well ID Number.

(ii) The analysis documenting a GOR of less than 300 standard cubic feet of gas per barrel of oil produced, conducted using generally accepted methods. The analysis must be signed by and include a certification by the responsible official stating that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.

(2) For each well site, the average production calculations required under § 129.127(b)(1) and § 129.127(c)(4).

(3) For a well site subject to § 129.127(c)(2) or (c)(3), a natural gas gathering and boosting station or a natural gas processing plant:

(i) The fugitive emissions monitoring plan under § 129.127(g).

(ii) The records of each monitoring survey conducted under § 129.127(c)(2)(ii), (c)(3)(ii) or (e)(2). The monitoring survey must include the following information:

(A) The facility name and location.

(B) The date, start time and end time of the survey.

(C) The name of the equipment operator performing the survey.

(D) The monitoring instrument used.

(E) The ambient temperature, sky conditions and maximum wind speed at the time of the survey.

(F) Each deviation from the monitoring plan or a statement that there were none.

(G) Documentation of each fugitive emission including:

(I) The identification of each component from which fugitive emissions were detected.

(II) The instrument reading of each fugitive emissions component that meets the definition of a leak under § 129.122(a) (relating to definitions, acronyms and EPA methods).

(III) The repair methods applied in each attempt to repair the component.

(IV) The tagging or digital photographing of each component not repaired during the monitoring survey in which the fugitive emissions were discovered.

(V) The reason a component was placed on delay of repair.

(VI) The date of successful repair of the component.

(VII) If repair of the component was not completed during the monitoring survey in which the fugitive emissions were discovered, the information on the instrumentation or the method used to resurvey the component after repair.

(h) *Covers.* The records for each cover include the results of each cover inspection under § 129.128(a) (relating to covers and closed vent systems).

(i) *Closed vent systems.* The records for each closed vent system must include the following, as applicable:

(1) The results of each closed vent system inspection under § 129.128(b)(2).

(2) For the no detectable emissions inspections of § 129.128(d), a record of the monitoring survey as specified under subsection (g)(3)(ii).

(3) The engineering assessment under § 129.128(c), including the certification under § 129.128(c)(3).

(4) If the closed vent system includes a bypass device subject to § 129.128(b)(4), a record of:

(i) Each time the alarm is activated.

(ii) Each time the key is checked out, as applicable.

(iii) Each inspection required under § 129.128(b)(4)(ii)(B).

(j) *Control devices.* The records for each control device must include the following, as applicable:

(1) Make, model and serial number of the purchased device.

(2) Date of purchase.

(3) Copy of purchase order.

(4) Location of the control device in latitude and longitude coordinates in decimal degrees to an accuracy and precision of 5 decimals of a degree using the North American Datum of 1983.

(5) For the general requirements under § 129.129(b):

(i) The manufacturer's written operating instructions, procedures and maintenance schedule to ensure good air pollution control practices for minimizing emissions under § 129.129(b)(1).

(ii) The results of each monthly physical integrity check performed under § 129.129(b)(2).

(iii) The CPMS data which indicates the presence of a pilot flame during the device's operation under § 129.129(b)(3).

(iv) The results of the visible emissions test under § 129.129(b)(4) using Figure 22-1 in EPA Method 22 or a form which includes the following:

(A) The name of the company that owns or operates the control device.

(B) The location of the control device.

(C) The name and affiliation of the person performing the observation.

(D) The sky conditions at the time of observation.

(E) Type of control device.

(F) The clock start time.

(G) The observation period duration, in minutes and seconds.

(H) The accumulated emission time, in minutes and seconds.

(I) The clock end time.

(v) The results of the visible emissions test required in § 129.129(b)(6) under subparagraph (iv) following a return to operation from a maintenance or repair activity performed under § 129.129(b)(5).

(vi) The maintenance and repair log under § 129.129(b)(7).

(6) For a manufacturer-tested combustion control device under § 129.129(c), maintain the following records:

(i) The records specified in paragraph (5)(i)—(vi).

(ii) The manufacturer's specified inlet gas flow rate.

(iii) The CPMS results under § 129.129(c)(1)(i).

(iv) The results of each performance test conducted under § 129.129(c)(1)(ii) as performed under § 129.129(k).

(7) For an enclosed combustion device in § 129.129(d):

(i) The records specified in paragraph (5)(i)—(vi).

(ii) The results of each performance test conducted under § 129.129(d)(1)(i) as performed under § 129.129(k).

(iii) The results of each performance test conducted under § 129.129(d)(1)(ii) as performed under § 129.129(l).

(iv) The data and calculations for the CPMS installed, operated or maintained under § 129.129(d)(2).

(8) For a flare in § 129.129(e), the records specified in paragraph (5)(iii)—(vi).

(9) For a regenerative carbon adsorption device in § 129.129(g):

(i) The records specified in paragraph (5)(i) and (ii).

(ii) The results of the performance test conducted under § 129.129(f)(1)(i) as performed under § 129.129(k).

(iii) The results of the performance test conducted under § 129.129(f)(1)(ii) as performed under § 129.129(l).

(iv) The control device design analysis, if one is performed under § 129.129(g)(6).

(v) The data and calculations for a CPMS installed, operated or maintained under § 129.129(g)(1)—(5).

(vi) The schedule for carbon replacement, as determined by § 129.129(f)(2) or the design analysis requirements of § 129.129(g)(6) and records of each carbon replacement under § 129.129(f)(3) and (4).

(10) For a non-regenerative carbon adsorption device in § 129.129(h):

(i) The records specified in paragraph (5)(i) and (ii).

(ii) The results of the performance test conducted under § 129.129(f)(1)(i) as performed under § 129.129(k).

(iii) The results of the performance test conducted under § 129.129(f)(1)(ii) as performed under § 129.129(l).

(iv) The control device design analysis, if one is performed under § 129.129(h)(2).

(v) The schedule for carbon replacement, as determined by § 129.129(f)(2) or the design analysis requirements of § 129.129(h)(2) and records of each carbon replacement under § 129.129(f)(3) and (4).

(11) For a condenser or other non-destructive control device in § 129.129(i):

(i) The records specified in paragraph (5)(i) and (ii).

(ii) The results of the performance test conducted under § 129.129(i)(1)(i) as performed under § 129.129(k).

(iii) The results of the performance test conducted under § 129.129(i)(1)(ii) as performed under § 129.129(l).

(iv) The control device design analysis, if one is performed under § 129.129(i)(7).

(v) The site-specific monitoring plan under § 129.129(i)(2).

(vi) The data and calculations for a CPMS installed, operated or maintained under § 129.129(i)(3)—(5).

(k) *Reporting.* The owner or operator of a source subject to § 129.121(a) (relating to general provisions and applicability) shall do the following:

(1) Submit an initial annual report to the Air Program Manager of the appropriate Department Regional Office by December 10, 2023, and annually thereafter on or before June 1.

(i) The responsible official must sign, date and certify compliance and include the certification in the initial report and each subsequent annual report.

(ii) The due date of the initial report may be extended with the written approval of the Air Program Manager of the appropriate Department Regional Office.

(2) Submit the reports under paragraph (3) in a manner prescribed by the Department.

(3) Submit the information specified in subparagraphs (i)—(ix) for each report as applicable:

(i) *Storage vessels.* The report for each storage vessel must include the information specified in subsection (b)(1)—(4) for the reporting period, as applicable.

(ii) *Natural gas-driven continuous bleed pneumatic controllers.* The initial report for each natural gas-driven continuous bleed pneumatic controller must include the information specified in subsection (c), as applicable. Subsequent reports must include the following:

(A) The information specified in subsection (c)(1) and (2) for each natural gas-driven continuous bleed pneumatic controller.

(B) The information specified in subsection (c)(3) and (4) for each natural gas-driven continuous bleed pneumatic controller installed during the reporting period.

(iii) *Natural gas-driven diaphragm pumps.* The report for each natural gas-driven diaphragm pump must include the following:

(A) The information specified in subsection (d)(1) and (2) for the reporting period, as applicable.

(B) A certification of the compliance status of each natural gas-driven diaphragm pump during the reporting period using one of the following:

(I) A certification that the emissions from the natural gas-driven diaphragm pump are routed to a control device or process under § 129.125(b)(1)(ii) or (c)(1). If the control device is installed during the reporting period under § 129.125(c)(2)(iii), include the information specified in subsection (d)(4).

(II) A certification under § 129.125(c)(2) that there is no control device or process available at the facility during the reporting period. This includes if a control device or process is removed from the facility during the reporting period.

(III) A certification according to § 129.125(c)(3)(ii)(C) that it is technically infeasible to capture and route emissions from:

(-a-) A natural gas-driven diaphragm pump installed during the reporting period to an existing control device or process.

(-b-) An existing natural gas-driven diaphragm pump to a control device or process installed during the reporting period.

(-c-) An existing natural gas-driven diaphragm pump to another control device or process located at the facility due to the removal of the original control device or process during the reporting period.

(iv) *Reciprocating compressors.* The report for each reciprocating compressor must include the information specified in subsection (e) for the reporting period, as applicable.

(v) *Centrifugal compressors.* The report for each centrifugal compressor must include the information specified in subsection (f) for the reporting period, as applicable.

(vi) *Fugitive emissions components.* The report for each fugitive emissions component must include the records of each monitoring survey conducted during the reporting period as specified in subsection (g)(3)(ii).

(vii) *Covers.* The report for each cover must include the information specified in subsection (h) for the reporting period, as applicable.

(viii) *Closed vent systems.* The report for each closed vent system must include the information specified in subsection (i)(1) and (2) for the reporting period, as applicable. The information specified in subsection (i)(3) is only required for the initial report or if the closed vent system was installed during the reporting period.

(ix) *Control devices*. The report for each control device must include the information specified in subsection (j), as applicable.

[Pa.B. Doc. No. 22-1924. Filed for public inspection December 9, 2022, 9:00 a.m.]

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 129]

Control of VOC Emissions from Conventional Oil and Natural Gas Sources

The Environmental Quality Board (Board) amends Chapter 129 (relating to standards for sources) to read as set forth in Annex A. This final-omitted rulemaking adds §§ 129.131—129.140 (relating to control of VOC emissions from conventional oil and natural gas sources) to adopt reasonably available control technology (RACT) requirements and RACT emission limitations for conventional oil and natural gas sources of volatile organic compound (VOC) emissions. These sources include natural gas-driven continuous bleed pneumatic controllers, natural gas-driven diaphragm pumps, reciprocating compressors, centrifugal compressors, fugitive emissions components and storage vessels installed at conventional well sites, gathering and boosting stations and natural gas processing plants, as well as storage vessels in the natural gas transmission and storage segment. The Board adds definitions, acronyms and United States Environmental Protection Agency (EPA) methods to § 129.132 (relating to definitions, acronyms and EPA methods) to support the implementation of the control measures. Notice of proposed rulemaking is omitted under section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204(3)), referred to as the Commonwealth Documents Law (CDL). This final-omitted rulemaking is also being submitted as an emergency certified regulation under section 6(d) of the Regulatory Review Act (RRA) (71 P.S. § 745.6(d)).

Rulemaking Background and History

On December 17, 2019, the Board adopted the Control of VOC Emissions from Oil and Natural Gas Sources proposed rulemaking (referred to as the combined rulemaking). On May 23, 2020, the combined rulemaking included VOC RACT requirements for five categories of oil and natural gas sources of VOC emissions in this Commonwealth, including sources used by the unconventional and conventional industries. The combined rulemaking was published for a 66-day comment period at 50 Pa.B. 2633 (May 23, 2020). Three public hearings were held virtually on June 23, 24 and 25, 2020. Over 100 individuals provided verbal testimony. The comment period closed on July 27, 2020. The Board received over 4,500 comments, including comments from the House and Senate Environmental Resources and Energy Committees (ERE Committees), members of the General Assembly and the Independent Regulatory Review Commission (IRRC). The majority of the commentators expressed their support for the VOC RACT requirements in the combined rulemaking, noting the need to address air emissions from the oil and gas sector. On March 15, 2022, the Board adopted the combined rulemaking as a final-form rulemaking.

Also, on March 15, 2022, the Board submitted the final-form combined rulemaking to IRRC for its consideration. On April 26, 2022, the House ERE Committee sent a letter to IRRC indicating their disapproval of the combined rulemaking due to their interpretation of language in the Pennsylvania Grade Crude Development Act, the act of June 23, 2016 (P.L. 375, No. 52) (58 P.S. §§ 1201—1208), known as Act 52 of 2016. The letter stated the House ERE Committee's position that Act 52 of 2016 requires the Board to submit two rulemaking packages—one that applies to unconventional oil and natural gas sources and one that applies to conventional oil and natural gas sources. The House ERE Committee's letter to IRRC initiated the concurrent resolution process under section 7(d) of the RRA (71 P.S. § 745.7(d)) which allows the General Assembly to adopt a resolution that disapproves and permanently bars a final regulation from taking effect.

While the Board disagrees with the House ERE Committee's interpretation of Act 52 of 2016, to address their concerns and avoid further delay, on May 4, 2022, the Board withdrew the combined rulemaking from IRRC's consideration. The Board then revised the combined rulemaking to apply only to unconventional oil and natural gas sources. On June 14, 2022, the Board adopted the revised Control of VOC Emissions from Unconventional Oil and Natural Gas Sources final-form rulemaking (referred to as the unconventional rulemaking). On July 21, 2022, IRRC unanimously approved the unconventional rulemaking.

Given the concerns expressed by the House ERE Committee and other commentators during the regulatory process for the combined rulemaking, the Department developed a separate rulemaking to control VOC emissions from conventional oil and natural gas sources. At the October 12, 2022, meeting, the Board adopted the "Control of VOC Emissions from Conventional Oil and Natural Gas Sources" final-omitted rulemaking, regulation # 7-579. On November 14, 2022, the House ERE Committee disapproved the previously adopted final-omitted regulation triggering the 14-calendar-day legislative review period under section 5.1(j.2) of the RRA (71 P.S. § 745.5a(j.2)). During that 14-day period, the regulation may not be published in the *Pennsylvania Bulletin*. The 14-day period began after IRRC issued its approval order of regulation # 7-579 on November 17, 2022, and the 2022 legislative session ended on November 30, 2022. Under section 5.1(j.3) of the RRA (71 P.S. § 745.5a(j.3)), the legislative review period will therefore run into the 2023 legislative session ensuring that regulation # 7-579 could not be published by the December 16, 2022, sanction deadline.

This final-omitted rulemaking, regulation # 7-580, is identical to the previous final-omitted rulemaking (regulation # 7-579) except it has received an emergency certification of need from Governor Tom Wolf.

Final-Omitted Rulemaking and Emergency Certification of Need

Under section 201 of the CDL (45 P.S. § 1201), an agency is required to provide public notice of its intention to promulgate, amend or repeal administrative regulations. Section 202 of the CDL (45 P.S. § 1202) also requires agencies to review and consider any written comments submitted under section 201 and authorizes agencies to hold public hearings as appropriate. However, under section 204 of the CDL, an agency may omit or modify the procedures specified in sections 201 and 202 of the CDL, if:

The agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the order adopting the administrative regulation or change therein) that the procedures specified in sections 201 and 202 of the CDL are in the circumstances impracticable, unnecessary, or contrary to the public interest.

Public notice and solicitation of public comments are impracticable, unnecessary and contrary to the public interest for the amendments included in this final-omitted rulemaking. These procedures are impracticable and unnecessary because the VOC RACT requirements for the conventional oil and natural gas sources covered by this final-omitted rulemaking are identical to those contained in the combined rulemaking. As detailed previously, the Board provided a comment period and three public hearings for the combined rulemaking and numerous members of the public provided testimony and submitted comments. Those comments were then used in the development of the final-form combined rulemaking and this final-omitted rulemaking. Therefore, this final-omitted rulemaking was already subject to a notice and comment process when the combined rulemaking was published in the *Pennsylvania Bulletin* on May 23, 2020.

The comment and response document included with this final-omitted rulemaking contains all comments received during the comment period for the combined rulemaking. A public comment period is also contrary to the public interest because it will delay the implementation of the VOC RACT requirements in this final-omitted rulemaking, resulting in the Commonwealth being unable to satisfy the December 16, 2022, sanction deadline, as explained in Section D of this preamble under "Findings of Failure to Submit, sanctions and deadline for action." If the Board were to provide notice of proposed rulemaking, and an additional public comment period and public hearings, the Commonwealth would be unable to submit this rulemaking to the EPA as a State Implementation Plan (SIP) revision by December 16, 2022. The entire rulemaking process in this Commonwealth takes about 2 years, sometimes longer, from start to finish, and the concurrent resolution process under the RRA further lengthens that timeline. Additional delay of this final-omitted rulemaking would further harm the public interest because the Commonwealth would lose hundreds of millions of dollars in Federal highway funding and much needed VOC and methane emission reductions. As a result, the Board finds that the use of the final-omitted rulemaking process is for good cause and that additional public comment in this case is not necessary or in the public interest.

This final-omitted rulemaking is also being submitted as an emergency certified regulation. Section 6(d) of the RRA allows an agency to immediately implement a final-omitted regulation when the Governor certifies that promulgation is necessary to respond to an emergency circumstance specified in the RRA. On November 30, 2022, Governor Tom Wolf issued a Certification of Need for Emergency Regulation finding that this final-omitted rulemaking is required to prevent "the need for supplemental or deficiency appropriations of greater than \$1,000,000."

Governor Tom Wolf determined that this emergency certified final-omitted rulemaking is necessary to ensure the Commonwealth complies with the Federal Clean Air Act (CAA) and the Air Pollution Control Act (APCA). As discussed previously, if the Commonwealth does not submit this final-omitted rulemaking to the EPA as a SIP

revision by the December 16, 2022, sanction deadline, Federal highway funding will be withheld until the submission is made. For the upcoming fiscal year, Federal highway funds subject to these sanctions are estimated to be in the hundreds of millions of dollars in the nonattainment areas. The Department of Transportation, the United States Department of Transportation Federal Highway Administration and the EPA have identified several projects in the nonattainment areas that would not receive funding and would therefore not be completed or would be subject to delay. Thus, this emergency certified final-omitted rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

This final-omitted rulemaking will be submitted to the EPA for approval as a revision to the Commonwealth's SIP following promulgation of the final-form regulation.

This final-omitted rulemaking was adopted by the Board at its meeting on November 30, 2022.

A. *Effective Date*

This final-omitted rulemaking will be effective upon notice or publication in the *Pennsylvania Bulletin*.

B. *Contact Persons*

For further information, contact Viren Trivedi, Chief, Division of Permits, Bureau of Air Quality, Rachel Carson State Office Building, P.O. Box 8468, Harrisburg, PA 17105-8468, (717) 783-9476; or Jennie Demjanick, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania Hamilton Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-omitted rulemaking is available on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board").

C. *Statutory Authority*

This emergency certified final-omitted rulemaking is authorized under section 5(a)(1) of the APCA (35 P.S. § 4005(a)(1)), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth and section 5(a)(8) of the APCA, which grants the Board the authority to adopt rules and regulations designed to implement the provisions of the CAA (42 U.S.C.A. §§ 7401—7671q).

D. *Background and Purpose*

The purpose of this final-omitted rulemaking is to implement control measures to reduce VOC emissions from conventional oil and natural gas sources in this Commonwealth. Five air contamination source categories are affected by this final-omitted rulemaking: storage vessels; natural gas-driven continuous bleed pneumatic controllers; natural gas-driven diaphragm pumps; reciprocating and centrifugal compressors; and fugitive emissions components. These sources were selected by the EPA because data and information has indicated that they are significant sources of VOC emissions.

In accordance with sections 172(c)(1), 182(b)(2)(A) and 184(b)(1)(B) of the CAA (42 U.S.C.A. §§ 7502(c)(1), 7511a(b)(2)(A) and 7511c(b)(1)(B)), this final-omitted rulemaking establishes the VOC emission limitations and other RACT requirements consistent with the EPA's recommendations in the "Control Techniques Guidelines for the Oil and Natural Gas Industry," EPA 453/B-16-001, Office of Air Quality Planning and Standards, EPA,

October 2016 (2016 O&G CTG) as RACT for these sources in this Commonwealth. See 81 FR 74798 (October 27, 2016). The EPA defines RACT as “the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.” See 44 FR 53761 (September 17, 1979).

Background on the Ozone National Ambient Air Quality Standards (NAAQS)

Under section 108 of the CAA (42 U.S.C.A. § 7408), the EPA is responsible for establishing NAAQS, or maximum allowable concentrations in the ambient air, for six criteria pollutants considered harmful to public health and the environment: ground-level ozone; particulate matter; nitrogen oxides (NOx); carbon monoxide; sulfur dioxide; and lead. Section 109 of the CAA (42 U.S.C.A. § 7409) established two types of NAAQS: primary standards, which are limits set to protect public health; and secondary standards, which are limits set to protect public welfare and the environment. In section 302(h) of the CAA (42 U.S.C.A. § 7602(h)), effects on welfare are defined to include protection against visibility impairment and from damage to animals, crops, vegetation and buildings. The EPA established primary and secondary ground-level ozone NAAQS to protect public health and public welfare, including the environment.

On April 30, 1971, the EPA promulgated primary and secondary NAAQS for photochemical oxidants, which include ground-level ozone, under section 109 of the CAA. See 36 FR 8186 (April 30, 1971). These standards were set at an hourly average of 0.08 parts per million (ppm) total photochemical oxidants not to be exceeded more than 1 hour per year. On February 8, 1979, the EPA revised the level of the primary 1-hour ozone standard from 0.08 ppm to 0.12 ppm and set the secondary standard identical to the primary standard. See 44 FR 8202 (February 8, 1979). This revised 1-hour standard was reaffirmed on March 9, 1993. See 58 FR 13008 (March 9, 1993).

On July 18, 1997, the EPA concluded that revisions to the then-current 1-hour ozone primary standard to provide increased public health protection were appropriate to protect public health with an adequate margin of safety. Further, the EPA determined that it was appropriate to establish a primary standard of 0.08 ppm averaged over 8 hours. At this time, the EPA also established a secondary standard equal to the primary standard. See 62 FR 38856 (July 18, 1997). In 2004, the EPA designated 37 counties in this Commonwealth as 8-hour ozone nonattainment areas for the 1997 8-hour ozone NAAQS. See 69 FR 23858, 23931 (April 30, 2004). Based on the Department’s certified ambient air monitoring data for the Commonwealth’s 2020 ozone season, all monitored areas of this Commonwealth are attaining and maintaining the 1997 8-hour ozone NAAQS.

In March 2008, the EPA lowered the primary and secondary ozone NAAQS to 0.075 ppm (75 parts per billion (ppb)) averaged over 8 hours to provide greater protection for children, other at-risk populations and the environment against the array of ozone-induced adverse health and welfare effects. See 73 FR 16436 (March 27, 2008). In May 2012, the EPA designated five areas in this Commonwealth as marginal nonattainment for the 2008 ozone NAAQS with the rest of this Commonwealth designated as attainment. See 77 FR 30088, 30143 (May 21, 2012). The five designated areas include all or a portion of Allegheny, Armstrong, Beaver, Berks, Bucks, Butler, Carbon, Chester, Delaware, Fayette, Lancaster,

Lehigh, Montgomery, Northampton, Philadelphia, Washington and Westmoreland Counties. Per the 1997 ozone NAAQS, the Department must ensure that the 2008 ozone NAAQS is attained and maintained by implementing permanent and enforceable control measures. Based on the Department’s certified ambient air monitoring data for the Commonwealth’s 2020 ozone season, all monitored areas of this Commonwealth are attaining and maintaining the 2008 8-hour ozone NAAQS. Adoption of the VOC emission control measures in this final-omitted rulemaking will allow the Commonwealth to continue its progress in attaining and maintaining the 2008 8-hour ozone NAAQS.

On October 26, 2015, the EPA again lowered the primary and secondary ozone NAAQS, this time to 0.070 ppm (70 ppb) averaged over 8 hours. See 80 FR 65291 (October 26, 2015). On June 4, 2018, the EPA designated Bucks, Chester, Delaware, Montgomery and Philadelphia Counties as marginal nonattainment for the 2015 ozone NAAQS, with the rest of this Commonwealth designated as attainment. See 83 FR 25776 (June 4, 2018). The Department must ensure that the 2015 8-hour ozone NAAQS is attained and maintained by implementing permanent and Federally enforceable control measures. The certified ambient air ozone season monitoring data for the 2020 ozone season shows that all ozone samplers in this Commonwealth, except the Bristol sampler in Bucks County and the Northeast Airport and Northeast Waste samplers in Philadelphia County are monitoring attainment of the 2015 ozone NAAQS. Reductions in VOC emissions that are achieved following the adoption and implementation of RACT emission control measures for source categories covered by this final-omitted rulemaking will assist the Commonwealth in making substantial progress in achieving and maintaining the 2015 ozone NAAQS.

CAA requirements: Implementation of permanent and Federally enforceable control measures for attaining and maintaining the ozone NAAQS

Section 101(a)(3) of the CAA (42 U.S.C.A. § 7401(a)(3)) provides that air pollution prevention (that is, the reduction or elimination, through any measures, of the amount of pollutants produced or created at the source) and air pollution control at its source is the primary responsibility of States and local governments. Section 110(a) of the CAA (42 U.S.C.A. § 7410(a)) gives states the primary responsibility for achieving the NAAQS in nonattainment areas and for maintaining the NAAQS in areas of the state that are in attainment. Section 110(a) of the CAA provides that each state shall adopt and submit to the EPA a plan (a SIP) for implementation, maintenance and enforcement of the NAAQS or a revision to the NAAQS promulgated under section 109(b) of the CAA. Additionally, section 110(a) provides that the plan shall contain adequate provisions to prevent emissions activity within a state from contributing significantly to nonattainment in, or interference with maintenance by, any other state with respect to a NAAQS. The entirety of the SIP includes the regulatory programs, actions and commitments a state will carry out to implement its responsibilities under the CAA. Once approved by the EPA and incorporated into the state’s SIP, the measures of a SIP are legally enforceable under both Federal and state law.

Section 172(c)(1) of the CAA provides that a SIP for states with nonattainment areas must include “reasonably available control measures,” including RACT, for affected sources of VOC and NOx emissions. Upon submittal to the EPA, state regulations to control VOC

emissions from affected sources are reviewed by the EPA to determine if the provisions meet the RACT requirements of the CAA and its implementing regulations designed to attain and maintain the ground-level ozone NAAQS. If the EPA determines that the provisions meet the applicable requirements of the CAA, the provisions are approved and incorporated as amendments to the state's SIP.

Section 182 of the CAA requires that, for areas which exceed the ground-level ozone NAAQS, states must develop and implement a program that mandates certain major stationary sources develop and implement a RACT emission reduction program. Section 182(b)(2) of the CAA provides that for moderate ozone nonattainment areas, a state must revise its SIP to include RACT for sources of VOC emissions covered by a Control Techniques Guidelines (CTG) document issued by the EPA prior to the area's date of attainment of the applicable ozone NAAQS. CTG documents provide states with information about a VOC emission source category and recommendations of what the EPA considers to be RACT for the source category to attain and maintain the applicable ozone NAAQS. State air pollution control agencies may use the Federal recommendations provided in the CTG to inform their own determination as to what constitutes RACT for VOC emissions from the covered source category for subject sources located within the state. State air pollution control agencies may implement other technically-sound approaches that are consistent with the CAA requirements and the EPA's implementing regulations or guidelines.

Although the designated nonattainment areas in this Commonwealth for the 2008 and 2015 ground-level ozone NAAQS are classified as "marginal" nonattainment, this entire Commonwealth is treated as a "moderate" ozone nonattainment area for RACT purposes because this Commonwealth is included in the Ozone Transport Region (OTR) established by operation of law under sections 176A (42 U.S.C.A. § 7506a) and 184 of the CAA. Section 176A of the CAA grants the Administrator of the EPA the authority to establish an interstate transport region and the associated transport commission. Section 184(a) of the CAA established the OTR comprised of the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and the Consolidated Metropolitan Statistical Area that includes the District of Columbia. More importantly, section 184(b)(1)(B) of the CAA requires that states in the OTR, including this Commonwealth, submit a SIP revision requiring implementation of RACT for all major stationary sources of VOC emissions in the state covered by a specific CTG and not just for those sources that are located in designated nonattainment areas of the state.

Consequently, the Commonwealth's SIP must include regulations implementing RACT requirements Statewide to control VOC emissions from the oil and natural gas sources, including from conventional well sites, covered by the 2016 O&G CTG. These sources, which are not regulated elsewhere in Chapter 129, were selected by the EPA because data and information has indicated that they are significant sources of VOC emissions. Significantly, this final-omitted rulemaking should achieve VOC emission reductions and lowered concentrations of ground-level ozone locally as well as in downwind states. Additionally, adoption of VOC emission reduction requirements is part of the Commonwealth's strategy, in concert with other OTR jurisdictions, to further reduce the transport of VOC ozone precursors and ground-level ozone

throughout the OTR to attain and maintain the 8-hour ozone NAAQS. This final-omitted rulemaking will be submitted to the EPA for approval as a revision to the Commonwealth's SIP following promulgation of this final-omitted rulemaking.

Need to limit VOC emissions and ground-level ozone pollution

VOC emissions are precursors to the formation of ground-level ozone, a public health, welfare and environmental hazard. However, ground-level ozone is not emitted directly to the atmosphere from any sources, including conventional oil and natural gas sources. Ground-level ozone is formed by a photochemical reaction between emissions of VOC and NO_x in the presence of sunlight; oil and gas sources, including conventional well sites, do emit these two pollutants. Ground-level ozone is a highly reactive gas, which at sufficiently high concentrations can produce a wide variety of effects harmful to public health and welfare and the environment. Additionally, climate change may exacerbate the need to address ground-level ozone. According to the EPA, atmospheric warming, as a result of climate change, may increase ground-level ozone in regions across the United States. This impact could also be an issue for states trying to comply with future ozone standards.

Ground-level ozone is a respiratory irritant and repeated exposure to high ambient concentrations of ground-level ozone pollution, for both healthy people and those with existing conditions, may cause a variety of adverse health effects, including difficulty in breathing, chest pains, coughing, nausea, throat irritation and congestion. In addition, people with bronchitis, heart disease, emphysema, asthma and reduced lung capacity may have their symptoms exacerbated by high ambient concentrations of ground-level ozone pollution. Asthma, in particular, is a significant and growing threat to children and adults in this Commonwealth. Ozone can also cause both physical and economic damage to important food crops, forests and wildlife, as well as materials such as rubber and plastics.

The implementation of additional measures to address ozone precursor emissions impacts on air quality in this Commonwealth is necessary to protect the public health and welfare and the environment. Because VOC emissions are precursors for ground-level ozone formation, adoption of the VOC emission control measures and other requirements in this final-omitted rulemaking is in the public interest as it will allow the Commonwealth to continue to make substantial progress in maintaining the 1997 and 2008 NAAQS as well as attaining and maintaining the 2015 8-hour ozone NAAQS Statewide. Implementation of and compliance with the final-omitted VOC emission reduction measures will assist the Commonwealth in reducing the levels of ozone precursor emissions that contribute to potential nonattainment of the 2015 ozone NAAQS in downwind states. As a result, the VOC emission control measures are reasonably necessary to attain and maintain the health-based and welfare-based 8-hour ozone NAAQS in this Commonwealth and to satisfy related CAA requirements.

The EPA's Control Techniques Guidelines for the oil and natural gas industry

The EPA issues guidance, in the form of a CTG, in place of regulations where the guidelines will be "substantially as effective as regulations" in reducing VOC emissions from a product or source category in ozone nonattainment areas. On October 27, 2016, the EPA

issued the 2016 O&G CTG which provided information to assist states in determining what constitutes RACT for VOC emissions from select oil and natural gas industry emission sources. See 81 FR 74798 (October 27, 2016). On March 9, 2018, the EPA had proposed to withdraw the 2016 O&G CTG in its entirety because the CTG had relied upon underlying data and conclusions made in the 2016 new source performance standards which the EPA was reconsidering. See 83 FR 10478 (March 9, 2018). However, on March 5, 2020, the EPA announced in the United States Office of Management and Budget's Spring 2020 Unified Agenda and Regulatory Plan that the EPA was no longer pursuing the action to withdraw the CTG and "the CTG will remain in place as published on October 27, 2016." See Supplemental Notice of Potential Withdrawal of the Control Techniques Guidelines for the Oil and Natural Gas Industry at https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202004&RIN=2060-AT76&operation=OPERATION_PRINT_RULE.

While the EPA provided information and RACT recommendations through the 2016 O&G CTG for VOC emissions, it is up to the Department to determine what is RACT for each source category of VOC emissions. As explicitly stated by the EPA in the 2016 O&G CTG, state air pollution control agencies are free to implement other technically-sound approaches that are consistent with the CAA and the EPA's regulations. See 81 FR 74798, 74799 (October 27, 2016). The EPA also further clarified that "the information contained in the CTG document is provided only as guidance" and "this guidance does not change, or substitute for, requirements specified in applicable sections of the CAA or the EPA's regulations; nor is it a regulation itself." *Id.* While the EPA will ultimately need to approve the Department's RACT determinations by reviewing and approving the revision to the Commonwealth's SIP, the Department has made the initial RACT determinations in this final-omitted rulemaking based on the entirety of information available to the Department, including the 2016 O&G CTG. In other words, the Department's obligation is to affirmatively determine what constitutes RACT for the source group identified in the 2016 O&G CTG and the EPA's provision of guidance and data in the 2016 O&G CTG does not obliterate that legal requirement. In the time since the 2016 O&G CTG was issued by the EPA, the Department acquired additional information and current emissions data specific to this Commonwealth that it analyzed to determine the RACT emission limitations and requirements established in this final-omitted rulemaking.

Findings of failure to submit, sanctions and deadline for action

If the EPA finds that a state has failed to submit an approvable SIP revision or has failed to implement the requirements of an approved measure in the SIP, the EPA issues a "finding of failure to submit notice." On November 16, 2020, the EPA issued a Final Rule entitled "Findings of Failure To Submit State Implementation Plan Revisions in Response to the 2016 Oil and Natural Gas Industry Control Techniques Guidelines for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) and for States in the Ozone Transport Region," with an effective date of December 16, 2020. 85 FR 72963 (November 16, 2020). This Commonwealth was one of the five states issued a finding of failure to submit a SIP revision to address the 2008 NAAQS and the RACT requirements associated with the 2016 O&G CTG by October 27, 2018. The EPA's finding triggers the sanction clock under section 179 of the CAA (42 U.S.C.A. § 7509). However, sanctions cannot be imposed until 18 months

after the EPA makes the determination, and sanctions cannot be imposed if a deficiency has been corrected within the 18-month period. On June 16, 2022, the 18-month period ended. Thus, the Commonwealth must submit this final-omitted rulemaking as a SIP revision and the EPA must determine that the submittal is complete as soon as possible to remove the sanctions that took effect on June 16, 2022.

The EPA issued "Findings of Failure to Submit State Implementation Plan Revisions for the 2016 Oil and Natural Gas Industry Control Techniques Guidelines for the 2015 Ozone National Ambient Air Quality Standards (NAAQS) and for States in the Ozone Transport Region," with an effective date of January 18, 2022, at 86 FR 71385 (December 16, 2021). This finding also triggers the sanction clock under section 179 of the CAA and the Commonwealth must submit a SIP revision to address the 2015 NAAQS and the EPA must determine that the submittal is complete by July 18, 2023.

Section 179 of the CAA authorizes the EPA to use two types of sanctions: 1) imposing what are called "2:1 offsets" on new or modified sources of emissions; and 2) withholding of certain Federal highway funds. Under section 179 of the CAA and its implementing regulations, the Administrator first imposes "2:1 offsets" sanctions for new or modified major stationary sources in the nonattainment area which took effect on June 16, 2022, and then, if the deficiency has not been corrected within 6 months, also applies Federal highway funding sanctions. See 40 CFR 52.31 (relating to selection of sequence of mandatory sanctions for findings made pursuant to section 179 of the Clean Air Act).

Additionally, the findings trigger an obligation under section 110(c) of the CAA for the EPA to promulgate a Federal Implementation Plan (FIP) no later than 2 years after the effective date of the finding of failure to submit if the Commonwealth has not submitted, and the EPA has not approved, the required SIP submittal. If the EPA promulgates a FIP, the EPA could, in its discretion, also withhold a portion of the Department's air pollution grant funds provided for in section 105 of the CAA. However, if the Commonwealth makes the required SIP submittal and the EPA takes final action to approve the submittal within 2 years of the effective date of these findings, the EPA is not required to promulgate a FIP.

The 2:1 offset sanctions went into effect for new or modified major stationary sources in this Commonwealth on June 16, 2022. If this final-omitted rulemaking and the separate unconventional rulemaking are not submitted to the EPA before December 16, 2022, the Federal highway sanctions will go into effect. The Department estimates that this could result in the loss of hundreds of millions of dollars in Federal highway funds.

This final-omitted rulemaking is being promulgated to attain and maintain both the 2008 and the 2015 ozone NAAQS and will be submitted to the EPA for approval as a revision to the Commonwealth's SIP following promulgation. While this final-omitted rulemaking will not fully address the December 2021 and the November 2020 findings of failure to submit SIP revisions, the Department finalized a separate rulemaking for the RACT requirements for unconventional oil and natural gas sources of VOC emissions. Once published in the *Pennsylvania Bulletin* as a final-form rulemaking, the separate rulemaking for unconventional sources of VOC emissions will also be submitted as a SIP revision. Together these two rulemakings address all the sources identified by the EPA in the 2016 O&G CTG. The Department is working

toward completing both submittals by December 16, 2022, to lift the existing sanctions and to stop the mandatory sanction clock.

VOC RACT requirements in this final-omitted rulemaking

Under section 4.2(b)(1) of the APCA (35 P.S. § 4004.2(b)(1)), the Board has the authority to adopt control measures that are more stringent than those required by the CAA if the Board determines that it is reasonably necessary for the control measure to exceed minimum CAA requirements for the Commonwealth to achieve or maintain the NAAQS. To the extent that a requirement in this final-omitted rulemaking is more stringent than the recommendations of the 2016 O&G CTG, the more stringent requirement is reasonably necessary to satisfy the Department's RACT requirements under the CAA and to attain and maintain the health-based and welfare based 8-hour ozone NAAQS in this Commonwealth.

The Department reviewed the RACT recommendations included in the 2016 O&G CTG for their applicability to the ground-level ozone reduction measures necessary for this Commonwealth and determined that the VOC emission reduction measures and other requirements are appropriate for this source category. However, based on analysis of data specific to this Commonwealth, the Department determined in three cases that RACT requirements more stringent than the recommendations in the 2016 O&G CTG are cost-effective and necessary to continue the Commonwealth's progress in attaining and maintaining the ground-level ozone NAAQS. The Department addressed VOC emissions from unconventional sources in a separate rulemaking.

In the first case, the Department determined that a 2.7 tons per year (TPY) VOC emission threshold for storage vessels is RACT as it is technically and economically feasible for both potential to emit and actual emissions from all covered storage vessels. The Department's analysis examined the sensitivity to the initial capital cost of the control device and found that the total cost per ton of VOC reduced is below the RACT benchmark of \$6,600 per ton reduced. Therefore, in § 129.133(a)(1) (relating to storage vessels) of this final-omitted rulemaking a 2.7 TPY VOC emission threshold applies to conventional owners or operators of storage vessels installed at conventional well sites, gathering and boosting stations and natural gas processing plants, and in the natural gas transmission and storage segment, based on the Department's cost analysis.

In the second case, § 129.136 (relating to compressors) of this final-omitted rulemaking establishes requirements for conventional owners or operators to implement reciprocating compressor rod packing replacements on reciprocating compressors located at conventional well sites. The requirement is based on the Department's analysis, further detailed in the Regulatory Analysis Form (RAF), which shows that it is both technically and economically feasible to require reciprocating compressor rod packing replacements every 26,000 hours of operation or every 3 years for reciprocating compressors located at conventional well sites. The analysis showed that the cost-effectiveness of the rod packing replacement is highly sensitive to the emissions factor used to represent emissions from reciprocating compressors. Using the average of several emission factors from the University of Texas at Austin's Emission Factor Improvement Study, the cost per ton of VOC reduced is approximately \$6,600 which is consistent with the RACT benchmark. See Harrison, M., Galloway, K., Hendler, A., Shires, T., Allen, D., Foss, M.,

Thomas, J., Spinhirne, J., Natural Gas Industry Methane Emission Factor Improvement Study Final Report Cooperative Agreement No. XA-83376101, Dec. 2011 at https://dept.ceer.utexas.edu/ceer/GHG/files/FReports/XA_83376101_Final_Report.pdf.

In the third case, the Department's analysis shows that it is both technically and economically feasible for an affected conventional owner or operator to implement instrument-based leak detection and repair (LDAR) inspections at a conventional well site with an average production of equal to or greater than 15 barrels of oil equivalent (BOE) per day with the frequency of inspections based on the production from each individual well at the well site. The owner or operator of a conventional well site with an average production of 15 BOE or more per day and with at least one individual well producing 15 BOE or more per day, on average, shall conduct monthly audible, visual, olfactory inspections (AVO) and quarterly instrument-based LDAR inspections of fugitive emissions components. The owner or operator of a conventional well site with an average of 15 BOE or more per day and at least one individual well producing 5 BOE or more but less than 15 BOE per day, on average, shall conduct monthly AVO inspections and annual instrument-based LDAR inspections of fugitive emissions components. In this final-omitted rulemaking, the Department also included an option for the owner or operator of a conventional well site producing, on average, equal to or greater than 15 BOE per day, and at least one well producing, on average, equal to or greater than 5 BOE per day but less than 15 BOE per day to submit to the Department a request for an exemption from the annual instrument-based LDAR requirement. However, the request must include, among other information, a demonstration that the annual LDAR requirement is not RACT (technically or economically feasible) for the well site. If approved, this exemption request will be submitted to the EPA as a revision to the Commonwealth's SIP.

In addition to the technically and economically feasible RACT requirements detailed previously, the Commonwealth is responsible for ensuring that the 2015 8-hour ozone NAAQS is attained and maintained by implementing permanent and Federally enforceable control measures. This final-omitted rulemaking is a primary component of the Commonwealth's strategy of ensuring that the ozone NAAQS are attained and maintained across this Commonwealth. Reductions in VOC emissions, that are achieved following the adoption and implementation of RACT VOC emission control measures for the select conventional oil and natural gas source categories covered by this final-omitted rulemaking, will assist the Commonwealth in making substantial progress in achieving and maintaining the ozone NAAQS. To the extent that a requirement in this final-omitted rulemaking is more stringent than the recommendations of the 2016 O&G CTG, the more stringent requirement is reasonably necessary to attain and maintain the health-based and welfare based 8-hour ozone NAAQS in this Commonwealth and to satisfy related CAA requirements.

VOC and methane emission reduction benefits

The Department estimates that in 2020, sources installed at conventional well sites emitted an estimated 18,971 TPY VOC and that implementation of the control measures in this final-omitted rulemaking could reduce VOC emissions by as much as 9,204 TPY. These VOC emission reductions will contribute to reductions in the formation of ground-level ozone and to achieving and maintaining the ozone NAAQS.

While this final-omitted rulemaking requires VOC emission reductions, methane emissions are also reduced as a cobenefit, because both VOC and methane are emitted from oil and gas operations. Methane is a potent greenhouse gas (GHG) with a global warming potential more than 28 times that of carbon dioxide (CO₂) over a 100-year time period, according to the EPA. The EPA has identified methane, the primary component of natural gas, as the second-most prevalent GHG emitted in the United States from human activities. The Department estimates that conventional well sites emitted 365,103 TPY methane in 2020, and that the cobenefit methane emissions reduction from this final-omitted rulemaking may be as much as 175,788 TPY.

The emission reductions for gathering and boosting stations and natural gas processing plants are included in the control of VOC emissions from unconventional oil and natural gas sources final regulation. The Department does not have information and data on how many gathering and boosting stations and natural gas processing plants are used in the conventional industry. Therefore, to avoid double counting of emission reductions, all of the VOC and methane emission reductions from these sources are estimated in the control of VOC emissions from unconventional oil and natural gas sources final regulation.

Furthermore, the technically and economically feasible RACT determinations in this final-omitted rulemaking for storage vessels, reciprocating compressors at well sites and fugitive emissions components result in a greater reduction of VOC emissions than implementing the EPA's RACT recommendations from the 2016 O&G CTG resulting in an additional 304 TPY of VOC and 5,790 TPY of methane emissions reductions.

This final-omitted rulemaking is also consistent with Governor Tom Wolf's strategy to reduce emissions of methane from the oil and natural gas industry in this Commonwealth. In the strategy, announced on January 19, 2016, the Department committed to developing a regulation for existing sources to reduce leaks at existing oil and natural gas facilities. The strategy also states that the Commonwealth will reduce emissions by requiring LDAR inspections and more frequent use of leak-sensing technologies. This final-omitted rulemaking fulfills those parts of the strategy.

Applicability of this final-omitted rulemaking

This final-omitted rulemaking will apply Statewide to owners or operators of one or more of the following conventional oil and natural gas sources of VOC emissions which were constructed on or before the effective date of this final-omitted rulemaking: natural gas-driven continuous bleed pneumatic controllers, natural gas-driven diaphragm pumps, centrifugal compressors, reciprocating compressors, fugitive emission components and storage vessels installed at conventional well sites, gathering and boosting stations and natural gas processing plants, as well as storage vessels in the natural gas transmission and storage segment.

The Department identified 4,719 conventional owners or operators of approximately 27,260 facilities in this Commonwealth that may be affected by this final-omitted rulemaking. Approximately 3,704 of the 4,719 conventional owners or operators may meet the definition of small business as defined in section 3 of the RRA (71 P.S. § 745.3). Based on information supplied by commentators on the proposed combined rulemaking, the Oil and Gas Production Report, and the Department's Air Information

Management System (AIMS) database, the Department estimates there are 27,260 conventional well sites. There are also 486 gathering and boosting stations, 15 processing plants, and 120 transmission stations in this Commonwealth that the Department cannot distinguish between conventional and unconventional sources. If any of these sources are used by the conventional industry, they are regulated through this final-omitted rulemaking. The Department estimates that conventional owners or operators have at least 6 storage vessels at 6 conventional well sites and 26,284 pneumatic controllers at 26,284 conventional well sites that will be subject to requirements under this final-omitted rulemaking. The owners or operators of approximately 95 of 27,260 conventional well sites will be required to implement instrument-based LDAR inspections under this final-omitted rulemaking.

The Department estimates that the total industry-wide cost of complying with this final-omitted rulemaking will be about \$9.8 million per year. However, implementation of the control measures will also potentially save conventional owners or operators about \$15.7 million per year due to a lower natural gas loss rate during production. This cost estimate consists of two major categories of data. The first is the annual cost to implement the RACT requirements for each affected source or affected facility as provided by the EPA in the 2016 O&G CTG and from the Department's own analysis. The second is the number of potentially affected facilities, which was obtained from several data sources including the Department's Oil and Gas Production Report, Environmental Facility Application Compliance Tracking System (eFACTS) database and AIMS. For the owners or operators of conventional well sites or any gathering and boosting stations and natural gas processing plants used by the conventional industry, the anticipated annual cost to comply with the requirements will be based on the type of sources present at the site, the requirements that apply to those sources, and the type of control used to comply.

Most of the anticipated costs are due to new regulatory requirements but many of the costs associated with this final-omitted rulemaking are from common sense practices and controls, some of which conventional owners or operators may already be implementing due to regulatory requirements or voluntary emission reduction programs. An example includes periodic AVO inspections which can prevent natural gas releases, which in turn prevent environmental damage and significant financial losses for the operator. The Department anticipates there will be areas of cost savings that will occur as a result of this final-omitted rulemaking. The Department estimates that a majority of small business stationary sources will be below the applicability thresholds. However, affected small businesses may incur minimal costs as a result of this final-omitted rulemaking and gain net benefits of approximately \$218 per facility or, on average, \$1,258 per owner or operator. Overall, the Department does not anticipate that this final-omitted rulemaking will result in any significant adverse impact on small businesses.

Public outreach

During the development of the combined rulemaking, the Department consulted with the Air Quality Technical Advisory Committee (AQTAC) and the Small Business Compliance Advisory Committee (SBCAC). On December 14, 2017, the Department presented concepts to AQTAC on a potential rulemaking incorporating the 2016 O&G CTG recommendations. The Department returned to AQTAC on December 13, 2018, for an informational presentation on a preliminary draft Annex A. The pro-

posed combined rulemaking was presented for a vote to AQTAC on April 11, 2019, and SBCAC on April 17, 2019. Both committees concurred with the Department's recommendation to move the proposed rulemaking forward to the Board for consideration.

The Department also conferred with the Citizens Advisory Council's (CAC) Policy and Regulatory Oversight Committee concerning the proposed combined control of VOC emissions from oil and natural gas sources rulemaking on May 7, 2019. On June 18, 2019, the full CAC concurred with the Department's recommendation to move the proposed rulemaking forward to the Board for consideration.

The Department also met with industry and environmental stakeholders to receive additional input on the proposed combined rulemaking. On January 24, 2019, the Department updated the Pennsylvania Grade Crude Development Advisory Council on the status of the rulemaking. On March 21, 2019, the Department provided an informational presentation to the Oil and Gas Technical Advisory Board. On July 8, 2019, the Department met with industry stakeholders, including representatives from the Marcellus Shale Coalition, Penn Energy, Southwestern Energy, Range Resources, and Chesapeake Energy. On August 27, 2019, the Department met with environmental stakeholders, including representatives from PennFuture, Environmental Defense Fund, and the Clean Air Council.

The final-form combined rulemaking was presented to AQTAC on December 9, 2021, the CAC Policy and Regulatory Oversight Committee on January 12, 2022, and the full CAC on January 18, 2022, and SBCAC on January 27, 2022.

E. Summary of Final-Omitted Rulemaking

§ 129.131. General provisions and applicability

Subsection (a) establishes that this final-omitted rulemaking will apply Statewide to the owner or operator of natural gas-driven continuous bleed pneumatic controllers, natural gas-driven diaphragm pumps, reciprocating compressors, centrifugal compressors, fugitive emissions components and storage vessels installed at conventional well sites, gathering and boosting stations and natural gas process plants, as well as storage vessels in the natural gas transmission and storage segment which were constructed on or before the effective date of this final-omitted rulemaking.

Subsection (b) provides that compliance with the requirements of this final-omitted rulemaking assures compliance with the requirements of a permit issued under §§ 129.91—129.95 (relating to stationary sources of NO_x and VOCs) or §§ 129.96—129.100 (relating to additional RACT requirements for major sources of NO_x and VOCs) except to the extent the operating permit contains more stringent requirements.

§ 129.132. Definitions, acronyms and EPA methods

Section 129.132 adds definitions, acronyms and EPA methods applicable to this final-omitted rulemaking.

§ 129.133. Storage vessels

Subsection (a)(1) establishes the applicability threshold for the owner or operator of a storage vessel based on potential VOC emissions. Subsection (a)(2) establishes the methodology required for calculating the potential VOC emissions of a storage vessel.

Subsection (b) establishes the compliance requirements for the owner or operator of a storage vessel to reduce

VOC emissions by 95.0% by weight or greater by either routing emissions to a control device or installing a floating roof that meets the requirements of 40 CFR Part 60, Subpart Kb (relating to standards of performance for volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984). If the owner or operator decides to route emissions to a control device, then the cover and closed vent systems must meet the requirements in § 129.138 (relating to covers and closed vent systems).

Subsection (c) provides for exceptions to the emissions limitations and control requirements in subsection (b) based on the actual VOC emissions of a storage vessel and lists compliance demonstration requirements for owners or operators claiming an exception.

Subsection (d) lists three categorical exemptions from the emissions limitations and control requirements of subsection (b).

Subsection (e) lists the requirements for removing a storage vessel from service.

Subsection (f) lists the requirements for a storage vessel returned to service.

Subsection (g) references the recordkeeping and reporting requirements under § 129.140(b) (relating to recordkeeping and reporting) and § 129.140(k)(3)(i) for owners or operators of storage vessels subject to this section.

§ 129.134. Natural gas-driven continuous bleed pneumatic controllers

Subsection (a) establishes the applicability for the owner or operator of a natural gas-driven continuous bleed pneumatic controller based on the controller's location. Subsection (b) provides for certain exceptions related to this subsection. Subsection (c) establishes VOC emissions limitation requirements. Subsection (d) sets forth compliance demonstration requirements. Subsection (e) identifies the recordkeeping and reporting requirements.

§ 129.135. Natural gas-driven diaphragm pumps

Subsection (a) establishes the applicability for the owner or operator of a natural gas-driven diaphragm pump based on the pump's location.

Subsection (b) establishes the compliance requirements for the owner or operator of a natural gas-driven diaphragm pump to reduce VOC emissions by 95.0% by weight or greater. For natural gas-driven diaphragm pumps located at a conventional well site, the owner or operator shall reduce VOC emissions by connecting the natural gas-driven diaphragm pump to a control device through a closed vent system that meets the requirements of § 129.138(b) and routing the emissions to a control device or process that meets the requirements of § 129.139 (relating to control devices). For natural gas-driven diaphragm pumps located at a natural gas processing plant, the owner or operator shall reduce VOC emissions by maintaining an emission rate of zero standard cubic feet per hour.

Subsection (c) provides for three exceptions to the emissions limitations and control requirements in subsection (b) based on the presence of a control device, the capability of the control device, or technical infeasibility of routing emissions to the control device.

Subsection (d) provides for a categorical exemption for the owner or operator of a natural gas-driven diaphragm

pump located at a well site which operates less than 90 days per calendar year, so long as the owner or operator maintains records of the operating days.

Subsection (e) establishes the compliance requirements for the owner or operator when removing a control device or process to which emissions from a natural gas-driven diaphragm pump are routed.

Subsection (f) references the recordkeeping and reporting requirements listed under § 129.140(d) and (k)(3)(iii) for owners or operators of natural gas-driven diaphragm pumps.

§ 129.136. *Compressors*

Subsection (a) establishes the applicability for the owner or operator of a reciprocating compressor or centrifugal compressor based on the compressor's location.

Subsection (b) establishes the compliance requirements for the owner or operator of a reciprocating compressor choosing to either replace the rod packing or use a rod packing emissions collection system.

Subsection (c) establishes the compliance requirements for the owner or operator of a centrifugal compressor to reduce VOC emissions by 95.0% by weight or greater by connecting to a control device through a cover and closed vent system that meets the requirements of § 129.138.

Subsection (d) lists a categorical exemption from the emissions limitation and control requirements of subsection (c) for centrifugal compressors located at a well site or at an adjacent well site where the compressor services more than one well site.

Subsection (e) references the recordkeeping and reporting requirements listed under § 129.140(e) and (k)(3)(iv) for owners or operators of reciprocating compressors and under § 129.140(f) and (k)(3)(v) for owners or operators of centrifugal compressors.

§ 129.137. *Fugitive emissions components*

Subsection (a) establishes the applicability for the owner or operator of a fugitive emissions component based on the component's location.

Subsection (b) establishes the average production calculation procedure for a well site.

Subsection (c) establishes the compliance requirements for conventional well sites based on the gas to oil ratio (GOR) of the well and the production of the well site and the individual wells on the well site.

Subsection (d) establishes the LDAR inspection requirements for shut-in conventional well sites.

Subsection (e) establishes the compliance requirements for the owner or operator of a natural gas gathering and boosting station or natural gas processing plant to implement monthly AVO inspections and quarterly LDAR inspections.

Subsection (f) provides an option for owners or operators to request an extension of the LDAR inspection interval.

Subsection (g) establishes the requirement for owners or operators to develop and maintain a written fugitive emissions monitoring plan.

Subsection (h) establishes the verification procedures for optical gas imaging (OGI) equipment identified in the fugitive emissions monitoring plan.

Subsection (i) establishes the verification procedures for gas leak detection equipment using EPA Method 21 identified in the fugitive emissions monitoring plan.

Subsection (j) establishes the requirement for a fugitive emissions detection device to be operated and maintained in accordance with the manufacturer-recommended procedures and as required by the test method or a Department-approved method.

Subsection (k) establishes that the owner or operator may opt to perform the no detectable emissions procedure of Section 8.3.2 of EPA Method 21.

Subsection (l) establishes the requirements to repair a leak detected from a fugitive emissions component and to resurvey the fugitive emissions component within 30 days of the leak repair.

Subsection (m) references the recordkeeping and reporting requirements for owners or operators of fugitive emissions components listed under § 129.140(g) and (k)(3)(vi).

§ 129.138. *Covers and closed vent systems*

Subsection (a) establishes the requirements for the owner or operator of a cover on a storage vessel, reciprocating compressor or centrifugal compressor, including a monthly AVO inspection requirement. The monthly AVO inspection requirement is consistent with the AVO inspection requirement for fugitive emissions components.

Subsection (b) establishes the design, operation and repair requirements for the owner or operator of a closed vent system installed on a subject source.

Subsection (c) establishes the requirement that the owner or operator of a closed vent system perform a design and capacity assessment and allows either a qualified professional engineer or an in-house engineer, as defined in § 129.132, to perform the assessment as proposed in the 2016 new source performance standard (NSPS) reconsideration.

Subsection (d) establishes the requirement that the owner or operator conduct a no detectable emissions inspection, as required by subsection (b)(2)(ii).

§ 129.139. *Control devices*

Subsection (a) establishes the applicability for the owner or operator of a control device based on whether the control device receives a liquid, gas, vapor or fume from one or more subject storage vessel, natural gas-driven diaphragm pump or wet seal centrifugal compressor degassing system. The owner or operator must operate each control device whenever a liquid, gas, vapor or fume is routed to the device and must maintain the records under § 129.140(j) and submit reports under § 129.140(k)(3)(ix).

Subsection (b) establishes the general compliance requirements for the owner or operator of a control device. Subsections (c)—(i) outline specific requirements that apply for each type of control device in addition to the general requirements in subsection (b).

Subsection (c) lists the compliance requirements for a manufacturer-tested combustion device, meaning a control device tested under 40 CFR 60.5413a(d) (relating to what are the performance testing procedures for control devices used to demonstrate compliance at my centrifugal compressor and storage vessel affected facilities?). The performance testing procedure in 40 CFR 60.5413a(d) is incorporated by reference in Chapter 122 (relating to National standards of performance for new stationary sources).

Subsection (d) lists the compliance requirements for an enclosed combustion device.

Subsection (e) lists the compliance requirements for a flare. The flare must meet the requirements under 40 CFR 60.18(b) (relating to general control device and work practice requirements).

Subsection (f) lists the compliance requirements for a carbon adsorption system.

Subsection (g) lists specific compliance requirements for a regenerative carbon adsorption system.

Subsection (h) lists specific compliance requirements for a non-regenerative carbon adsorption system.

Subsection (i) lists the compliance requirements for condensers and other non-destructive control devices.

Subsection (j) identifies the general performance test requirements.

Subsection (k) identifies the performance test method for demonstrating compliance with the control device weight-percent VOC emission reduction requirements referenced in subsections (c), (d), (f) and (i).

Subsection (l) identifies the performance test method for demonstrating compliance with the outlet concentration requirements referenced in subsections (d), (f) and (i).

Subsection (m) lists the continuous parameter monitoring system requirements (CPMS) for control devices that are required to install CPMS.

§ 129.140. Recordkeeping and reporting

In an effort to assist the regulated community, the Department created a separate section for all the applicable recordkeeping and reporting requirements pertaining to each regulated source.

Subsection (a) establishes the general requirement for all owners or operators of regulated sources to maintain applicable records onsite or at the nearest local field office for 5 years and for the records to be made available to the Department upon request.

Subsection (b) establishes the specific recordkeeping requirements for storage vessels.

Subsection (c) establishes the specific recordkeeping requirements for natural gas-driven continuous bleed pneumatic controllers.

Subsection (d) establishes the specific recordkeeping requirements for natural gas-driven diaphragm pumps.

Subsection (e) establishes the specific recordkeeping requirements for reciprocating compressors.

Subsection (f) establishes the specific recordkeeping requirements for centrifugal compressors.

Subsection (g) establishes the specific recordkeeping requirements for fugitive emissions components.

Subsection (h) establishes the specific recordkeeping requirements for covers.

Subsection (i) establishes the specific recordkeeping requirements for closed vent systems.

Subsection (j) establishes the specific recordkeeping requirements for control devices.

Subsection (k) establishes the reporting requirements for all owners or operators of regulated sources to submit an initial report 1 year after the effective date of this rulemaking and subsequent annual reports, including an option to extend the due date of the initial report.

F. Summary of Comments and Responses on the Proposed Combined Rulemaking

The Board adopted the proposed combined rulemaking at its meeting on December 17, 2019. On May 23, 2020, the proposed combined rulemaking was published for a 66-day comment period at 50 Pa.B. 2633. Three public hearings were held virtually on June 23, 24 and 25, 2020. Over 100 individuals provided verbal testimony. The comment period closed on July 27, 2020. The Board received over 4,500 comments, including comments from the House and Senate Environmental Resources and Energy Committees (ERE Committees), members of the General Assembly and IRRC. The majority of the commentators expressed their support of the VOC RACT requirements, noting the need to address air emissions from the oil and gas sector. The comments received on the proposed combined rulemaking are summarized in this section and are addressed in a comment and response document which is available on the Department's web site.

IRRC stated that section 2 of the RRA (71 P.S. § 745.2) explains why the General Assembly felt it was necessary to establish a regulatory review process. IRRC also noted that section 2(a) of the RRA states, "[t]o the greatest extent possible, this act is intended to encourage the resolution of objections to a regulation and the reaching of a consensus among the commission, the standing committees, interested parties and the agency." The vast majority of public comments are from individuals and environmental advocacy organizations in support of the proposal, but still urging the Department to adopt more restrictive requirements in this final-omitted rulemaking. Numerous comments were also from parties representing the oil and gas industries who believe that the regulatory mandates for existing sources should not be more stringent than requirements for new or modified sources or the EPA's 2016 O&G CTG. Since the issues raised by the commentators are often in direct conflict with each other, IRRC recommends that the Board continue to actively seek input from all interested parties, including lawmakers, as it develops the final version of the rulemaking.

In response, the Board and the Department have and will continue to actively seek input from all interested parties, including lawmakers. In addition to the review outlined under the RRA, members of the General Assembly, particularly the House and Senate ERE Committees, have extensive involvement in the development of the Department's rulemakings through members appointed to the Department's advisory committees and four seats on the Board. The Board and the Department consistently seek opportunities to engage productively with interested parties, including the Legislature. The Department's Legislative Office works to address issues and ensure that the Legislature is informed of actions by the Department and the Board. Additionally, members of the public have several opportunities to provide input on the Department's rulemakings. This includes the formal proposed rulemaking public comment and hearing process, as well as opportunities to provide informal public comment at the Department's advisory committee meetings during both the proposed and final stages of development of a rulemaking.

1. This final-omitted rulemaking satisfies the criteria under the RRA.

a. *This final-omitted rulemaking is supported by acceptable data.*

IRRC stated that Section 28 of the RAF relates to the regulatory review criterion of whether the regulation is

supported by acceptable data. If data is the basis for a regulation, this section of the RAF asks for a description of the data, how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. IRRC noted that the Board states that the basis for the proposed rulemaking is the Federally mandated RACT requirements found in the 2016 O&G CTG. Commentators representing the oil and gas industry assert that the 2016 O&G CTG requirements are similar to performance standards developed for “new” or “modified” sources and question the appropriateness of applying these standards to existing sources such as conventional oil and gas wells. IRRC asks the Board to explain how it determined that the proposed standards are appropriate for both the conventional and unconventional oil and gas industries in this Commonwealth.

In response, the Board establishes control measures in this final-omitted rulemaking that are only applicable to conventional sources of VOC emissions installed at conventional well sites, gathering and boosting stations and natural gas processing plants. This final-omitted rulemaking implements control measures to reduce VOC emissions from five specific categories of air contamination sources, including storage vessels; natural gas-driven continuous bleed pneumatic controllers; natural gas-driven diaphragm pumps; reciprocating and centrifugal compressors; and fugitive emissions components at conventional well sites.

The EPA selected these categories of sources for RACT recommendations because the information gathered and reviewed by the EPA indicated that they are significant sources of VOC emissions. In developing the 2016 O&G CTG, the EPA reviewed the oil and natural gas NSPS, including several technical support documents prepared in support of the NSPS actions for the oil and natural gas industry, as well as existing state and local VOC emission reduction approaches, and information on emissions, available VOC emission control technologies, and costs. In producing and reviewing this information, the EPA's Scientific Integrity Policy establishes that the EPA adheres to the 2002 Office of Management and Budget (OMB) Information Quality Guidelines, the 2005 OMB Information Quality Bulletin for Peer Review, the EPA's Quality Policy for assuring the collection and use of sound, scientific data and information, the EPA's Peer Review Handbook for internal and external review of scientific products, and the EPA's Information Quality Guidelines for maximizing the transparency, integrity and utility of information published on the EPA's web site.

During the development of the proposed combined rulemaking, the Department made initial RACT determinations based on the entirety of information available to the Department, including the data and analysis provided in the 2016 O&G CTG as well as 2017 oil and gas production data reported to the Department's Oil and Gas Production Report and 2017 emissions data reported to the Department's air emissions inventory. In the time since the 2016 O&G CTG was issued by the EPA, the Department acquired additional information during the public comment period and from the 2020 oil and gas production data and air emissions data, which was used in a cost/benefit reanalysis (2020 reanalysis) to establish the RACT determinations in this final-omitted rulemaking.

b. This final-omitted rulemaking sufficiently protects public health, safety and welfare and this Commonwealth's natural resources.

IRRC also remained concerned that this final-omitted rulemaking fulfills the Board's obligation to protect the quality and sustainability of the Commonwealth's natural resources. To that end, IRRC asked the Board to explain how the standards set forth in the regulation meet the criterion under section 5.2(b)(2) of the RRA (71 P.S. § 745.5b(b)(2)) pertaining to the protection of the public health, safety and welfare and the effect on this Commonwealth's natural resources while imposing reasonable requirements upon the oil and natural gas industry.

In response, the Board maintains that this final-omitted rulemaking is protective of the public health, safety and welfare, as well as the environment. The implementation of the VOC emission control measures in this final-omitted rulemaking is reasonably necessary to protect the public health and welfare and the environment from harmful ground-level ozone pollution. Reduced levels of VOC and methane emissions will also promote healthful air quality and ensure the continued protection of the environment and public health and welfare. The control measures in this final-omitted rulemaking, when implemented, are expected to provide VOC emission reductions of approximately 9,204 TPY. The EPA estimated that the monetized health benefits of attaining the 2008 8-hour ozone NAAQS of 0.075 ppm range from \$8.3 billion to \$18 billion on a National basis by 2020. Prorating that benefit to this Commonwealth, based on population, results in a public health benefit of \$337 million to \$732 million. Similarly, the EPA estimated that the monetized health benefits of attaining the 2015 8-hour ozone NAAQS of 0.070 ppm range from \$1.5 billion to \$4.5 billion on a National basis by 2025. Prorating that benefit to this Commonwealth, based on population, results in a public health benefit of \$63 million to \$189 million. The Board is not stating that these estimated monetized health benefits would all be the result of implementing the RACT measures contained in this final-omitted rulemaking, but the EPA estimates are indicative of the benefits to Commonwealth residents of attaining and maintaining the 2008 and 2015 8-hour ozone NAAQS. In addition to causing adverse human and animal health effects, the EPA has concluded that ground-level ozone affects vegetation and ecosystems, leading to reductions in agricultural crop and commercial forest yields. Furthermore, the same measures in this final-omitted rulemaking that control VOC emissions will also control methane emissions. When fully implemented, the control measures for VOCs are anticipated to reduce approximately 175,788 TPY of methane as a cobenefit. Methane is a potent GHG with a higher global warming potential than CO₂.

c. This final-omitted rulemaking will not have a negative economic or fiscal impact to this Commonwealth.

IRRC noted that the fiscal analysis provided by the Board estimates that the proposed rulemaking will cost operators approximately \$35.3 million (based on 2012 dollars) without consideration of the economic benefit of the saved natural gas. The value of the saved natural gas, in 2012 dollars, will yield a savings of approximately \$9.9 million, resulting in a total net cost of \$25.4 million. These figures were based on 2012 EPA cost estimates contained in the 2016 O&G CTG. Commentators question the accuracy of the fiscal analysis because the supporting data is outdated and is not specific to this Commonwealth's oil and gas industry. IRRC agreed with the

concerns raised by interested parties. For IRRC to determine whether this final-omitted rulemaking is in the public interest, the Board must submit a revised estimate of the costs or savings, or both, to the regulated community using data that is current and Commonwealth industry specific.

In response, the Board provides an estimate of the cost and savings to the regulated community using current and Commonwealth-specific data in the RAF for this final-omitted rulemaking. The Department's analysis estimates that implementation of the control measures in this final-omitted rulemaking will cost affected conventional owners and operators as a whole approximately \$9.8 million (2021 dollars) without consideration of the economic benefit of the saved natural gas. The value of the saved natural gas using \$1.70 per thousand cubic feet (Mcf) as suggested by several commentators yields a savings of \$15.7 million (2021 dollars). This results in a total net benefit of \$5.9 million (2021 dollars), which is based on some of the worst conditions of the past decade. As the price of natural gas increases, the impact on industry is mitigated; at approximately \$5.00 per Mcf during the 2020-2021 timeframe for the development of this final-omitted rulemaking, the impact on industry is a net benefit of \$36.4 million (2021 dollars). Although the natural gas saved as a result of implementation of this final-omitted rulemaking is significant, when the Department made the individual RACT determinations for the sources recommended in the 2016 O&G CTG, the value of the natural gas saved was not counted.

d. This final-omitted rulemaking does not conflict with existing statutes or regulations.

IRRC noted that the Department states that it "concerned with the EPA's proposal to allow in-house engineers to certify the determination of technical infeasibility to route pump emissions to a control and the design and capacity of a closed vent system, regardless of professional licensure." The proposed rulemaking defined "in-house engineer" as an individual who is qualified by education, technical knowledge, and experience to make an engineering judgment and the required specific technical certification. Since there is no requirement that the individual be employed by the facility, IRRC asked the Board to clarify the intent of this provision, including the problem or situation that is being addressed, why it is needed and whether the term "in-house engineer" should be retained or, as some commentators have suggested, be replaced with "qualified engineer." IRRC also asked the Board to explain how the term is consistent with the Engineer, Land Surveyor, and Geologist Registration Law (Registration Law) (63 P.S. §§ 148—158.2) and the regulations governing professional qualified engineers and engineers-in-training. Additionally, IRRC requested that the Board include a fiscal analysis that compares the costs of using an "in-house engineer" versus a "qualified professional engineer" under these sections. Finally, IRRC states that the Board should explain how permitting an unlicensed individual to certify the system he or she may have designed is in the public interest.

In response, the Board explains that the EPA added the term "in-house engineer" to the Reconsideration of 40 CFR Part 60, Subpart OOOOa of the NSPS (relating to standards of performance for crude oil and natural gas facilities for which construction, modification or reconstruction commenced after September 18, 2015) to address a specific concern about the availability and costs associated with limiting the certification of closed vent system design and capacity or technical infeasibility of

routing natural gas-driven diaphragm pump emissions to a control to a "qualified professional engineer" as defined in § 129.122 (relating to definitions, acronyms and EPA methods). Because of the interrelatedness of the NSPS and the 2016 O&G CTG requirements, the Board proactively added this flexibility to the proposed combined rulemaking. The EPA stated in the Reconsideration that they "believe that an in-house engineer with knowledge of the design and operation of the [closed vent system] is capable of performing these certifications, regardless of licensure..." According to the EPA, a qualified professional engineer certification would cost \$547 while allowing an in-house engineer to make the certification would cost \$358. Unfortunately, the term "in-house engineer" was not defined in the NSPS or the 2016 O&G CTG, so the Board proposed the definition given. Based on comments received, the Board revises the definition of "in-house engineer" to require that the "in-house engineer" be employed by the same owner or operator as the responsible official that signs the certification required under § 129.130(k).

The term "in-house engineer" is consistent with the Registration Law and the regulations governing professional qualified engineers and engineers-in-training in that it narrowly defines who is permitted to perform the certification of a natural gas-driven diaphragm pump or closed vent system in accordance with section 5 of the Registration Law (63 P.S. § 152). Clause (i) of the definition in this final-omitted rulemaking recognizes that in accordance with section 5(f) and (g) of the Registration Law, the individual must be an employee of the owner or operator. Clause (ii) of the definition tightens the criteria of section 5(f), (g) and (j) by requiring the individual be qualified by education, technical knowledge, and expertise in the design and operation of a natural gas-driven diaphragm pump or closed vent system as those subsections of the Registration Law do not specify the level of technical knowledge required.

There are two provisions in this final-omitted rulemaking that authorize use of an in-house engineer: § 129.135(c)(3)(ii)(A) (relating to natural gas-driven diaphragm pumps) and § 129.138(c)(1). The provision in § 129.135(c)(3)(ii)(A) allows an in-house engineer to perform an assessment to determine whether it is technically infeasible for a natural gas-driven diaphragm pump to connect to a control device or process. The provision in § 129.138(c)(1) allows an in-house engineer to perform a design and capacity assessment to ensure an installed closed vent system is sufficient to convey emissions to a control device that can accommodate those emissions. Authorizing the use of an in-house engineer in these two limited situations is in the public interest because it will not affect "the public safety or health or the property of some other person or entity" in accordance with section 5(f) and (g) of the Registration Law. In fact, in the 2016 O&G CTG, the EPA allowed for this certification by either a licensed professional engineer (PE) or an in-house engineer because in-house engineers may be more knowledgeable about site design and control than a third-party PE.

e. The requirements, implementation procedures and timetables for compliance of this final-omitted rulemaking are reasonable.

IRRC noted that the effective date of this final-omitted rulemaking is immediately upon publication in the *Pennsylvania Bulletin*. Commentators suggested that a minimum of a 60-day effective date would give owners or operators additional time to reasonably transition into the new requirements so that existing facilities are not

required to immediately implement and comply with the new rules. Others suggested that owners or operators will need considerably more time to determine if their sources are required to comply with this final-omitted rulemaking, as well as mobilize the necessary resources to perform the required inspections. In addition, interested parties representing the oil and gas industry requested that time periods between inspections be extended or made consistent with current 2016 O&G CTG timeframes to avoid duplicate compliance activities. IRRRC encouraged the Board to work with the regulated community to resolve issues pertaining to inspection timeframes and recommends revising the effective date of this final-omitted rulemaking to give sufficient time to the regulated community to implement and comply with requirements or explain why it is unnecessary to do so.

In response, this final-omitted rulemaking will be effective upon notice or publication in the *Pennsylvania Bulletin*; however, the Board notes that compliance dates are established throughout this final-omitted rulemaking to provide affected owners or operators sufficient time to identify and comply with the applicable requirements.

IRRC noted that the Benefits, Costs and Compliance section of the preamble describes how the VOC RACT requirements established by this final-omitted rulemaking will be incorporated into "an existing permit." IRRC asked how the process to incorporate the requirements into an existing permit will be implemented based on the compliance schedule in Section 29F of the RAF (pertaining to expected date by which permits, licenses or other approvals must be obtained). IRRC asked the Board to provide a more detailed explanation of the process contained in this section and how it will be implemented.

In response, the Board explains that the incorporation of the requirements of this final-omitted rulemaking into an existing permit will follow the requirements of § 127.463 (relating to operating permit revisions to incorporate applicable standards). Owners or operators will not be required to submit an application for amendments to an existing operating permit. Instead, the requirements will be incorporated when the permit is renewed, if less than 3 years remain in the permit term, as specified under § 127.463(c). If 3 years or more remain in the permit term, the requirements would be incorporated as applicable requirements in the permit within 18 months of the promulgation of the final-omitted rulemaking, as required under § 127.463(b).

IRRC stated that interested parties representing environmental concerns commend the Board for including alternative leak detection methods in the rulemaking. IRRC asked the Board to explain the approval process for alternative leak detection methods and whether alternative leak detection methods will be required to achieve equivalent emission reductions as currently allowed devices or methods. Additionally, IRRC asked the Board to describe the requirements and approval process for alternative leak detection methods in the preamble to this final-omitted rulemaking.

In response, the Board explains that the Department adopts a performance-based approach for evaluating leak detection equipment and the equipment's documented ability to measure the compounds of interest at the detection level necessary to demonstrate compliance with the applicable requirement. In many cases, the technology has been evaluated by the EPA and appropriate quality assurance requirements have been specified. In addition to Method 21 and 40 CFR 60.18, 40 CFR 98.234 (relating to monitoring and QA/QC requirements) includes a list of

other appropriate technologies and requirements. Since the Department's criteria are performance based, an owner or operator seeking to use an alternative method should provide documented evidence that the alternative technology is capable of detecting the leak at the specified leak threshold. For example, an alternative leak detection method with the appropriate performance criterion may be specified in a related, though not specifically applicable, regulation such as an NSPS or National Emission Standard for Hazardous Air Pollutants.

f. *This final-omitted rulemaking is needed.*

IRRC noted that the preamble and the RAF do not adequately describe the rationale or need for certain requirements or exclusions. Commentators representing environmental concerns identify two key provisions that they say are contrary to the goals of this final-omitted rulemaking. The first is the exemption of low-producing wells from the requirements of LDAR inspections. The second one is the "step down" provision that allows owners or operations to decrease the frequency of LDAR inspections if the percentage of leaking components is less than 2% for two consecutive quarterly inspections. Owners or operators would have the option to reduce the inspection frequency to semi-annually. Opponents of these two measures say it is "faulty and risky" for the Department to assume that conventional operations do not emit at levels high enough to have a significant impact on air quality and climate. IRRC asked the Board to explain the need for each provision and how determinations were made, as well as what data was used to justify the exemptions. Section 11 of the RAF also states that the Department determined that owners or operators must conduct quarterly LDAR inspections at their facilities, as opposed to the recommended semiannual frequency in the 2016 O&G CTG. IRRC asked the Board to explain the need for the quarterly LDAR inspection requirement, the low production threshold LDAR exemption, and the LDAR stepdown provision and how the determinations were made, as well as what data was used to justify the exemptions or more stringent regulations.

In response, the Board explains that the control measures in this final-omitted rulemaking are reasonably necessary to attain and maintain both the 2008 and 2015 ozone NAAQS. The Department removes the stepdown provision and altered the production thresholds for LDAR requirements in this final-omitted rulemaking. For fugitive emission components, the proposed combined rulemaking established monthly AVO inspections and quarterly instrument based LDAR inspections for well sites with a well that produces, on average, 15 BOE per well per day. The proposed combined rulemaking also established a stepdown provision which enabled owners or operators to track the percentage of leaking components at each inspection and, if in two consecutive inspections there were less than 2% of components leaking, the owner or operator could reduce the quarterly schedule of instrument based LDAR to semiannual. However, the Department's analysis shows that it is cost effective to implement instrument based LDAR at conventional well sites with an average production of 15 BOE per day, with the frequency based on individual well production on the well site. For applicable conventional well sites with at least one well that produces equal to or greater than 15 BOE per day the owner or operator must perform quarterly instrument based LDAR inspections. For applicable conventional well sites with at least one well that is less than 15 BOE per day and equal to or greater than 5 BOE per day, the owner or operator must perform annual instrument based LDAR inspections. The owner or opera-

tor is required to track well site production and the individual production of each well on the conventional well site on an annual basis. The owner or operator may reduce the inspection frequency based on the production calculations which shows two consecutive years of production in the lower category. The owner or operator shall increase the inspection frequency immediately if the production calculations show an increase that is subject to more frequent inspections.

IRRC noted that representatives from the oil and gas industry observe that no analysis has been shared by the Board to support the Department's conclusion that the proposed requirements that are more stringent than the EPA's 2016 O&G CTG "are reasonably necessary" to achieve or maintain the NAAQS. Commentators question the need to exceed the 2016 O&G CTG when this Commonwealth is near universal compliance with the 1997, 2008 and 2015 ozone standards. IRRC further notes that the commentators explain that the state is not required to rely on the recommendations of the 2016 O&G CTG to establish the proposed rulemaking. Instead, it could make RACT determinations for a particular source on a case-by-case basis considering the technological and economic feasibility of the individual source.

In response, the Board agrees that the ambient air ozone monitoring data demonstrates that this Commonwealth is in near universal compliance with the 1997, 2008 and 2015 ozone NAAQS. The Department's analysis of the 2020 ambient air ozone season monitoring data shows that all ozone samplers in this Commonwealth are monitoring attainment of the 2015 8-hour ozone NAAQS except three: the Bristol sampler in Bucks County, the Philadelphia Air Management Services Northeast Airport and Northeast Waste samplers in Philadelphia County. Ambient air ozone samplers in this Commonwealth are projected to monitor attainment of the 1997 and 2008 8-hour ozone NAAQS. However, the Department must ensure that the 1997, 2008 and 2015 8-hour ozone NAAQS continue to be attained and maintained by implementing permanent and Federally enforceable control measures.

Additionally, section 182(b)(2) of the CAA requires states with moderate ozone nonattainment areas to revise their SIPs to include RACT for sources of VOC emissions covered by CTG documents issued by the EPA prior to the area's date of attainment of the applicable ozone NAAQS. More importantly, section 184(b)(1)(B) of the CAA requires states in the OTR, including this Commonwealth, submit a SIP revision requiring implementation of RACT for all sources of VOC emissions in the state covered by a specific CTG and not just for those sources located in designated nonattainment areas of the state. Consequently, since this Commonwealth is not designated by the EPA as in attainment with the 2015 ozone NAAQS and is not monitoring compliance Statewide with the 2015 ozone NAAQS, the Commonwealth's SIP must include regulations applicable Statewide to control VOC emissions from oil and natural gas sources that are not regulated elsewhere in Chapter 129. These sources were selected by the EPA because data and information has indicated that they are significant sources of VOC emissions.

The Department is obligated under the CAA to analyze the source sector, as defined in the 2016 O&G CTG, and regulate sources that have control techniques or equipment that is "reasonably available." The EPA issues guidance, in the form of a CTG, in place of regulations where the guidelines will be "substantially as effective as

regulations" in reducing VOC emissions from a product or source category in ozone nonattainment areas. In other words, the 2016 O&G CTG has no legally binding effects. While the EPA provided information and RACT recommendations through the 2016 O&G CTG for VOC emissions, it is up to the Department to determine what is RACT for each source category of VOC emissions. As explicitly stated by the EPA in the 2016 O&G CTG, state air pollution control agencies are free to implement other technically-sound approaches that are consistent with the CAA and the EPA's regulations. See 81 FR 74798, 74799 (October 27, 2016). The EPA also further clarified that "the information contained in the CTG document is provided only as guidance" and "this guidance does not change, or substitute for, requirements specified in applicable sections of the CAA or the EPA's regulations; nor is it a regulation itself." *Id.* While the EPA will ultimately need to approve the Department's RACT determinations by reviewing and approving the revision to the Commonwealth's SIP, the Department has made the initial RACT determinations in this final-omitted rulemaking based on the entirety of information available to the Department, including the 2016 O&G CTG.

The Department's obligation is to affirmatively determine what constitutes RACT for the source group identified in the 2016 O&G CTG and the EPA's provision of guidance and data in the 2016 O&G CTG does not obviate that legal requirement. In the time since the 2016 O&G CTG was issued by the EPA, the Department acquired additional information and current emissions data specific to this Commonwealth that it analyzed to determine the RACT emission limitations and requirements established in this final-omitted rulemaking.

The Department determined that the recommendations provided in the 2016 O&G CTG for natural gas-driven continuous bleed pneumatic controllers, natural gas driven-diaphragm pumps and centrifugal compressors are RACT for sources in this Commonwealth. The EPA recommendations in the 2016 O&G CTG for storage vessels, reciprocating compressors, and fugitive emissions components were determined not to be RACT in this Commonwealth. The Department conducted a reanalysis to determine RACT for these three categories of sources: storage vessels, reciprocating compressor rod packing and fugitive emissions components. The information used in the Department's analysis was obtained from the Department's Air Emission Inventory, Oil and Gas Production Database, and information provided by industry trade associations from the public comment period for the proposed combined rulemaking.

The quarterly LDAR inspection requirement for conventional well sites with a well that produces, on average, 15 BOE per well per day is reasonably necessary to achieve and maintain the NAAQS for ozone and is technically and economically feasible. For applicable conventional well sites with at least one well that is less than 15 BOE per day and equal to or greater than 5 BOE per day, the owner or operator must perform annual instrument based LDAR inspections. The Department determined that this is also reasonably necessary to achieve and maintain the NAAQS for ozone and is technically and economically feasible. Additionally, the Department notes that the leak rate-based LDAR stepdown provision is removed in this final-omitted rulemaking.

To address the comment about case-by-case RACT determinations, the Board was incorrect in suggesting in the preamble for the proposed combined rulemaking that a case-by-case RACT determination is available for this

CTG-based rule. The Board decided not to exercise its discretion to conduct case-by-case RACT analysis for this final-omitted rulemaking. The process for submitting RACT determinations on a case-by-case basis to the EPA is administratively burdensome, particularly given the larger number of regulated facilities. Instead, for this final-omitted rulemaking, the Department modified the EPA's "presumptive norm" RACT recommendations. As stated by the EPA in 44 FR 53761 (September 17, 1979) titled, "State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas—Supplement (on Control Techniques Guidelines):" "Along with information, each CTG contains recommendations to the States of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to the industry. Where the States finds the presumptive norm applicable to an individual source or group of sources, EPA recommends that the State adopt requirements consistent with the presumptive norm level in order to include RACT limitations in the SIP."

g. This final-omitted rulemaking will not negatively impact small businesses.

IRRC noted that section 5(a)(12.1) of the RRA requires promulgating agencies to provide a regulatory flexibility analysis and to consider various methods of reducing the impact of the proposed regulation on small business. IRRC does not believe that the Board has met its statutory requirement of providing a regulatory flexibility analysis or considering various methods of reducing the impact of the proposed regulation will have on small business in its responses to various sections and questions in the RAF. It is unclear from the RAF whether the 303 conventional wells subject to LDAR inspections are owned by small businesses. However, commentators believe most, if not all, are small businesses and strongly disagree that they will incur minimal costs as a result of the proposed rulemaking. In Section 15 of the RAF, the Board states that "further analysis is required to determine if any of the affected sources are owned or operated by small businesses." IRRC asked how the Board determined that costs would be minimal if it is unknown whether any of the affected sources are owned by small businesses. IRRC agreed with the commentators that further analysis is needed to determine the financial impact on small businesses and asked the Board to provide the required regulatory flexibility analysis when it submits the final-omitted rulemaking.

In response, the Board notes that as stated in the RAF for the proposed combined rulemaking, of the 71,229 conventional wells reporting production, only 303 were found to be above the 15 BOE/day production threshold as reported in the Department's 2017 oil and gas production database and would have fugitive emissions component requirements. Upon further analysis by the Board, it seems that only 199 of the previously identified 303 conventional wells were potentially subject to the proposed LDAR requirements for fugitive emissions. In the analysis for the proposed combined rulemaking, the Board examined individual wells, not well sites. It is difficult to determine at the individual well level how many are owned or operated by small businesses as there may be several wells per well site. However, the costs to the owners or operators of those 199 conventional wells would have been minimal, because the Board's cost analysis for quarterly LDAR was based on hiring a contractor, not purchasing equipment, hiring and training personnel, and conducting quarterly surveys.

The Board identified 4,719 client ID numbers for potentially affected owners or operators of facilities in this Commonwealth using the Department's eFACTS and AIMS databases and the North American Industry Classification System (NAICS) codes covered by the 2016 O&G CTG. These facilities include approximately 27,260 conventional well sites, 486 gathering and boosting stations, and 15 natural gas processing facilities in this Commonwealth. Of these potential 4,719 conventional owners or operators, approximately 3,704 may meet the definition of small business as defined in section 3 of the RRA. However, it is possible that far fewer than the 4,719 conventional owners or operators will be subject to the control measures of this final-omitted rulemaking, depending on the amount of VOC emissions that are emitted by the affected sources they own or operate or if they are subject to other regulations in Chapter 129. While many of the anticipated costs are due to new regulatory requirements, many of the costs associated with this final-omitted rulemaking are from what the Board believes are best management practices and controls that affected owners or operators may already be implementing. Additionally, the Board notes that the EPA did not distinguish between unconventional and conventional sources of emissions in the 2016 O&G CTG, and the Board does not have the authority to exempt sources from Federal requirements.

In this final-omitted rulemaking, the Board estimates that there are 27,260 conventional well sites with 68,519 producing conventional wells. Based on comments, the Board estimates there is approximately one storage vessel per well site; of these, only six are estimated to have VOC emissions that would require control, for a cost of approximately \$185,453 (2021 dollars) and reducing 71 TPY VOC yielding \$2,612 per ton reduced. For natural gas continuous bleed pneumatic controllers, based on comments and assuming those that are subject to Federal regulation are in compliance, the Board estimates there are 26,284 natural gas-driven continuous bleed pneumatic controllers that would require replacement. The cost to replace these natural gas-driven continuous bleed pneumatic controllers is estimated to be \$9.1 million (2021 dollars). This would result in a VOC emission reduction of 8,336 TPY at a cost of \$1,093 per ton reduced and an estimated savings in natural gas of \$14.3 million (2021 dollars), or \$546 in savings per natural gas-driven continuous bleed pneumatic controller replaced.

Of the 27,260 conventional well sites, the Board estimates that 64 well sites with 289 wells would be required to implement quarterly instrument-based LDAR and 31 well sites with 970 wells would be required to implement annual instrument-based LDAR. This would cost an estimated \$482,408 (2021 dollars) and result in approximately 797 TPY VOC emissions reduction or \$605 per ton reduced. The Board estimates that implementation of LDAR at these well sites would result in an estimated savings in natural gas of approximately \$1.4 million (2021 dollars), or \$14,447 in savings per facility conducting LDAR. These cost and savings figures represent a net benefit to the conventional industry of \$889,129 which implies a financial benefit, not an impact, to the conventional industry. Therefore, the Board estimates total industry costs for conventional operators will be \$9.8 million (in 2021 dollars), the total industry savings will be \$15.7 million, for a total net benefit of \$5.9 million.

In addition, those well sites all have one or more high producing wells. High producing wells generate the most oil, which leads to higher revenue and profits. In other words, for the conventional O&G industry, only the 95

highest producing well sites out of 27,260 well sites will be subject to the LDAR requirements. To the extent that the regulated well sites, which represent the 0.3% highest producing well sites, are small businesses, the economic burden will be small because these are among the very highest revenue generating well sites. Additional details on small businesses and the effects of this final-omitted rulemaking on small businesses can be found in Sections 15, 24 and 27 of the RAF.

2. Act 52 of 2016 does not apply to this final-omitted rulemaking.

IRRC commented that section 7(b) of Act 52 of 2016 (58 P.S. § 1207(b)), requires any rulemaking concerning conventional oil and gas wells that is considered by the Board must “be undertaken separately and independently of unconventional wells or other subjects and shall include a regulatory analysis form submitted to the Independent Regulatory Review Commission that is restricted to the subject of conventional oil and gas wells.” IRRC noted that lawmakers and commentators state that the Board has violated clear legislative directives by proposing a VOC emissions rule that includes requirements for conventional oil and gas well owners and operators along with, not “separately and independently” from, requirements for unconventional well operations. IRRC further noted that the Board has not prepared or submitted an RAF restricted to the need and impact of the rulemaking on the conventional oil and gas industry. IRRC highlights that lawmakers request that the provisions that apply to the conventional oil and gas industry be withdrawn from the rulemaking. IRRC asked the Board to explain how it has and will comply with the legislative directives of Act 52 of 2016.

In response, the Board explains that this final-omitted rulemaking establishes control measures that are only applicable to conventional sources of VOC emissions installed at conventional well sites, gathering and boosting stations and natural gas processing plants.

On March 15, 2022, the Board adopted the combined rulemaking (both conventional and unconventional sources) as a final-form rulemaking. Also, on March 15, 2022, the Board submitted the final-form combined rulemaking to IRRC for its consideration. On April 26, 2022, the House ERE Committee sent a letter to IRRC indicating their disapproval of the combined rulemaking due to their interpretation of language in Act 52 of 2016. The letter stated the House ERE Committee’s position that Act 52 of 2016 requires the Board to submit two rulemaking packages—one that applies to unconventional oil and natural gas sources and one that applies to conventional oil and natural gas sources. The House ERE Committee’s letter to IRRC initiated the concurrent resolution process under section 7(d) of the RRA which allows the General Assembly to adopt a resolution that disapproves and permanently bars a final regulation from taking effect.

While the Board disagrees with the House ERE Committee’s interpretation of Act 52 of 2016, to address their concerns and avoid further delay, on May 4, 2022, the Board withdrew the combined rulemaking from IRRC’s consideration. The Board then revised the combined rulemaking to apply only to unconventional oil and natural gas sources. On June 14, 2022, the Board adopted the revised Control of VOC Emissions from Unconventional Oil and Natural Gas Sources final-form rulemaking (referred to as the unconventional rulemaking). On July 21, 2022, IRRC unanimously approved the unconventional rulemaking.

Given the concerns expressed by the House ERE Committee and other commentators during the regulatory process for the combined rulemaking, the Department developed this separate rulemaking, including a separate Regulatory Analysis Form, to control VOC emissions from conventional oil and natural gas sources of VOC emissions.

IRRC also commented that commentators representing the conventional oil and gas industry are uncertain whether the proposed regulation applies to conventional oil and gas operations in this Commonwealth. IRRC commented that these industry representatives claim that the regulation would apply to some equipment utilized in conventional oil and gas operations but were informed that this regulation would not apply to their sector of the industry. IRRC asked the Board to clarify which provisions, if any, apply to the conventional oil and gas industry.

In response, the Board explains that given the concerns expressed by the commentators during the regulatory process for the combined rulemaking, the Department developed this separate final-omitted rulemaking, including a separate Regulatory Analysis Form, to control VOC emissions from conventional oil and natural gas sources.

The Department estimates that approximately 95 of the 27,193 conventional well sites may need to implement a new LDAR program because those well sites produce at least 15 BOE per day with at least one well producing a minimum of 5 BOE. Based on the Department’s record of when conventional well sites were drilled, the Department assumes that 67 conventional well sites are subject to Subpart OOOOa, which applies to oil and natural gas facilities constructed, modified or reconstructed after September 18, 2015. Of the approximately 95 conventional well sites that may be required to implement a new LDAR program under this final-omitted rulemaking, 31 would have to meet the annual instrument-based inspection requirement and the remaining 64 would have to meet the quarterly instrument-based inspection requirement.

3. The EPA is no longer withdrawing the 2016 O&G CTG.

IRRC notes that the Board states in Section 9 of the RAF that “[e]ven though a finalized withdrawal of the 2016 O&G CTG would relieve the state of the requirement to address RACT for existing oil and gas sources, the Department is still obligated to reduce ozone and VOC emissions to ensure that the NAAQS is attained and maintained under section 110 of the CAA, 42 U.S.C.A. § 7410.” Commentators have asked the Board to consider another public comment period should the Federal regulations or guidelines be significantly changed before promulgation of this final-omitted rulemaking. IRRC asked the Board to explain how it will proceed if there are significant changes made to 2016 O&G CTG or 40 CFR Part 60, Subparts OOOO (relating to standards of performance for crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after August 23, 2011, and on or before September 18, 2015) and OOOOa prior to the promulgation of this final-omitted rulemaking.

In response, the Board explains that the relevant Federal regulations and the 2016 O&G CTG have not significantly changed and will not change prior to promulgation of this final-omitted rulemaking. In March of 2020, the Department received notice that the EPA had decided not to proceed with the withdrawal of the 2016 O&G

CTG. The EPA announced in the OMB's Spring 2020 Unified Agenda and Regulatory Plan that the CTG will remain in place as published on October 27, 2016. On November 16, 2020, the EPA issued a Final Rule entitled "Findings of Failure To Submit State Implementation Plan Revisions in Response to the 2016 Oil and Natural Gas Industry Control Techniques Guidelines for the 2008 Ozone NAAQS and for States in the Ozone Transport Region (OTR)." 85 FR 72963 (November 16, 2020). This Commonwealth was one of the five states issued a finding of failure to submit a SIP revision incorporating the 2016 O&G CTG RACT requirements by October 27, 2018. The EPA's finding triggers the sanction clock under the CAA. The Commonwealth must submit this final-omitted rulemaking, along with the unconventional rulemaking, as a SIP revision and the EPA must determine that the submittal is complete within 18 months of the effective date (December 16, 2020) of the EPA's finding, that is, by June 16, 2022, or sanctions may be imposed. The offset ratio sanctions went into effect on June 16, 2022, and the Commonwealth now has until December 16, 2022, to submit the SIP revision or highway funding sanctions will be imposed.

4. Provisions of this final-omitted rulemaking were amended for clarity.

IRRC noted that § 129.121(a) provides that the proposed rulemaking would apply to the owners or operators of storage vessels in all segments except natural gas distribution; natural gas-driven continuous bleed pneumatic controllers; natural gas driven diaphragm pumps; reciprocating compressors; centrifugal compressors; or fugitive emissions component which were in existence on or before the effective date of this final-omitted rulemaking. Commentators ask how "existing" will be interpreted under this rulemaking since there may be facilities that have initiated construction but are not yet operational on the effective date of the rulemaking. IRRC asked the Board to explain, in the preamble to the final-omitted rulemaking, how "existing" will be interpreted under this chapter.

In response, the Board revises the applicability section, § 129.131(a), of this final-omitted rulemaking by removing the phrase "in existence" and replacing it with "constructed" to clarify that the requirements apply to sources constructed on or before the effective date of this final-omitted rulemaking. Sources constructed after the effective date will not be subject to this final-omitted rulemaking. However, new sources are subject to best available technology requirements, so it is likely that the requirements for new sources will be equivalent to or more stringent than the RACT requirements of this final-omitted rulemaking.

IRRC mentioned that subparagraph (iii) of the definition of "deviation" includes a failure to meet an emission limit, operating limit, or work practice standard during start-up, shutdown or malfunction as a "deviation" regardless of whether a failure is permitted by these rules. IRRC requested that the Board clarify this definition because commentators have asked the Board to make clear that failure to meet a limit or standard should not be considered a "deviation" if permit conditions are met.

In response, the Board explains that a deviation under subparagraph (iii) is not considered to be a violation of this final-omitted rulemaking or a permit and deviations must be recorded and reported as required under § 129.140. A facility that has a permit must evaluate the terms and conditions of the permit and the requirements of this final-omitted rulemaking and comply with the

most stringent requirement. The deviation must be evaluated against the most stringent requirement. The Board will evaluate these instances for compliance with the applicable requirements and standards. Additionally, the definition of "deviation" is consistent with the EPA's guidance in the 2016 O&G CTG.

IRRC suggested that for consistency, the definition of "first attempt at repair" should be revised to replace "organic material" with "VOCs."

In response, the Board explains that in the proposed rulemaking it used the definition of "first attempt at repair" from the EPA's regulations at 40 CFR Part 60, Subpart VVa (relating to Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006). While the term "first attempt at repair" is used in Sections A, D and G in the 2016 O&G CTG, it was not defined. After the EPA's Reconsideration of the NSPS, a definition that differed slightly from that in Subpart VVa was added to Subpart OOOOa. As the definition of "first attempt at repair" from Subpart OOOOa is closer in-line with the usage in the 2016 O&G CTG, the Board revises the definition in this final-omitted rulemaking. The Board removes the proposed definition which stated, "action taken for the purpose of stopping or reducing leakage of organic material to the atmosphere using best practices" and replaces it with "for purposes of § 129.127 (relating to fugitive emissions components): an action using best practices taken to stop or reduce fugitive emissions to the atmosphere." The Board also clarifies that the term includes tightening bonnet bolts, replacing bonnet bolts, tightening packing gland nuts and injecting lubricant into lubricated packing. This change accommodates the revision suggested by the commentators.

IRRC asked what the Board means by the phrase "an engineering judgment" in the definition of "in-house engineer" and suggested that the Board define this term or explain why it is unnecessary to do so.

In response, the Board removes the phrase "an engineering judgment" and makes further revisions to the definition of "in-house engineer" in this final-omitted rulemaking. Instead of the phrase "an engineering judgment," the Board revises the definition of "in-house engineer" in this final-omitted rulemaking to require the engineer to be qualified by having expertise in the design and operation of a natural gas-driven diaphragm pump or closed vent system.

IRRC noted that subparagraph (i) in the definition of "leak" reads "A positive indication, whether audible, visual or odorous, determined during an AVO inspection." IRRC also agreed with commentators who have suggested that this subparagraph be amended for clarity to state "A positive indication of a leak. . ."

In response, the Board revises subparagraph (i) of the definition of "leak" in this final-omitted rulemaking by removing "A positive indication, whether audible, visual or odorous, determined" and replacing it with "Through audible, visual or odorous evidence." The Board further clarifies the definition of "leak" by adding that it is "an emission detected" and providing for methods for detecting the emission. Additionally, the Board did not add "A positive indication of a leak. . ." to the definition as suggested by the commentators in accordance with § 2.11(h) (relating to definitions) of the *Pennsylvania*

Code and Bulletin Style Manual. Section 2.11(h) states that “the term being defined may not be included as part of the definition.”

IRRC suggested that the phrase “For purposes of this section, §§ 129.121 and 129.123—129.130” in the definition of “TOC—total organic compounds” is unnecessary and should be deleted from the definition. In response, the Board agrees that the phrase “For purposes of this section, §§ 129.121 and 129.123—129.130” is redundant and removes that phrase from the definition in this final-omitted rulemaking.

IRRC questioned the need for the provision in subparagraph (ii) of the definition of “qualified professional engineer” providing that “The individual making this certification must be currently licensed in this Commonwealth or another state in which the responsible official, as defined in § 121.1 (relating to definitions), is located and with which the Commonwealth offers reciprocity.” In response, the Board explains that the EPA defined “qualified professional engineer” in the 2016 O&G CTG as “an individual who is licensed by a state as a Professional Engineer to practice one or more disciplines of engineering and who is qualified by education, technical knowledge and experience to make the specific technical certifications required under this subpart. Professional engineers making these certifications must be currently licensed in at least one state in which the certifying official is located.” Therefore, the requirement that the “qualified professional engineer” be licensed in one of the states where the responsible official does business is part of the EPA’s RACT recommendation. The Board adds the requirement for reciprocity due to requirements that an engineer be legally qualified to engage in the practice of engineering and that the standards of the other state or territory be at least equal to the standards of this Commonwealth.

IRRC recommended that the definitions of “conventional well” and “unconventional well” as defined in §§ 78.1 and 78a.1 (relating to definitions) be included by reference in § 129.122(a).

In response, the Board adds definitions for “conventional well,” “conventional well site,” “unconventional formation,” “unconventional well,” and “unconventional well site” in this final-omitted rulemaking, since the applicability section is amended to clarify that this final-omitted rulemaking only applies to conventional sources installed at a “conventional well site.” The definitions of “unconventional formation” and “unconventional well” in this final-omitted rulemaking are identical to the definitions in § 78a.1. The definition of “conventional well” in this final-omitted rulemaking is identical to the definition in § 78.1.

IRRC noted that § 129.123(a)(2)(i) requires that potential VOC emissions for conventional, unconventional, gathering and boosting station and at a facility in the natural gas transmission and storage segment use a generally accepted model or calculation methodology, based on the maximum average daily throughput prior to the effective date of this final-omitted rulemaking. Commentators asked the Department to revise this section to allow all generally accepted models or calculation methodologies and request the language referencing historical data be deleted. However, commentators stated that use of past maximum averages that are no longer representative of the facilities throughputs will not provide an accurate emissions profile to justify the proposed compliance requirements. IRRC requested that the Board ex-

plain its rationale for and the reasonableness of the provision relating to historical data.

In response, the Board revises § 129.133(a)(2)(i) in this final-omitted rulemaking to add that the maximum average daily throughput is as defined in § 129.132 and to extend the calculation requirement from the date of publication to 60 days after. This revision was made to provide clarity, to be more representative of the facility operations and to provide a more accurate emissions profile.

IRRC noted that § 129.123(a)(2)(ii) provides that the determination of potential VOC emissions must consider requirements under a legally and practically enforceable limit established in an operating permit or plan approval approved by the Department. IRRC requested that the Board explain in the preamble to this final-omitted rulemaking whether State-permitting programs such as GP-5, GP-5A and Exemption 38 of the Air Quality Permit Exemptions list will be considered satisfactory for this requirement.

In response, the Board explains that when calculating the potential VOC emissions for this final-omitted rulemaking, an owner or operator must ensure that they are complying with existing VOC limits in an operating permit or plan approval. Section 129.133(a)(2)(ii) is revised to replace “must” with “may” to read “The determination of potential VOC emissions may consider requirements under a legally and practically enforceable limit established in an operating permit or plan approval approved by the Department.” It was not the EPA’s recommendation, nor the Board’s intent, to require that legally and practically enforceable limits be considered when calculating potential VOC emissions to determine applicability to the rule. GP-5, GP-5A and Exemption 38 are not applicable for sources at conventional well sites, so this provision has no effect on the calculation of potential emissions for storage vessels at conventional well sites.

IRRC noted that § 129.123(b)(1)(iii) requires routing emissions to a control device or process that meets the applicable requirements of § 129.129. Commentators noted that § 129.129 contains requirements specific only to “control devices” and not to “processes.” IRRC requested that the Board explain the intent of the proposed language and revise it if necessary. IRRC also noted that similar language appears in §§ 129.125(b)(1)(ii), 129.126(c)(2), 129.128(a)(2)(ii) and 129.128(b)(1).

In response, the Board explains that the requirements for “processes” can be found in § 129.139(d) of this final-omitted rulemaking. In particular, § 129.139(d)(1)(iv), regarding compliance requirements for an enclosed combustion device, establishes the requirements for the use of a boiler or process heater—a “process”—to control the VOC emissions. VOC emissions routed to a boiler or process heater are considered controlled if the vent stream containing the VOC emissions is injected into the flame zone of the boiler or process heater.

IRRC noted that § 129.124(d) requires the owner or operator to tag each affected natural gas-driven pneumatic controller with the date the controller is required to comply with the requirements of this section and an identification number that ensures traceability to the records for that controller. IRRC asked the Board to explain the rationale for this requirement, including why it believes it is reasonable.

In response, the Board explains that the requirement is based on the EPA’s recommendation from the 2016 O&G

CTG, and the Department determines that the tagging would facilitate the determination that the owners or operators are in compliance with this final-omitted rule-making, and is not overly burdensome.

IRRC asked the Board to specify a timeframe in § 129.127(a) that will be used to determine per-day average production figures for the 15 BOE per day applicability threshold or explain why it is unnecessary to do so.

In response, the Board adds a calculation procedure to estimate the average production of a conventional well site in § 129.137(b) of this final-omitted rulemaking. The owner or operator of a conventional well site shall calculate the average production in BOE per day of the well site using the previous 12 calendar months of operation as reported to the Department.

IRRC asked the Board to clarify whether the adjustments to the LDAR inspection intervals in proposed § 129.127(b) are required under proposed § 129.127(e).

In response, the Board explains that the LDAR inspection frequency reductions under § 129.137(c)(4)(i) of this final-omitted rulemaking do not require an owner or operator to request an extension of the LDAR inspection frequency under § 129.137(f) of this final-omitted rule-making.

IRRC noted that § 129.127(e) permits the owner or operator of an affected facility to request, in writing, an extension of the LDAR inspection interval. IRRC asked the Board to explain the need for an extension, including under what conditions or circumstances an owner or operator may request an extension. IRRC also asked whether certain conditions or requirements are needed to request an extension, how owners or operators will be informed about those conditions or requirements and what the maximum amount of time is that an extension may be granted.

In response, the Board explains that the flexibility granted to an owner or operator by allowing them to request an extension of the LDAR inspection interval may be for any reason. Examples for requesting an extension of the inspection frequency could include that the owner or operator's inspection equipment requires repair and will be unavailable when the inspection is due, the owner or operator has numerous facilities and it will take longer than the time allowed under this final-omitted rule-making to determine applicability, plan, and perform the initial inspections, or it is not possible to have a contractor perform the required inspection when it is due because there are no contractors available by that date. However, the conditions required for and the duration of the extension will be determined on a case-by-case basis by the Air Program Manager of the appropriate Department Regional Office when approving the extension request.

IRRC noted that § 129.129(b)(5)(ii) refers to an "inspection and maintenance plan" in § 129.129(b)(1) that does not exist. IRRC asked the Board to clarify the intent of this subparagraph and revise, if necessary.

In response, the Board removes the reference to an "inspection and maintenance plan" and instead requires the use of the best combustion engineering practice applicable to the control device if the manufacturer's repair instructions are not available.

IRRC asked the Board to delete the reference to subsection (c)(1)(ii) in § 129.129(k)(5) since subsection

(c)(1)(ii) does not require or refer to a weight-percent VOC emission reduction requirement.

In response, the Board does not remove the reference to subsection (c)(1)(ii) and adds a weight-percent VOC emission reduction requirement to § 129.139(c)(1)(ii).

IRRC noted that §§ 129.129(j)(1)(v)(D) and 129.129(j)(1)(vi)(B) provide for requests for extension of initial performance test reports and asked the Board to refer to IRRC's comments regarding the LDAR inspection interval extension requests in § 129.127(e) as the questions apply also to this subsection.

In response, the Board explains that the allowance for an owner or operator to request an extension of the initial performance test requirements provides flexibility to the owner or operator. The owner or operator may request an extension for any reason. For example, it is possible that an operator could request an extension due to scheduling issues with source testing contractors. However, the conditions required for and the duration of the extension will be determined on a case-by-case basis by the Air Program Manager of the appropriate Department Regional Office when reviewing and approving/denying the extension request.

IRRC noted that § 129.130(d)(1) requires the records for each natural gas-driven diaphragm pump to include the date, location and manufacturer specifications for each pump. IRRC requested that the Board revise this section to clarify the date referenced.

In response, the Board clarifies that the date in § 129.140(d)(1) is the "required compliance" date.

IRRC noted that § 129.130(g)(2)(ii)(G)(II) requires the "instrument reading of each fugitive emission component" that meets the definition of a leak under the rulemaking. IRRC asked if this subsection should be revised for consistency to account for leaks that are detected with OGI equipment.

In response, the Board does not make a revision and explains that the instrument reading for OGI equipment is a visible leak.

IRRC noted that Section 15 of the RAF indicates that the table in Section 23 provides a breakdown of the cost data for the industry. The figures provided in the table in Section 23 of the RAF represent industry-wide cost and savings estimates. IRRC recommended that the Board either include in the chart as described in the RAF for this final-omitted rulemaking or remove this statement if one does not exist.

In response, the Board explains that the response to Question 15 of the RAF details the breakdown of cost data for the conventional industry on a per owner or operator and a per facility basis. The response to Question 19 of the RAF details the individual source costs, including the total conventional industry cost based on the estimated number of affected sources in each category. The response to Question 23 provides a breakdown of the total costs to the industry. Additionally, the Board does not include a reference in the response to Question 15 to the table in the response to Question 23 as suggested.

IRRC recommended that in § 121.1, under the term "responsible official" subparagraph (iv) clause (B) after "or Chapter 129," the Board should include parentheses containing a description of what the chapter is relating to. In response, the Board explains that § 121.1 is not included in this final-omitted rulemaking.

IRRC noted that § 129.122(a) states that “the following words and terms, when used in this section, §§ 129.121 and 129.123—120.130, have the following meaning...” IRRC suggested inserting “shall” before “have” and revising “section” to “chapter.” Additionally, IRRC recommended deleting “section” replacing it with “chapter” in the definitions for “deviation” and “TOC—total organic compounds.”

In response, the Board respectfully disagrees with these recommendations and does not add the word “shall” as suggested as the phrasing used in § 129.132(a) is consistent with other sections in Chapter 129 as well as the phrasing used in § 121.1. This is also consistent with § 6.7(a) (relating to use of “shall,” “will,” “must” and “may”) of the *Pennsylvania Code and Bulletin Style Manual*. Section 6.7(a) states that the term “shall” “expresses a duty or obligation. The subject of the sentence must be a person, committee or other nongovernmental entity that is required to or has the power to make a decision or take an action.” Additionally, the definitions in § 129.132(a) apply only to §§ 129.131—129.140, not the entirety of Chapter 129; therefore, the Board does not revise “section” to read “chapter” as recommended.

IRRC noted that the following terms and definitions appear in § 129.122(a) but are not used in the text of the Annex: “completion combustion device,” “fuel gas,” “fuel gas system,” “natural gas and oil production segment,” “natural gas processing segment,” “transmission compression station” and “underground storage vessel.” IRRC suggested that these terms and definitions be deleted. In response, the Board agrees with this suggestion and does not include these terms in this final-omitted rulemaking.

IRRC recommended that for consistency the Board include a reference to the recordkeeping and reporting requirements found in § 129.130(i)(2) in § 129.128(d). In response, the Board notes that the recordkeeping and reporting requirements for closed vent systems in § 129.140(i)(2) are found in § 129.138(b)(6). The provisions of § 129.138(d) specify the procedures for the no detectable emissions inspection required in § 129.138(b)(2)(ii).

IRRC recommended amending § 129.130(k) to replace “can” with “may” so that the statement reads “The due date of the initial report may be extended with the written approval of the Air Program Manager of the appropriate Department Regional Office.” In response, the Board agrees with this recommendation and § 129.140(k)(1)(ii) uses the word “may.”

5. The Board has fulfilled its duties as a trustee as set forth in Article I, Section 27 of the Pennsylvania Constitution.

Commentators, including members of the General Assembly, referenced the Commonwealth’s Environmental Rights Amendment in Article I, Section 27 of the Pennsylvania Constitution, Pa.Const. Art. I, § 27, and note that it states, “The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment.” The commentators commented that the Board and the Department must satisfy their constitutional responsibilities.

In response, the Board fulfills its duties as a trustee of the environment, set forth in Article I, Section 27 of the Pennsylvania Constitution and the Pennsylvania Supreme Court Ruling on the Environmental Rights Amendment in *Pennsylvania Environmental Defense Foundation v. Commonwealth of Pennsylvania*, 161 A.3d 911 (Pa. 2017) during the development of this final-omitted rulemaking. This final-omitted rulemaking was developed

under the authority of sections 5(a)(1) and (8) of the APCA. The APCA is built on a precautionary principle to protect the air resources of this Commonwealth for the protection of public health and welfare and the environment, including plant and animal life and recreational resources, as well as development, attraction and expansion of industry, commerce and agriculture. Implementation of the VOC emission control measures in this final-omitted rulemaking will help the Department protect the air resources of this Commonwealth as well as public health and welfare by reducing harmful VOC and methane emissions from the conventional oil and gas industry. The Department recognizes the rights of this Commonwealth’s residents and the Commonwealth’s obligations under the Pennsylvania Constitution and must meet those obligations in every action the agency takes. Because this final-omitted rulemaking simultaneously reduces VOC and methane emissions, resulting in considerable health and other benefits, the Department is satisfied that its Article I, Section 27 obligations have been met with development of this final-omitted rulemaking.

G. Benefits, Costs and Compliance

Benefits

The Department estimates that implementation of the control measures could reduce VOC emissions by as much as 9,204 TPY. Approximately 304 TPY of these VOC emission reductions are due to the RACT determinations by the Department that reduce emissions over and above the EPA’s RACT recommendations. These reductions would benefit the health and welfare of the approximately 12.8 million residents and the numerous animals, crops, vegetation and natural areas of this Commonwealth by reducing the amount of ground-level ozone air pollution resulting from these sources.

Adoption of the VOC emission control measures and other requirements in this final-omitted rulemaking would allow the Commonwealth to make substantial progress in achieving and maintaining the 1997, 2008 and 2015 8-hour ozone NAAQS Statewide. Implementation of and compliance with the VOC emission reduction measures would also assist the Commonwealth in reducing the levels of ozone precursor emissions that contribute to potential nonattainment of the 2015 ozone NAAQS. As a result, the VOC emission control measures are reasonably necessary to attain and maintain the health-based and welfare-based 8-hour ozone NAAQS in this Commonwealth and to satisfy related CAA requirements. Achieving and maintaining the ground-level ozone NAAQS provides healthful air quality which attracts and retains residents and industry, supports healthy environmental conditions for agriculture and the ecosystems of this Commonwealth, and reduces transport of VOC emissions and ground-level ozone to downwind states.

While this final-omitted rulemaking requires VOC emission reductions, methane emissions are also reduced as a cobenefit, because both VOC and methane are emitted from oil and natural gas operations. Except for storage vessels, the requirements for control of emissions are not dependent on an applicability threshold for VOC, meaning that most requirements have no minimum level of VOC emissions under which sources are granted an exemption. The control measures implemented for VOC emissions simultaneously control methane emissions and could reduce methane emissions by as much as 175,788 TPY with 8 TPY from the installation of controls for storage vessels, 160,430 TPY from pneumatic controllers, and 15,350 TPY from fugitive emissions components

through the performance of LDAR inspections. Approximately 5,790 TPY of the methane emission reductions are due to the technically and economically feasible VOC RACT determination by the Department that is over and above the reductions from EPA's VOC RACT recommendations.

Additionally, as previously discussed, this final-omitted rulemaking is consistent with Governor Tom Wolf's strategy to reduce emissions of methane from the oil and natural gas industry in this Commonwealth. Methane is a potent GHG with a global warming potential more than 28 times that of CO₂ over a 100-year time period, according to the EPA. The EPA has identified methane, the primary component of natural gas, as the second-most prevalent GHG emitted in the United States from human activities. According to Federal estimates, the natural gas and oil industries account for a quarter of United States methane emissions. In addition to climate change impacts, methane and VOC emissions have harmful effects on air quality and human health. Thus, reducing methane leaks from conventional oil and natural gas sources is essential to reducing global GHG emissions and protecting public health.

Adverse health and welfare effects of ground-level ozone on humans, animals and the environment

Exposure to high levels of ground-level ozone air pollution correlates to increased respiratory disease and higher mortality rates. Ozone can inflame and damage the lining of the lungs. Within a few days, the damaged cells are shed and replaced. Over a long time period, lung tissue may become permanently scarred, resulting in permanent loss of lung function and a lower quality of life. When ambient ozone levels are high, more people with asthma have attacks that require a doctor's attention or use of medication. Ozone also makes people more sensitive to allergens including pet dander, pollen and dust mites, all of which can trigger asthma attacks. The EPA has concluded that there is an association between high levels of ambient ozone and increased hospital admissions for respiratory ailments including asthma. While children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to high levels of ambient ozone while engaged in activities that involve physical exertion. High levels of ground-level ozone also affect animals including pets, livestock and wildlife, in ways similar to humans.

In addition to causing adverse human and animal health effects, the EPA has concluded that ground-level ozone affects vegetation and ecosystems, leading to reductions in agricultural crop and commercial forest yields. Ozone damage to the foliage of trees and other plants can decrease the aesthetic value of ornamental species used in residential landscaping, as well as the natural beauty of parks and recreation areas. Through deposition, ground-level ozone also contributes to pollution in the Chesapeake Bay. These effects can have adverse impacts including loss of species diversity and changes to habitat quality and water and nutrient cycles. The implementation of additional measures to address ground-level ozone precursor emissions impacts on air quality in this Commonwealth is necessary to protect the public health and welfare and the environment.

Adverse effects of ground-level ozone on this Commonwealth's economy

The economic value of the impacts of ground-level ozone on this Commonwealth's farm crops, fruit industries,

forests, parks and timber due to high concentrations of ground-level ozone can be calculated, through things such as crop yield loss from both reduced growth and smaller, lower-quality seeds and tubers with less oil or protein. If ozone episodes last a few days, visible injury to some leaf crops, including lettuce, spinach and tobacco, as well as visible injury to the leaves of ornamental plants, including grass, flowers and shrubs, can appear. Other types of welfare loss may not be quantifiable, such as the reduced aesthetic value of trees growing in heavily visited parks.

Information about the economic benefit of the agricultural industry to this Commonwealth is provided by the Department of Agriculture. In 2019, this Commonwealth had more than 53,157 farms occupying more than 7.3 million acres of farmland which account for 75,475 direct jobs and \$9.0 billion in direct economic output from production agriculture. In addition to production agriculture, the industry also raises revenue and supplies jobs through support services such as food and beverage processing, marketing, transportation, farm equipment, forestry production and processing, and landscaping. In total, production agriculture and agribusiness support 232,463 direct jobs and contribute \$59.7 billion to this Commonwealth's economy. The agriculture industry, including forestry, contributes 593,600 total direct, indirect and induced jobs and \$132.5 billion in total direct, indirect and induced output. Reducing ground-level ozone concentrations will serve to protect agricultural yield and reduce losses to production agriculture and agribusiness in this Commonwealth.

This Commonwealth is forested over a total of 16.6 million acres, which represents 58% of its land area. Federal, State and local government hold 5.1 million acres in public ownership, with the remaining 11.7 million acres in private ownership. The forest product industry only owns 0.4 million acres of forest, with the remainder held by an estimated 750,000 individuals, families, partnerships or corporations. This Commonwealth leads the Nation in volume of hardwood with over 120.5 billion board feet of standing sawtimber. Recent data shows that the state's forest growth-to-harvest rate is better than 2 to 1. As the leading producer of hardwood lumber in the United States, this Commonwealth also leads in the export of hardwood lumber, exporting nearly \$463 million in 2019, and over \$1.1 billion in lumber, logs, furniture and paper products to more than 70 countries around the world. Production is estimated at 1 billion board feet of lumber annually. This vast renewable resource puts the hardwoods industry at the forefront of manufacturing in this Commonwealth. Forestry production and processing account for 69,437 direct jobs and \$21.8 billion in direct economic output and direct value added to this Commonwealth's economy. Reducing ground-level ozone concentrations will serve to protect the Commonwealth's position as the leader of growing volume of hardwood species and producer of hardwood lumber in the Nation.

The Department of Conservation and Natural Resources (DCNR) is the steward of the State-owned forests and parks. DCNR awards millions of dollars in construction contracts each year to build and maintain the facilities in its parks and forests. Hundreds of concessions throughout the park system help complete the park experience for both State and out-of-State visitors. State forests, parks and game lands make up 3.9 million acres of forest land. This Commonwealth's 2.2 million-acre State forest system, found in 48 of this Commonwealth's 67 counties, comprises 13% of the forested area in this Commonwealth. The state forest represents one of the

largest expanses of public forestland in the eastern United States, making it a priceless public asset. Ozone damage to the foliage of trees and other plants can decrease the aesthetic value of ornamental species used in residential landscaping, as well as the natural beauty of parks and recreation areas. However, the effects of the reduced aesthetic value of trees in heavily visited parks may not be quantifiable. Reducing the concentration of ground-level ozone will help maintain the benefits to this Commonwealth's economy due to tourism.

In sum, adoption and implementation of the VOC emission control measures in this final-omitted rulemaking for the owners or operators of certain sources in the oil and natural gas industry is reasonably necessary to allow the Commonwealth to continue its progress in attaining and maintaining the public health-based and welfare-based 8-hour ozone NAAQS and to satisfy related CAA requirements. The VOC emission reductions achieved through implementation of the regulatory requirements established in this final-omitted rulemaking and the associated decrease in formation of ground-level ozone will benefit the health and welfare of the residents of this Commonwealth as well as the health of tourists and visitors, with improved ambient air quality and healthier environments. The decrease in ground-level ozone formation will also benefit farmers, loggers, hunters and outdoor enthusiasts and the numerous animals, crops, vegetation and natural areas of this Commonwealth. The agriculture and timber industries and related businesses will benefit directly from reduced economic losses that result from ozone damage to crops and timber. Likewise, the natural areas and infrastructure within this Commonwealth and downwind states will benefit directly from reduced environmental damage and economic losses due to ground-level ozone.

Additionally, this final-omitted rulemaking may create economic opportunities for VOC emission control technology innovators, manufacturers and distributors through an increased demand for new or improved equipment. In addition, the owners or operators of regulated facilities may be required to install and operate an emissions monitoring system or equipment necessary for an emissions monitoring method to comply with this final-omitted rulemaking, thereby creating an economic opportunity for the emissions monitoring industry.

Monetized public health benefits of attaining the 2015 ozone NAAQS

The EPA estimated that the monetized health benefits of attaining the 2015 8-hour ozone NAAQS of 0.070 ppm range from \$1.5 billion to \$4.5 billion on a National basis by 2025. Prorating that benefit to this Commonwealth, based on population, results in a public health benefit of \$63 million to \$189 million. The Department is not stating that these estimated monetized health benefits would all be the result of implementing the RACT measures, but the EPA estimates are indicative of the benefits to Commonwealth residents of attaining the 2015 8-hour ozone NAAQS through the implementation of a suite of measures to control VOC emissions in the aggregate from different source categories.

Compliance costs

Compliance costs will vary for each facility depending on which compliance option is chosen by the owner or operator. The costs were adjusted to 2021 dollars using the CPI adjustment using May as the reference month.

The annualized cost of \$25,194 in 2012 dollars to control one storage vessel with a control device is based

on the data in the 2016 O&G CTG, which is equivalent to \$30,909 in 2021 dollars. The Department's additional analysis demonstrated that the annualized cost of routing emissions from a storage vessel to a control device ranges from \$9,501 to \$22,871 in 2021 dollars based on the data in the Department's Technical Support Document (TSD) for the General Plan Approval/General Operating Permit BAQ-GPA/BP-5 (GP-5) for natural gas compression stations, processing plants, and transmission stations and the General Plan Approval/General Operating Permit BAQ-GPA/GP-5A (GP-5A) for unconventional natural gas well site operations and remote pigging stations. The Department used the EPA's annualized cost estimate of \$30,909 in 2021 dollars to be conservative when estimating the effect on the conventional oil and natural gas industry. The Department identified a total of 27,260 conventional well sites with storage vessels from the Department's databases. There are six conventional well sites with six storage vessels that emit 2.7 TPY or more of VOC with a total industry cost of \$185,453 per year. The Department estimates that implementation of the final-omitted control measures could reduce VOC emissions by as much as 71 TPY from the installation of controls for storage vessels. This results in an average cost of approximately \$2,612 per ton of VOC emissions reduced per year. Approximately 3 TPY of the VOC emissions reduction from this requirement is due to the technically and economically feasible RACT determination by the Department that is over and above the reductions from EPA's RACT recommendations.

The annualized cost of \$296 in 2012 dollars to replace a continuous high-bleed pneumatic controller with a low-bleed pneumatic controller is based on the data in the 2016 O&G CTG, which is \$347 per year in 2021 dollars. The Department identified a total of 26,284 conventional well sites with an estimated 26,284 affected pneumatic controllers. The total industry cost is \$9,113,188 per year. Using the EPA's estimate of natural gas emissions per controller and this Commonwealth's average natural gas composition, the Department estimates that implementation of the final-omitted control measures could reduce VOC emissions by as much as 8,336 TPY from pneumatic controllers located at these facilities. This results in an average cost of approximately \$1,093 per ton of VOC emissions reduced per year. The requirements for natural gas-driven continuous bleed pneumatic controllers are identical to the EPA's 2016 O&G CTG recommendation, which the EPA has determined to be cost-effective.

The annualized cost of \$774 in 2012 dollars to control one natural gas-driven diaphragm pump is based on the data in the 2016 O&G CTG, which is \$907 per year in 2021 dollars. The Department did not identify any conventional well sites with affected diaphragm pumps. If a conventional well site has an affected diaphragm pump, the owner or operator of the well site would be obligated to meet the requirements of § 129.135. The requirements for natural gas-driven diaphragm pumps are identical to the EPA's 2016 O&G CTG recommendation which the EPA has determined to be cost-effective.

The annualized cost of \$782 in 2021 dollars to replace the rod packings for one reciprocating compressor at a conventional well site is based on the data in the Department's TSD for GP-5 and GP-5A. The Department did not identify any reciprocating compressors at conventional well sites. If a conventional well site has an affected reciprocating compressor, the owner or operator of the well site would be obligated to meet the requirements of § 129.136. The Department has determined this requirement to be cost-effective since the annualized cost,

the sum of the annualized capital cost and the annual operating expenses is only \$782 per year. Annualized cost is one of many factors that the Department can consider when determining the cost-effectiveness of a control device or control technique.

There are an estimated 423 gathering and boosting stations in this Commonwealth with at least 527 reciprocating compressors and an estimated 11 natural gas processing plants with at least 30 reciprocating compressors. The Department assumes that the owners or operators of these facilities are complying with the requirements of Subparts OOOO and OOOOa as none of these facilities were constructed prior to 2011. Therefore, they would have to do nothing further under this final-omitted rulemaking.

The annualized cost of \$2,553 in 2012 dollars to control one wet seal degassing system for a centrifugal compressor is based on the data in the 2016 O&G CTG which is \$2,990 in 2021 dollars. The Department did not identify any wet seal centrifugal compressors at conventional well sites. If a conventional well site has an affected wet seal centrifugal compressor, the owner or operator of the well site would not be obligated to meet the requirements of § 129.136 due to the exemption allowed under § 129.136(d). However, if conventional owners or operators have turbines driving wet seal centrifugal compressors at any gathering and boosting stations or processing plants, the owner or operator would be subject to the applicable wet seal degassing system VOC emission control requirements of this final-form rulemaking. VOC emissions would be reduced by 95% at a cost of \$2,990 per year per wet seal degassing system in 2021 dollars. If the centrifugal compressors are dry seal centrifugal compressors, then the owners or operators of these sources would not have applicable VOC emission control requirements under this final-omitted rulemaking. The requirements for wet seal centrifugal compressor degassing systems are identical to the EPA's 2016 O&G CTG recommendation which the EPA has determined to be cost effective. In the 2016 O&G CTG, the annualized cost in 2012 dollars to conduct annual LDAR inspections at a well site is \$1,318 and to conduct quarterly LDAR inspections at a conventional well site is \$4,220, and to conduct quarterly LDAR inspections at a gathering and boosting station is \$25,049. These costs are \$1,554, \$4,937, and \$29,307 in 2021 dollars, respectively. The Department's TSD for GP-5 and GP-5A also contained cost data for implementing LDAR programs, which are more conservative than the annual costs in the EPA's 2016 O&G CTG as the costs in the TSD are based on a contractor's quote. The annual cost for implementing an annual LDAR inspection program is \$1,681 in 2021 dollars at a conventional well site. The annual cost, in 2021 dollars, for implementing a quarterly LDAR inspection program is \$6,723 at a conventional well site and \$13,447 for a gathering and boosting station or natural gas processing plant. It should be noted that the estimates for conventional well sites assumed there are 1,000 components to monitor and that for gathering and boosting stations or natural gas processing plants there are 2,000 components to monitor. The EPA's assumptions for the number of components to monitor are between 127 and 671 for conventional well sites and 3,091 for gathering and boosting stations or processing plants.

The Department identified a total of 27,260 conventional well sites, 486 gathering and boosting stations and 15 natural gas processing plants. However, the Department does not know how many gathering and boosting stations and natural gas processing plants are associated

with the conventional industry. The calculation of fugitive emissions before controls were based on estimates of the amount of natural gas leaked. The breakdown between the amounts of VOC and methane emissions is calculated using this Commonwealth's natural gas composition ratio of 4.47% VOC and 86.03% methane. The value of natural gas saved is calculated using the assumed cost of \$1.70 per Mcf of natural gas in 2021 dollars.

There are approximately 27,193 conventional well sites with no LDAR program currently in place of which the Department assumes 31 will be required to implement an annual LDAR program. The total annualized cost is \$52,107 reducing VOC emissions by approximately 135 TPY for a total cost per ton of VOC reduced of \$386. The 135 TPY of the VOC emissions reduction from this requirement is due to the technically and economically feasible RACT determination by the Department that is over and above the reductions from the EPA's RACT recommendations.

There are approximately 27,193 conventional well sites with no LDAR program currently in place of which the Department assumes 64 will be required to implement a quarterly LDAR program. The total annualized cost is \$430,301 reducing VOC emissions by approximately 662 TPY for a total cost per ton of VOC reduced of \$650. Approximately 166 TPY of the VOC emissions reduction from this requirement is due to the technically and economically feasible RACT determination by the Department that is over and above the reductions from the EPA's RACT recommendations.

There are approximately 67 conventional well sites currently required to perform semiannual LDAR based on the applicability dates of 40 CFR Part 60, Subpart OOOOa that the Department assumes will not be required to implement a quarterly LDAR program. If the owner or operator of a conventional well site determines the well site would be obligated to meet the requirements of § 129.137(c)(3), the Department has determined this requirement to be cost-effective since the incremental annualized cost is only \$3,362 per year.

As the Department does not have information and data on how many gathering and boosting stations and natural gas processing plants are used in the conventional industry, the following information is based on information and data for the entire oil and natural gas industry in this Commonwealth. The costs and emission reductions discussed here have been accounted for in the separate unconventional rulemaking. There are approximately 263 gathering and boosting stations with no LDAR program currently in place based on their construction date, that lack LDAR requirements in their permits or that have no reported fugitive emissions components. The Department assumes these facilities will be required to implement a quarterly LDAR program. The total annualized cost is \$3,536,561. The requirements for quarterly LDAR at natural gas gathering and boosting stations are identical to the EPA's 2016 O&G CTG recommendation which the EPA has determined to be cost-effective.

There is one gathering and boosting station with an annual LDAR program currently in place in this Commonwealth that the Department assumes will be required to implement a quarterly program. The total annualized cost is \$10,085. The requirements for quarterly LDAR at natural gas gathering and boosting stations are identical to the EPA's 2016 O&G CTG recommendation which the EPA has determined to be cost-effective.

There is one natural gas processing plant with no LDAR program currently in place in this Commonwealth

that the Department assumes will be required to implement a quarterly LDAR program. The total annualized cost is \$13,447 reducing VOC emissions by approximately 12 TPY for a total cost per ton of VOC reduced of \$1,121.

The total conventional industry cost is approximately \$482,408 in 2021 dollars. The Department estimates that the final-omitted control measures could reduce VOC emissions by 797 TPY or more from the subject fugitive emissions components due to implementation of the required LDAR inspection program at these facilities.

Based on the above compliance costs, and the number of applicable sources, the Department estimates that this final-omitted rulemaking will cost affected owners or operators approximately \$9.8 million (based on 2021 dollars) per year without consideration of the economic benefit of the saved natural gas. The value of the saved natural gas, assuming a natural gas price of \$1.70 per Mcf in 2021 dollars, yields a savings of approximately \$15.7 million, resulting in a total net savings of approximately \$5.9 million for this final-omitted rulemaking.

This estimate consists of two major categories of data. The first is the cost per year to control each piece of equipment or site affected, which came from either the 2016 O&G CTG or the Department's TSD for GP-5 and GP-5A, as detailed in the response to Question 17 of the RAF. The second is the number of potentially affected facilities, which were obtained from several data sources including the Department's Oil and Gas Production Report, eFACTS and AIMS. The cost per year to control each piece of equipment or site affected was multiplied by the number of each in this Commonwealth. The costs for each category of sources were added together to come up with a final estimated cost and savings.

The VOC RACT requirements established by this final-omitted rulemaking will not require the owner or operator to obtain an air operating permit. To the extent an owner or operator has an air operating permit, they will not be required to submit an application for amendments to an existing air operating permit. These requirements will be incorporated into the existing air operating permit when the permit is renewed, if less than 3 years remain in the permit term, as specified under § 127.463(c). If 3 years or more remain in the permit term, the requirements would be incorporated as applicable requirements in the permit within 18 months of the promulgation of this final-omitted rulemaking, as required under § 127.463(b).

Compliance assistance plan

The Department will continue to educate and assist the public and the regulated community in understanding the requirements and how to comply with them throughout the rulemaking process. The Department will continue to work with the Department's provider of Small Business Stationary Source Technical and Environmental Compliance Assistance. These services are currently provided by the Environmental Management Assistance Program (EMAP) of the Pennsylvania Small Business Development Centers. The Department has partnered with EMAP to fulfill the Department's obligation to provide confidential technical and compliance assistance to small businesses as required by the APCA, section 507 of the CAA (42 U.S.C.A. § 7661f) and authorized by the Small Business and Household Pollution Prevention Program Act (35 P.S. §§ 6029.201—6029.209).

In addition to providing one-on-one consulting assistance and onsite assessments, EMAP also operates a toll-free phone line to field questions from small busi-

nesses in this Commonwealth, as well as businesses wishing to start up in, or relocate to, this Commonwealth. EMAP operates and maintains a resource-rich environmental assistance web site and distributes an electronic newsletter to educate and inform small businesses about a variety of environmental compliance issues.

Paperwork requirements

The recordkeeping and reporting requirements for owners and operators of applicable sources under this final-omitted rulemaking are minimal because the records required align with existing Federal requirements. To minimize the burden of these requirements, the Department allows electronic submission of most planning, reporting and recordkeeping forms required by this final-omitted rulemaking.

H. Pollution Prevention

The Pollution Prevention Act (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance.

This final-omitted rulemaking helps to ensure that the residents of this Commonwealth benefit from reduced emissions of VOC and methane from regulated sources. Reduced levels of VOC and methane promote healthful air quality and ensure the continued protection of the environment and public health and welfare.

I. Sunset Review

This Board is not establishing a sunset date for this final-omitted rulemaking because it is needed for the Department to carry out its statutory authority. If published as a final-omitted rulemaking in the *Pennsylvania Bulletin*, the Department will closely monitor its effectiveness and recommend updates to the Board as necessary.

J. Regulatory Review

Under section 5.1(c) of the RRA (71 P.S. § 745.5a(c)), on November 30, 2022, the Department submitted a copy of this emergency certified final-omitted rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. On the same date, the final-omitted rulemaking was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 6(d) of the RRA (71 P.S. § 745.6(d)), the Governor has certified that this final-omitted rulemaking is required to meet an emergency condition that could result in the need for supplemental or deficiency appropriations of greater than \$1 million if not addressed. As such, this emergency certified final-omitted regulation is effective upon publication in the *Pennsylvania Bulletin*.

K. Findings of the Board

The Board finds that:

(1) This emergency certified final-omitted rulemaking is authorized by section 204(3) of the act of July 31, 1968

(P.L. 769, No. 240) (45 P.S. § 1204(3)) referred to as the Commonwealth Documents Law (CDL), and section 6(d) of the RRA.

(2) Use of the omission of notice of proposed rule-making procedure is appropriate because the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) are, in this instance, unnecessary and contrary to the public interest.

(3) Use of the emergency-certified rulemaking procedure provided in section 6(d) of the RRA is appropriate because this regulation is required to prevent the need for supplemental or deficiency appropriations of greater than \$1 million based on Governor Tom Wolf’s Certification of Need for Emergency Regulation dated November 30, 2022.

(4) The amendments are appropriate to implement RACT requirements to control VOC emissions from conventional oil and natural gas sources.

(5) These regulations are reasonably necessary and appropriate for administration and enforcement of the authorizing acts identified in section C of this final-omitted rulemaking.

(6) These regulations are reasonably necessary to attain and maintain the ozone NAAQS and to satisfy related CAA requirements.

L. Order of the Board

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapter 129, are amended by adding §§ 129.131—129.140 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this emergency certified final-omitted rulemaking to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson of the Board shall submit this emergency certified final-omitted rulemaking to IRRC and the House and Senate Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this emergency certified final-omitted rulemaking and deposit it with the Legislative Reference Bureau as required by law.

(e) This emergency certified final-omitted rulemaking will be submitted to the EPA as a revision to the Commonwealth’s SIP.

(f) This emergency certified final-omitted rulemaking shall take effect immediately upon notice or publication in the *Pennsylvania Bulletin*.

RAMEZ ZIADEH, P.E.,
Acting Chairperson

Fiscal Note: 7-580. No fiscal impact; (8) recommends adoption.

GOVERNOR’S OFFICE

Certification of Need for Emergency Regulation

Whereas, the General Assembly has created the Environmental Quality Board in this Commonwealth (71 P.S. § 1340.502); and

Whereas, the power and duty of the Environmental Quality Board under Pennsylvania’s Air Pollution Control Act (35 P.S. § 4001 et seq.) shall be to adopt rules and regulations to implement the provisions of the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401—7671q) that shall be consistent with the requirements of the CAA and the regulations adopted thereunder (35 P.S. § 4005(a)(8)); and

Whereas, section 110(a) of the CAA (42 U.S.C.A. § 7410(a)) requires that states demonstrate compliance with the CAA by adopting and submitting to the U.S. Environmental Protection Agency (EPA) a state implementation plan (SIP) for implementation, maintenance and enforcement of the National Ambient Air Quality Standards; and

Whereas, Pennsylvania was and is required to submit a revised SIP under the CAA showing that it has developed and implemented a program establishing Reasonably Available Control Technology (RACT) requirements for sources identified by the EPA in the 2016 Oil and Gas Industry Control Techniques Guidelines requiring oil and natural gas industry equipment and processes to reduce volatile organic compound (VOC) emissions; and

Whereas, section 179 of the CAA (42 U.S.C.A. § 7509) requires a state to submit a SIP and approvable SIP revisions to comply with all aspects of the CAA by certain dates or else face sanctions; and

Whereas, section 179 of the CAA (42 U.S.C.A. § 7509) requires the EPA to impose two types of sanctions if Pennsylvania fails to submit an approvable SIP by its deadlines: “2:1 offsets” on new or modified sources of emissions, and withholding of certain Federal highway funds; and

Whereas, Federal highway sanctions will apply if a revised SIP is not completed by December 16, 2022; and

Whereas, the Environmental Quality Board proposed a rulemaking (#7-544) to meet Pennsylvania’s SIP requirements by requiring oil and natural gas sources to develop and implement an emission reduction program; and

Whereas, rulemaking #7-544 provided a public comment period of 66 days; and

Whereas, although rulemaking #7-544 would meet EPA’s SIP requirements, the Pennsylvania House Environmental Resources & Energy Committee disapproved the proposed rulemaking on purported technical grounds that it violated Pennsylvania’s Act 52 of 2016, (58 P.S. §§ 1201—1208) which requires that rulemakings concerning conventional oil and gas wells be undertaken separately and independently of rulemakings involving unconventional wells or other subjects; and

Whereas, the Environmental Quality Board separated what was originally submitted as rulemaking #7-544 into two rulemakings—one for conventional sources and one for unconventional sources—that impose the same requirements as the original rulemaking; and

Whereas, only one of those rulemakings could be submitted to the Independent Regulatory Review Commission (IRRC) on final-form as a continuation of the rule-making process for #7-544; and

Whereas, the Environmental Quality Board submitted the rulemaking regarding unconventional sources to IRRC on final-form under regulation #7-544; and

Whereas, the Environmental Quality Board created a separate rulemaking (Regulation #7-579) to address conventional sources, which it adopted on October 12, 2022; and

Whereas, on November 14, 2022, the Pennsylvania House Environmental Resources & Energy Committee notified IRRC of the Committee's disapproval of Regulation #7-579 triggering the 14-calendar day legislative review period under section 7(d) of the Regulatory Review Act, (71 P.S. § 745.7(d)); and

Whereas, due to the Pennsylvania House Environmental Resources & Energy Committee's disapproval, the rulemaking process for the conventional rulemaking (Regulation #7-579) cannot be completed by December 16, 2022, in time to prevent an emergency which would create conditions causing the need for supplemental or deficiency appropriations of at least \$1,000,000; and

Whereas, Section 6(d) of the Regulatory Review Act, (71 P.S. § 745.6(d)), prohibits IRRC from issuing an order barring an agency from promulgating a final-form or final-omitted regulation if the Governor certifies that the final-form or final-omitted regulation is required to meet an emergency which includes conditions which may threaten the public health, safety or welfare; cause a budget deficit; or create the need for supplemental or deficiency appropriations of greater than \$1,000,000; and

Whereas, if the Governor so certifies, the final-form or final-omitted regulation may take effect prior to review by the commission and committees under Section 6(d) of the Regulatory Review Act (71 P.S. § 745.6(d)); and

Whereas, an immediate amendment to the regulations is necessary to prevent an emergency because the absence of a completed regulation and corresponding, complete SIP is a condition that will risk sanctions that will affect approximately \$800 million in Federal highway funds and grants and will create the need for supplemental or deficiency appropriations greater than \$1,000,000 to direct state funding to previously Federalized projects so as to carry out planned projects that have been selected to meet the needs of the motoring public; and

Whereas, the Environmental Quality Board adopted a separate rulemaking on November 30, 2022, identical to Regulation #7-579 (Regulation #7-580) that the Governor may certify under 71 P.S. § 745.6(d) to ensure completion of the regulation by December 16, 2022.

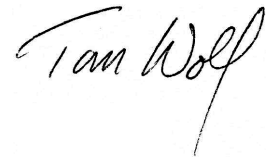
Now Therefore, I do hereby certify that the regulatory amendment (Regulation #7-580) to add conventional sources to the Department's regulations in Title 25 (25 Pa. Code §§ 129.131—129.140) to adopt RACT requirements and RACT emission limitations for oil and natural gas sources of VOC emissions as required under the CAA, following this certification as Annex A, is required to meet the emergency conditions enumerated in the recitals above and to avoid an emergency as described therein.

Further, I hereby authorize the Chairperson of the Environmental Quality Board to publish this amendment in the *Pennsylvania Bulletin* as an Emergency Certified Final-Omitted Rulemaking consistent with the provisions of Section 6(d) of the Regulatory Review Act, as amended, 71 P.S. § 745.6(d).

Further, this Emergency Certified Final-Omitted Rulemaking shall take effect immediately upon notice or publication in the *Pennsylvania Bulletin*.

Given under my hand and the Seal of the Governor, at the City of Harrisburg, on this 30th day of November in the year of our Lord two thousand and twenty two, and of the Commonwealth the two hundred and forty seventh.

Governor



Annex A

TITLE 25. ENVIRONMENTAL PROTECTION PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 129. STANDARDS FOR SOURCES CONTROL OF VOC EMISSIONS FROM CONVENTIONAL OIL AND NATURAL GAS SOURCES

Sec.	
129.131.	General provisions and applicability.
129.132.	Definitions, acronyms and EPA methods.
129.133.	Storage vessels.
129.134.	Natural gas-driven continuous bleed pneumatic controllers.
129.135.	Natural gas-driven diaphragm pumps.
129.136.	Compressors.
129.137.	Fugitive emissions components.
129.138.	Covers and closed vent systems.
129.139.	Control devices.
129.140.	Recordkeeping and reporting.

§ 129.131. General provisions and applicability.

(a) *Applicability.* Beginning December 2, 2022, this section and §§ 129.132—129.140 (relating to control of VOC emissions from conventional oil and natural gas sources) apply to an owner or operator of one or more of the following conventional oil and natural gas sources of VOC emissions installed at a conventional well site, a gathering and boosting station or a natural gas processing plant in this Commonwealth which were constructed on or before December 2, 2022:

- (1) Storage vessels at:
 - (i) A conventional well site.
 - (ii) A gathering and boosting station.
 - (iii) A natural gas processing plant.
 - (iv) The natural gas transmission and storage segment.
- (2) Natural gas-driven continuous bleed pneumatic controllers.
- (3) Natural gas-driven diaphragm pumps.
- (4) Reciprocating compressors and centrifugal compressors.
- (5) Fugitive emissions components.

(b) *Existing RACT permit.* Compliance with the requirements of this section and §§ 129.132—129.140 assures compliance with the requirements of a permit issued under §§ 129.91—129.95 (relating to stationary sources of NO_x and VOCs) or §§ 129.96—129.100 (relating to additional RACT requirements for major sources of NO_x and VOCs) to the owner or operator of a source subject to subsection (a) prior to December 2, 2022, to control, reduce or minimize VOC emissions from oil and

natural gas sources listed in subsection (a), except to the extent the operating permit contains more stringent requirements.

§ 129.132. Definitions, acronyms and EPA methods.

(a) *Definitions and acronyms.* The following words and terms, when used in this section, §§ 129.131 (relating to general provisions and applicability) and 129.133—129.140, have the following meanings, unless the context clearly indicates otherwise:

AVO—Audible, visual and olfactory.

Bleed rate—The rate in standard cubic feet per hour at which natural gas is continuously vented from a natural gas-driven continuous bleed pneumatic controller.

Centrifugal compressor—

(i) A machine for raising the pressure of natural gas by drawing in low-pressure natural gas and discharging significantly higher-pressure natural gas by means of mechanical rotating vanes or impellers.

(ii) The term does not include a screw compressor, sliding vane compressor or liquid ring compressor.

Closed vent system—A system that is not open to the atmosphere and that is composed of hard-piping, ductwork, connections and, if necessary, flow-inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device or back to a process.

Condensate—Hydrocarbon liquid separated from natural gas that condenses due to changes in the temperature or pressure, or both, and remains liquid at standard conditions.

Connector—

(i) A flanged fitting, screwed fitting or other joined fitting used to connect two pipes or a pipe and a piece of process equipment or that closes an opening in a pipe that could be connected to another pipe.

(ii) The term does not include a joined fitting welded completely around the circumference of the interface.

Control device—An enclosed combustion device, vapor recovery system or flare.

Conventional well—

(i) A bore hole drilled or being drilled for the purpose of or to be used for construction of a well regulated under 58 Pa.C.S. §§ 3201—3274 (relating to development) that is not an unconventional well, irrespective of technology or design.

(ii) The term includes, but is not limited to:

(A) Wells drilled to produce oil.

(B) Wells drilled to produce natural gas from formations other than shale formations.

(C) Wells drilled to produce natural gas from shale formations located above the base of the Elk Group or its stratigraphic equivalent.

(D) Wells drilled to produce natural gas from shale formations located below the base of the Elk Group where natural gas can be produced at economic flow rates or in economic volumes without the use of vertical or nonvertical well bores stimulated by hydraulic fracture treatments or multilateral well bores or other techniques to expose more of the formation to the well bore.

(E) Irrespective of formation, wells drilled for collateral purposes, such as monitoring, geologic logging, secondary and tertiary recovery or disposal injection.

Conventional well site—A location with exclusively one or more conventional wells. A location with both unconventional and conventional wells is considered to be an unconventional well site.

Custody transfer—The transfer of natural gas after processing or treatment, or both, in the producing operation or from a storage vessel or an automatic transfer facility or other equipment, including a product loading rack, to a pipeline or another form of transportation.

Deviation—An instance in which the owner or operator of a source subject to this section, §§ 129.131 and 129.133—129.140 fails to meet one or more of the following:

(i) A requirement or an obligation established in this section, § 129.131 or §§ 129.133—129.140, including an emission limit, operating limit or work practice standard.

(ii) A term or condition that is adopted to implement an applicable requirement in this section, § 129.131 or §§ 129.133—129.140 and which is included in the operating permit for the affected source.

(iii) An emission limit, operating limit or work practice standard in this section, § 129.131 or §§ 129.133—129.140 during startup, shutdown or malfunction, regardless of whether a failure is permitted by this section, § 129.131 or §§ 129.133—129.140.

FID—Flame ionization detector.

First attempt at repair—For purposes of § 129.137 (relating to fugitive emissions components):

(i) An action using best practices taken to stop or reduce fugitive emissions to the atmosphere.

(ii) The term includes:

(A) Tightening bonnet bolts.

(B) Replacing bonnet bolts.

(C) Tightening packing gland nuts.

(D) Injecting lubricant into lubricated packing.

Flare—

(i) A thermal oxidation system using an open flame without an enclosure.

(ii) The term does not include a horizontally or vertically installed ignition device or pit flare used to combust otherwise vented emissions from completions.

Flow line—A pipeline used to transport oil or gas, or both, to processing equipment, compression equipment, storage vessel or other collection system for further handling or to a mainline pipeline.

Fugitive emissions component—

(i) A piece of equipment that has the potential to emit fugitive emissions of VOC at a well site, including the following:

(A) A valve.

(B) A connector.

(C) A pressure relief device.

(D) An open-ended line.

(E) A flange.

(F) A compressor.

(G) An instrument.

(H) A meter.

(I) A cover or closed vent system not subject to § 129.138 (relating to covers and closed vent systems).

(J) A thief hatch or other opening on a controlled storage vessel not subject to § 129.133 (relating to storage vessels).

(ii) The term does not include a device, such as a natural gas-driven continuous bleed pneumatic controller or a natural gas-driven diaphragm pump, that vents as part of normal operations if the gas is discharged from the device's vent.

GOR—gas-to-oil ratio—The ratio of the volume of gas at standard temperature and pressure that is produced from a volume of oil when depressurized to standard temperature and pressure.

Gathering and boosting station—

(i) A permanent combination of one or more compressors that collects natural gas from one or more well sites and moves the natural gas at increased pressure into a gathering pipeline to the natural gas processing plant or into the pipeline.

(ii) The term does not include the combination of one or more compressors located at a well site or located at an onshore natural gas processing plant.

Hard-piping—Pipe or tubing that is manufactured and properly installed using good engineering judgment and standards.

Hydraulic fracturing—The process of directing pressurized fluids containing a combination of water, proppant and added chemicals to penetrate tight formations, such as shale or coal formations, that subsequently require high rate, extended flowback to expel fracture fluids and solids during a completion.

Hydraulic refracturing—Conducting a subsequent hydraulic fracturing operation at a well that has previously undergone a hydraulic fracturing operation.

In-house engineer—An individual who is both of the following:

(i) Employed by the same owner or operator as the responsible official that signs the certification required under § 129.140(k) (relating to recordkeeping and reporting).

(ii) Qualified by education, technical knowledge and expertise in the design and operation of a natural gas-driven diaphragm pump or closed vent system to make the technical certification required under § 129.135(c)(3)(ii) (relating to natural gas driven diaphragm pumps) or § 129.138(c)(3), or both, as applicable.

Intermediate hydrocarbon liquid—A naturally occurring, unrefined petroleum liquid.

LDAR—Leak detection and repair.

Leak—An emission detected using one or more of the following methods:

(i) Through audible, visual or odorous evidence during an AVO inspection.

(ii) By OGI equipment calibrated according to § 129.137(h).

(iii) With a concentration of 500 ppm or greater as methane or equivalent by a gas leak detector calibrated according to § 129.137(i).

(iv) Using an alternative leak detection method approved by the Department in § 129.137(c)(2)(ii)(C), (c)(3)(ii)(C) or (e)(2)(iii).

Maximum average daily throughput—The single highest daily average throughput during the 30-day potential to emit evaluation period employing generally accepted methods.

Monitoring system malfunction—

(i) A sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data.

(ii) The term does not include a system failure caused by poor maintenance or careless operation.

Natural gas distribution segment—The delivery of natural gas to the end user by a distribution company after the distribution company receives the natural gas from the natural gas transmission and storage segment.

Natural gas-driven continuous bleed pneumatic controller—An automated instrument used for maintaining a process condition such as liquid level, pressure, delta-pressure or temperature powered by a continuous flow of pressurized natural gas.

Natural gas-driven diaphragm pump—

(i) A positive displacement pump powered by pressurized natural gas that uses the reciprocating action of flexible diaphragms in conjunction with check valves to pump a fluid.

(ii) The term does not include either of the following:

(A) A pump in which a fluid is displaced by a piston driven by a diaphragm.

(B) A lean glycol circulation pump that relies on energy exchange with the rich glycol from the contactor.

Natural gas liquids—The hydrocarbons, such as ethane, propane, butane and pentane, that are extracted from field gas.

Natural gas processing plant—

(i) A processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both.

(ii) The term does not include a Joule-Thompson valve, a dew point depression valve or an isolated or standalone Joule-Thompson skid.

Natural gas transmission and storage segment—The term includes the following:

(i) The pipelines used for the long-distance transport of natural gas, excluding processing.

(ii) The natural gas transmission stations which include the following:

(A) The land, mains, valves, meters, boosters, regulators, storage vessels, dehydrators and compressors.

(B) The driving units and appurtenances associated with the items listed in clause (A).

(C) The equipment used for transporting gas from a production plant, delivery point of purchased gas, gathering system, storage area or other wholesale source of gas to one or more distribution areas.

(iii) The aboveground storage facilities and underground storage facilities that transport and store natural gas between the natural gas processing plant and natural gas distribution segment.

OGI—Optical gas imaging.

Open-ended valve or line—A valve, except a safety relief valve, having one side of the valve seat in contact with

process fluid and one side open to the atmosphere, either directly or through open piping.

Produced water—Water that is extracted from the earth from an oil or natural gas production well or that is separated from crude oil, condensate or natural gas after extraction.

Qualified professional engineer—

(i) An individual who is licensed by a state as a Professional Engineer to practice one or more disciplines of engineering and who is qualified by education, technical knowledge and experience to make the required specific technical certification.

(ii) The individual making this certification must be currently licensed in this Commonwealth or another state in which the responsible official, as defined in § 121.1 (relating to definitions), is located and with which the Commonwealth offers reciprocity.

Quality assurance or quality control activity—An activity such as a system accuracy audit and a zero and span adjustment that ensures the proper calibration and operation of monitoring equipment.

Reciprocating compressor—A piece of equipment that employs linear movement of a driveshaft to increase the pressure of a process gas by positive displacement.

Reciprocating compressor rod packing—

(i) A series of flexible rings in machined metal cups that fit around the reciprocating compressor piston rod to create a seal limiting the amount of compressed natural gas that escapes to the atmosphere.

(ii) Another mechanism that provides the same function.

Removed from service—A storage vessel that has been physically isolated and disconnected from the process for a purpose other than maintenance.

Repaired—A piece of equipment that is adjusted or otherwise altered to eliminate a leak and is remonitored to verify that emissions from the equipment are at or below the applicable leak limitation.

Returned to service—A storage vessel that was removed from service which has been:

(i) Reconnected to the original source of liquids or has been used to replace another storage vessel.

(ii) Installed in another location and introduced with crude oil, condensate, intermediate hydrocarbon liquids or produced water.

Routed to a process or route to a process—The emissions are conveyed by means of a closed vent system to an enclosed portion of a process that is operational where the emissions are controlled in one or more of the following ways:

(i) Predominantly recycled or consumed, or both, in the same manner as a material that fulfills the same function in the process.

(ii) Transformed by chemical reaction into materials that are not regulated.

(iii) Incorporated into a product.

(iv) Recovered for beneficial use.

Sensor—A device that measures a physical quantity or the change in a physical quantity such as temperature, pressure, flow rate, pH or liquid level.

Storage vessel—

(i) A container used to collect crude oil, condensate, intermediate hydrocarbon liquids or produced water that is constructed primarily of non-earthen materials which provide structural support.

(ii) The term includes a container described in subparagraph (i) that is skid-mounted or permanently attached to something that is mobile which has been located at a site for 180 or more consecutive days.

(iii) The term does not include the following:

(A) A process vessel such as a surge control vessel, bottoms receiver or knockout vessel.

(B) A pressure vessel used to store a liquid or a gas and is designed to operate in excess of 204.9 kilopascals (29.7 pounds per square inch, absolute) and to not vent to the atmosphere as a result of compression of the vapor headspace during filling of the vessel.

(C) A container described in subparagraph (i) with a capacity greater than 100,000 gallons used to recycle water that has been passed through two-stage separation.

Surface site—A combination of one or more graded pad sites, gravel pad sites, foundations, platforms or the immediate physical location upon which equipment is physically affixed.

TOC—total organic compounds—The results of EPA Method 25A.

UIC—Underground injection control.

UIC Class I oilfield disposal well—A well with a UIC Class I permit that meets the definition in 40 CFR 144.6(a)(2) (relating to classification of wells) and receives eligible fluids from oil and natural gas exploration and production operations.

UIC Class II oilfield disposal well—A well with a UIC Class II permit where wastewater resulting from oil and natural gas production operations is injected into underground porous rock formations not productive of oil or gas and sealed above and below by unbroken, impermeable strata.

Unconventional formation—A geological shale formation existing below the base of the Elk Sandstone or its geologic equivalent stratigraphic interval where natural gas generally cannot be produced at economic flow rates or in economic volumes except by vertical or horizontal well bores stimulated by hydraulic fracture treatments or by using multilateral well bores or other techniques to expose more of the formation to the well bore.

Unconventional well—A bore hole drilled or being drilled for the purpose of or to be used for the production of natural gas from an unconventional formation.

Unconventional well site—A location with one or more unconventional wells.

VRU—vapor recovery unit—A device used to recover vapor and route it to a process, flow line or other equipment.

Well—A hole drilled for producing oil or natural gas or into which a fluid is injected.

Wellhead—

(i) The piping, casing, tubing and connected valves protruding above the earth's surface for an oil or natural gas well.

(ii) The wellhead ends where the flow line connects to a wellhead valve.

(iii) The term does not include other equipment at the well site except for a conveyance through which gas is vented to the atmosphere.

Well site—

(i) One or more surface sites that are constructed for the drilling and subsequent operation of a conventional well or injection well.

(ii) For purposes of the fugitive emissions standards in § 129.137, the term also means a separate tank battery surface site collecting crude oil, condensate, intermediate hydrocarbon liquids or produced water from a well not located at the well site, for example, a centralized tank battery.

(iii) For purposes of the fugitive emissions standards in § 129.137, the term does not include:

(A) A UIC Class I oilfield disposal well.

(B) A UIC Class II oilfield disposal well and disposal facility.

(C) The flange immediately upstream of the custody meter assembly.

(D) Equipment, including fugitive emissions components, located downstream of the flange in clause (C).

(b) *EPA methods.* The EPA methods referenced in this section and §§ 129.133—129.140 are those listed as follows, unless the context clearly indicates otherwise:

*EPA Method 1—*EPA Method 1, 40 CFR Part 60, Appendix A-1 (relating to test methods 1 through 2F), regarding sample and velocity traverses for stationary sources.

*EPA Method 1A—*EPA Method 1A, 40 CFR Part 60, Appendix A-1, regarding sample and velocity traverses for stationary sources with small stacks or ducts.

*EPA Method 2—*EPA Method 2, 40 CFR Part 60, Appendix A-1, regarding determination of stack gas velocity and volumetric flow rate (Type S pitot tube).

*EPA Method 2A—*EPA Method 2A, 40 CFR Part 60, Appendix A-1, regarding direct measurement of gas volume through pipes and small ducts.

*EPA Method 2C—*EPA Method 2C, 40 CFR Part 60, Appendix A-1, regarding determination of gas velocity and volumetric flow rate in small stacks or ducts (standard pitot tube).

*EPA Method 2D—*EPA Method 2D, 40 CFR Part 60, Appendix A-1, regarding measurement of gas volume flow rates in small pipes and ducts.

*EPA Method 3A—*EPA Method 3A, 40 CFR Part 60, Appendix A-2 (relating to test methods 2G through 3C), regarding determination of oxygen and carbon dioxide concentrations in emissions from stationary sources (instrumental analyzer procedure).

*EPA Method 3B—*EPA Method 3B, 40 CFR Part 60, Appendix A-2, regarding gas analysis for the determination of emission rate correction factor or excess air.

*EPA Method 4—*EPA Method 4, 40 CFR Part 60, Appendix A-3 (relating to test methods 4 through 5I), regarding determination of moisture content in stack gases.

*EPA Method 18—*EPA Method 18, 40 CFR Part 60, Appendix A-6 (relating to test methods 16 through 18), regarding measurement of gaseous organic compound emissions by gas chromatography.

*EPA Method 21—*EPA Method 21, 40 CFR Part 60, Appendix A-7 (relating to test methods 19 through 25E), regarding determination of volatile organic compound leaks.

*EPA Method 22—*EPA Method 22, 40 CFR Part 60, Appendix A-7, regarding visual determination of fugitive emissions from material sources and smoke emissions from flares.

*EPA Method 25A—*EPA Method 25A, 40 CFR Part 60, Appendix A-7, regarding determination of total gaseous organic concentration using a flame ionization analyzer.

§ 129.133. Storage vessels.

(a) *Applicability.*

(1) *Potential VOC emissions.* Except as specified in subsections (c) and (d), this section applies to the owner or operator of a storage vessel subject to § 129.131(a)(1) (relating to general provisions and applicability) that has the potential to emit 2.7 TPY or greater VOC emissions.

(2) *Calculation of potential VOC emissions.*

(i) The potential VOC emissions in paragraph (1) must be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput as defined in § 129.132 (relating to definitions, acronyms and EPA methods) prior to January 31, 2023, for an existing storage vessel.

(ii) The determination of potential VOC emissions may consider requirements under a legally and practically enforceable limit established in an operating permit or plan approval approved by the Department.

(iii) Vapor from the storage vessel that is recovered and routed to a process through a VRU is not required to be included in the determination of potential VOC emissions for purposes of determining applicability, if the owner or operator meets the following:

(A) The cover requirements in § 129.138(a) (relating to covers and closed vent systems).

(B) The closed vent system requirements in § 129.138(b).

(iv) If the apparatus that recovers and routes vapor to a process is removed from operation or is operated inconsistently with § 129.138, the owner or operator shall determine the storage vessel's potential VOC emissions under this paragraph within 30 calendar days of the date of apparatus removal or inconsistent operation.

(b) *VOC emissions limitations and control requirements.* Except as specified in subsections (c) and (d), beginning December 2, 2023, the owner or operator of a storage vessel subject to this section shall reduce VOC emissions by 95.0% by weight or greater. The owner or operator shall comply with paragraph (1) or paragraph (2) as applicable.

(1) *Route the VOC emissions to a control device.* The owner or operator shall do the following:

(i) Equip the storage vessel with a cover that meets the requirements of § 129.138(a).

(ii) Connect the storage vessel to a control device or process through a closed vent system that meets the requirements of § 129.138(b).

(iii) Route the emissions from the storage vessel to a control device or a process that meets the applicable requirements of § 129.139 (relating to control devices).

(iv) Demonstrate that the VOC emissions are reduced as specified in § 129.139(k).

(2) *Equip the storage vessel with a floating roof.* The owner or operator shall install a floating roof that meets the requirements of 40 CFR 60.112b(a)(1) or (2) (relating to standard for volatile organic compounds (VOC)) and the relevant monitoring, inspection, recordkeeping and reporting requirements in 40 CFR Part 60, Subpart Kb (relating to standards of performance for volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984).

(c) *Exceptions.*

(1) The emissions limitations and control requirements in subsection (b) do not apply to the owner or operator of a storage vessel that maintains actual VOC emissions less than 2.7 TPY determined as a 12-month rolling sum. An owner or operator claiming this exception shall perform the compliance demonstration requirements under paragraph (2) and maintain the records under subsection (g), as applicable.

(2) The owner or operator of a storage vessel claiming exception under this subsection shall perform the following:

(i) Beginning on or before January 1, 2023, calculate the actual VOC emissions once per calendar month using a generally accepted model or calculation methodology. The monthly calculations must meet the following:

(A) Be separated by at least 15 calendar days but not more than 45 calendar days.

(B) Be based on the monthly average throughput for the previous 30 calendar days.

(ii) Comply with subsection (b) within 1 year of the date of the monthly calculation showing that actual VOC emissions from the storage vessel have increased to 2.7 TPY VOC or greater.

(d) *Exemptions.* The emissions limitations and control requirements in subsection (b) do not apply to the owner or operator of a storage vessel that meets one or more of the following:

(1) Is skid-mounted or permanently attached to something that is mobile for which records are available to document that it has been located at a site for less than 180 consecutive days. An owner or operator claiming this exemption shall maintain the records under subsection (g), as applicable.

(2) Is used in the natural gas distribution segment.

(3) Is controlled under 40 CFR Part 60, Subpart Kb or 40 CFR Part 63, Subpart G, Subpart CC, Subpart HH or Subpart WW.

(e) *Requirements for a storage vessel removed from service.* A storage vessel subject to this section that is removed from service is not an affected source for the period that it is removed from service if the owner or operator performs the following:

(1) Completely empties and degasses the storage vessel so that the storage vessel no longer contains crude oil, condensate, produced water or intermediate hydrocarbon liquids. A storage vessel where liquid is left on walls, as bottom clingage or in pools due to floor irregularity is considered to be completely empty.

(2) Submits a notification in the next annual report required under § 129.140(k)(1) (relating to recordkeeping

and reporting) identifying each storage vessel removed from service during the reporting period and the date of its removal from service.

(f) *Requirements for a storage vessel returned to service.* The owner or operator of a storage vessel identified in subsection (e) that is returned to service shall submit a notification in the next annual report required under § 129.140(k)(1) identifying each storage vessel that has been returned to service during the reporting period and the date of its return to service.

(g) *Recordkeeping and reporting requirements.* The owner or operator of a storage vessel subject to this section shall maintain the records under § 129.140(b) and submit the reports under § 129.140(k)(3)(i).

§ 129.134. Natural gas-driven continuous bleed pneumatic controllers.

(a) *Applicability.* This section applies to the owner or operator of a natural gas-driven continuous bleed pneumatic controller subject to § 129.131(a)(2) (relating to general provisions and applicability) located prior to the point of custody transfer of oil to an oil pipeline or of natural gas to the natural gas transmission and storage segment.

(b) *Exception.* An owner or operator may use a natural gas-driven continuous bleed pneumatic controller subject to this section with a bleed rate greater than the applicable requirements in subsection (c) based on functional requirements. An owner or operator claiming this exception shall perform the compliance demonstration requirements under subsection (d) and maintain the records under subsection (e), as applicable.

(c) *VOC emissions limitation requirements.* Except as specified in subsection (b), beginning December 2, 2023, the owner or operator of a natural gas-driven continuous bleed pneumatic controller subject to this section shall do the following:

(1) Ensure each natural gas-driven continuous bleed pneumatic controller with a natural gas bleed rate greater than 6.0 standard cubic feet per hour, at a location other than a natural gas processing plant, maintains a natural gas bleed rate of less than or equal to 6.0 standard cubic feet per hour.

(2) Ensure each natural gas-driven continuous bleed pneumatic controller maintains a natural gas bleed rate of zero standard cubic feet per hour, if located at a natural gas processing plant.

(3) Perform the compliance demonstration requirements under subsection (d).

(d) *Compliance demonstration requirements.* The owner or operator shall tag each natural gas-driven continuous bleed pneumatic controller affected under subsection (c) with the following:

(1) The date the natural gas-driven continuous bleed pneumatic controller is required to comply with this section.

(2) An identification number that ensures traceability to the records for that natural gas-driven continuous bleed pneumatic controller.

(e) *Recordkeeping and reporting requirements.* The owner or operator of a natural gas-driven continuous bleed pneumatic controller affected under subsection (c) shall maintain the records under § 129.140(c) (relating to recordkeeping and reporting) and submit the reports under § 129.140(k)(3)(ii).

§ 129.135. Natural gas-driven diaphragm pumps.

(a) *Applicability.* This section applies to the owner or operator of a natural gas-driven diaphragm pump subject to § 129.131(a)(3) (relating to general provisions and applicability) located at a well site or natural gas processing plant.

(b) *VOC emissions limitation and control requirements.* Except as specified in subsections (c) and (d), beginning December 2, 2023, the owner or operator of a natural gas-driven diaphragm pump subject to this section shall comply with the following:

(1) *Conventional well site.* The owner or operator of a natural gas-driven diaphragm pump located at a conventional well site shall reduce the VOC emissions by 95.0% by weight or greater. The owner or operator shall do the following:

(i) Connect the natural gas-driven diaphragm pump to a control device or process through a closed vent system that meets the applicable requirements of § 129.138(b) (relating to covers and closed vent systems).

(ii) Route the emissions from the natural gas-driven diaphragm pump to a control device or a process that meets the applicable requirements of § 129.139 (relating to control devices).

(iii) Demonstrate that the VOC emissions are reduced as specified in § 129.139(k).

(2) *Natural gas processing plant.* The owner or operator of a natural gas-driven diaphragm pump located at a natural gas processing plant shall maintain an emission rate of zero standard cubic feet per hour.

(c) *Exceptions.* The emissions limitations and control requirements in subsection (b) do not apply to the owner or operator of a natural gas-driven diaphragm pump located at a well site which meets one or more of the following:

(1) Routes emissions to a control device which is unable to reduce VOC emissions by 95.0% by weight or greater and there is no ability to route VOC emissions to a process. An owner or operator that claims this exception shall do the following:

(i) Maintain the records under § 129.140(d)(4) (relating to recordkeeping and reporting).

(ii) Connect the natural gas-driven diaphragm pump to the control device through a closed vent system that meets the requirements of § 129.138(b).

(iii) Demonstrate the percentage by which the VOC emissions are reduced as specified in § 129.139(k).

(2) Has no available control device or process. An owner or operator that claims this exception shall do the following:

(i) Maintain the records under § 129.140(d)(5).

(ii) Certify that there is no available control device or process in the next annual report required by § 129.140(k)(1).

(iii) Route emissions from the natural gas-driven diaphragm pump within 30 days of the installation of a control device or process. Once the emissions are routed to a control device or process, the certification of subparagraph (ii) is no longer required and the applicable requirements of this section shall be met.

(3) Is technically infeasible of connecting to a control device or process. An owner or operator that claims this exception shall do the following:

(i) Maintain the records under § 129.140(d)(6).

(ii) Perform an assessment of technical infeasibility which must meet the following:

(A) Be prepared under the supervision of an in-house engineer or qualified professional engineer.

(B) Include a technical analysis of safety considerations, the distance from an existing control device, the pressure losses and differentials in the closed vent system and the ability of the control device to handle the increase in emissions routed to them.

(C) Be certified, signed and dated by the engineer supervising the assessment, including the statement: "I certify that the assessment of technical infeasibility was prepared under my supervision. I further certify that the assessment was conducted and this report was prepared under the requirements of 25 Pa. Code § 129.135(c)(3). Based on my professional knowledge and experience, and inquiry of personnel involved in the assessment, the certification submitted herein is true, accurate, and complete. I am aware that there are penalties for knowingly submitting false information."

(d) *Exemptions.* The emissions limitations and control requirements in subsection (b) do not apply to the owner or operator of a natural gas-driven diaphragm pump located at a well site which operates less than 90 days per calendar year. An owner or operator claiming this exemption shall maintain the records under § 129.140(d)(3).

(e) *Removal of control device or process.* The owner or operator of a natural gas-driven diaphragm pump located at a well site that routes emissions to a control device or process which is removed or is no longer available shall comply with one of the exceptions in subsection (c), as applicable.

(f) *Recordkeeping and reporting requirements.* The owner or operator of a natural gas-driven diaphragm pump subject to this section shall maintain the records under § 129.140(d) and submit the reports under § 129.140(k)(3)(iii).

§ 129.136. Compressors.

(a) *Applicability.* This section applies to the owner or operator of a reciprocating compressor or centrifugal compressor subject to § 129.131(a)(4) (relating to general provisions and applicability) that meets the following:

(1) *Reciprocating compressor.* Each reciprocating compressor located between the wellhead and point of custody transfer to the natural gas transmission and storage segment.

(2) *Centrifugal compressor.* Each centrifugal compressor using wet seals that is located between the wellhead and point of custody transfer to the natural gas transmission and storage segment.

(b) *VOC emissions control requirements for a reciprocating compressor.* Beginning December 2, 2023, the owner or operator of a reciprocating compressor subject to this section shall meet one of the following:

(1) Replace the reciprocating compressor rod packing on or before one of the following:

(i) The reciprocating compressor has operated for 26,000 hours. The number of hours of operation must be continuously monitored beginning on the later of:

(A) The date of the most recent reciprocating compressor rod packing replacement.

(B) December 2, 2022, for a reciprocating compressor rod packing that has not yet been replaced.

(ii) The reciprocating compressor has operated for 36 months. The number of months of operation must be continuously monitored beginning on the later of:

(A) The date of the most recent reciprocating compressor rod packing replacement.

(B) December 2, 2025, for a reciprocating compressor rod packing that has not yet been replaced.

(2) Route the VOC emissions to a control device or a process that meets § 129.139 (relating to control devices) by using a reciprocating compressor rod packing emissions collection system that operates under negative pressure and meets the cover requirements of § 129.138(a) (relating to covers and closed vent systems) and the closed vent system requirements of § 129.138(b).

(c) *VOC emissions limitation and control requirements for a centrifugal compressor.* Except as specified in subsection (d), the owner or operator of a centrifugal compressor subject to this section shall perform the following:

(1) Reduce the VOC emissions from each centrifugal compressor wet seal fluid degassing system by 95.0% by weight or greater.

(2) Equip the wet seal fluid degassing system with a cover that meets the requirements of § 129.138(a) through a closed vent system that meets the requirements of § 129.138(b) to a control device or a process that meets the applicable requirements of § 129.139.

(3) Demonstrate that the VOC emissions are reduced as specified in § 129.139(k).

(d) *Exemptions.* Subsection (c) does not apply to the owner or operator of a centrifugal compressor that meets the following:

- (1) Is located at a well site.
- (2) Is located at an adjacent well site and services more than one well site.

(e) *Recordkeeping and reporting requirements.* The owner or operator of a reciprocating compressor or centrifugal compressor subject to this section shall do the following, as applicable:

(1) For a reciprocating compressor, maintain the records under § 129.140(e) (relating to recordkeeping and reporting) and submit the reports under § 129.140(k)(3)(iv).

(2) For a centrifugal compressor, maintain the records under § 129.140(f) and submit the reports under § 129.140(k)(3)(v).

§ 129.137. Fugitive emissions components.

(a) *Applicability.* This section applies to the owner or operator of a fugitive emissions component subject to § 129.131(a)(5) (relating to general provisions and applicability), located at one or more of the following:

- (1) A conventional well site.
- (2) A natural gas gathering and boosting station.
- (3) A natural gas processing plant.

(b) *Average production calculation procedure for a well site.* Beginning on or before January 1, 2023:

(1) The owner or operator of a well site subject to subsection (a)(1) shall calculate the average production in barrels of oil equivalent per day of the well site using the previous 12 calendar months of operation as reported to the Department and thereafter as specified in subsection

(c)(4) for the previous calendar year. The owner or operator shall do the following:

(i) For each well at the well site with production reported to the Department:

(A) Record the barrels of oil produced for each active well.

(B) Convert the natural gas production for each active well to equivalent barrels of oil by dividing the standard cubic feet of natural gas produced by 6,000 standard cubic feet per barrel of oil equivalent.

(C) Convert the condensate production for each active well to equivalent barrels of oil by multiplying the barrels of condensate by 0.9 barrels of oil equivalent per barrel of condensate.

(ii) Calculate the total production for each active well, in barrels of oil equivalent, by adding the results of subparagraph (i)(A)—(C) for each active well.

(iii) Sum the results of subparagraph (ii) for all active wells at the well site and divide by 365 or 366 days for the previous 12 calendar months or the previous calendar year, as applicable.

(2) If the owner or operator does not know the production of an individual well at the well site, the owner or operator shall comply with subsection (c)(2).

(c) *Requirements for a conventional well site.*

(1) For a well site consisting of only oil wells, the owner or operator shall:

(i) Determine the GOR of the oil well site using generally accepted methods.

(ii) If the GOR of the oil well site is less than 300 standard cubic feet of gas per barrel of oil produced, maintain the records under § 129.140(g)(1) (relating to recordkeeping and reporting).

(iii) If the GOR of the oil well site is equal to or greater than 300 standard cubic feet of gas per barrel of oil produced, meet the requirements of paragraph (2) or paragraph (3) based on the results of subsection (b)(1).

(2) For a well site producing, on average, equal to or greater than 15 barrels of oil equivalent per day, with at least one well producing, on average, equal to or greater than 15 barrels of oil equivalent per day, the owner or operator shall:

(i) Conduct an initial AVO inspection on or before January 31, 2023, with monthly inspections thereafter separated by at least 15 calendar days but not more than 45 calendar days.

(ii) Conduct an initial LDAR inspection program on or before January 31, 2023, with quarterly inspections thereafter separated by at least 60 calendar days but not more than 120 calendar days using one or more of the following:

- (A) OGI equipment.
- (B) A gas leak detector that meets the requirements of EPA Method 21.
- (C) Another leak detection method approved by the Department.

(3) For a well site producing, on average, equal to or greater than 15 barrels of oil equivalent per day, and at least one well producing, on average, equal to or greater than 5 barrels of oil equivalent per day but less than 15 barrels of oil equivalent per day, the owner or operator shall:

(i) Conduct an initial AVO inspection on or before January 31, 2023, with monthly inspections thereafter separated by at least 15 calendar days but not more than 45 calendar days.

(ii) Conduct an initial LDAR inspection program on or before May 1, 2023, with annual inspections thereafter separated by at least 335 calendar days but not more than 395 calendar days using one or more of the following:

(A) OGI equipment.

(B) A gas leak detector that meets the requirements of EPA Method 21.

(C) Another leak detection method approved by the Department.

(4) The owner or operator of a producing well site shall calculate the average production of the well site under subsection (b) for the previous calendar year not later than February 15 and may adjust the frequency of the required LDAR inspection as follows:

(i) If two consecutive calculations show reduced production, the owner or operator may adopt the requirements applicable to the reduced production level.

(ii) If a calculation shows higher production, the owner or operator shall adopt the requirements applicable to the higher production level immediately.

(5) The owner or operator of a well site subject to paragraph (3) may submit to the appropriate Department Regional Office a request, in writing, for an exemption from the requirements of paragraph (3)(ii).

(i) The written request must include the following:

(A) Name and location of the well site.

(B) A demonstration that the requirements of paragraph (3)(ii) are not technically or economically feasible for the well site.

(C) Sufficient methods for demonstrating compliance with all applicable standards or regulations promulgated under the Clean Air Act or the Act.

(D) Sufficient methods for demonstrating compliance with this section, §§ 129.131—129.136 and 129.138—129.140.

(ii) The Department will review the complete written request submitted in accordance with subparagraph (i) and approve or deny the request in writing.

(iii) The Department will submit each exemption determination approved under subparagraph (ii) to the Administrator of the EPA for approval as a revision to the SIP. The owner or operator shall bear the costs of public hearings and notifications, including newspaper notices, required for the SIP submittal.

(iv) The owner or operator of the well site identified in subparagraph (i)(A) shall remain subject to the requirements of paragraphs (1), (3)(i) and (4).

(d) *Requirements for a shut-in conventional well site.* The owner or operator of a conventional well site that is temporarily shut-in is not required to perform an LDAR inspection of the well site until one of the following occurs, whichever is first:

(1) Sixty days after the conventional well site is put into production.

(2) The date of the next required LDAR inspection after the conventional well site is put into production.

(e) *Requirements for a natural gas gathering and boosting station or a natural gas processing plant.* The owner or operator of a natural gas gathering and boosting station or a natural gas processing plant shall conduct the following:

(1) An initial AVO inspection on or before January 31, 2023, with monthly inspections thereafter separated by at least 15 calendar days but not more than 45 calendar days.

(2) An initial LDAR inspection program on or before January 31, 2023, with quarterly inspections thereafter separated by at least 60 calendar days but not more than 120 calendar days using one or more of the following:

(i) OGI equipment.

(ii) A gas leak detector that meets the requirements of EPA Method 21.

(iii) Another leak detection method approved by the Department.

(f) *Requirements for extension of the LDAR inspection interval.* The owner or operator of an affected facility may request, in writing, an extension of the LDAR inspection interval from the Air Program Manager of the appropriate Department Regional Office.

(g) *Fugitive emissions monitoring plan.* The owner or operator shall develop, in writing, an emissions monitoring plan that covers the collection of fugitive emissions components at the subject facility within each company-defined area. The written plan must include the following elements:

(1) The technique used for determining fugitive emissions.

(2) A list of fugitive emissions detection equipment, including the manufacturer and model number, that may be used at the facility.

(3) A list of personnel that may conduct the monitoring surveys at the facility, including their training and experience.

(4) The procedure and timeframe for identifying and fixing a fugitive emissions component from which fugitive emissions are detected, including for a component that is unsafe-to-repair.

(5) The procedure and timeframe for verifying fugitive emissions component repairs.

(6) The procedure and schedule for verifying the fugitive emissions detection equipment is operating properly.

(i) For OGI equipment, the verification must be completed as specified in subsection (h).

(ii) For gas leak detection equipment using EPA Method 21, the verification must be completed as specified in subsection (i).

(iii) For a Department-approved method, a copy of the request for approval that shows the method's equivalence to subsection (h) or subsection (i).

(7) A sitemap.

(8) If using OGI, a defined observation path that meets the following:

(i) Ensures that all fugitive emissions components are within sight of the path.

(ii) Accounts for interferences.

(9) If using EPA Method 21, a list of the fugitive emissions components to be monitored and an identification method to locate them in the field.

(10) A written plan for each fugitive emissions component designated as difficult-to-monitor or unsafe-to-monitor which includes the following:

(i) A method to identify a difficult-to-monitor or unsafe-to-monitor component in the field.

(ii) The reason each component was identified as difficult-to-monitor or unsafe-to-monitor.

(iii) The monitoring schedule for each component identified as difficult-to-monitor or unsafe-to-monitor. The monitoring schedule for difficult-to-monitor components must include at least one survey per year no more than 13 months apart.

(h) *Verification procedures for OGI equipment.* An owner or operator that identifies OGI equipment in the fugitive emissions monitoring plan in subsection (g)(6)(i) shall complete the verification by doing the following:

(1) Demonstrating that the OGI equipment is capable of imaging a gas:

(i) In the spectral range for the compound of highest concentration in the potential fugitive emissions.

(ii) That is half methane, half propane at a concentration of 10,000 ppm at a flow rate of less than or equal to 60 grams per hour (2.115 ounces per hour) from a 1/4-inch diameter orifice.

(2) Performing a verification check each day prior to use.

(3) Determining the equipment operator's maximum viewing distance from the fugitive emissions component and how the equipment operator will ensure that this distance is maintained.

(4) Determining the maximum wind speed during which monitoring can be performed and how the equipment operator will ensure monitoring occurs only at wind speeds below this threshold.

(5) Conducting the survey by using the following procedures:

(i) Ensuring an adequate thermal background is present to view potential fugitive emissions.

(ii) Dealing with adverse monitoring conditions, such as wind.

(iii) Dealing with interferences, such as steam.

(6) Following the manufacturer's recommended calibration and maintenance procedures.

(i) *Verification procedures for gas leak detection equipment using EPA Method 21.* An owner or operator that identifies gas leak detection equipment using EPA Method 21 in the fugitive emissions monitoring plan in subsection (g)(6)(ii) shall complete the verification by doing the following:

(1) Verifying that the gas leak detection equipment meets:

(i) The requirements of Section 6.0 of EPA Method 21 with a fugitive emissions definition of 500 ppm or greater calibrated as methane using an FID-based instrument.

(ii) A site-specific fugitive emission definition that would be equivalent to subparagraph (i) for other equipment approved for use in EPA Method 21 by the Department.

(2) Using the average composition of the fluid, not the individual organic compounds in the stream, when performing the instrument response factor of Section 8.1.1 of EPA Method 21.

(3) Calculating the average stream response factor on an inert-free basis for process streams that contain nitrogen, air or other inert gases that are not organic hazardous air pollutants or VOCs.

(4) Calibrating the gas leak detection instrument in accordance with Section 10.1 of EPA Method 21 on each day of its use using zero air, defined as a calibration gas with less than 10 ppm by volume of hydrocarbon in air, and a mixture of methane in air at a concentration less than 10,000 ppm by volume as the calibration gases.

(5) Conducting the surveys which, at a minimum, must comply with the relevant sections of EPA Method 21, including Section 8.3.1.

(j) *Fugitive emissions detection devices.* Fugitive emissions detection devices must be operated and maintained in accordance with manufacturer-recommended procedures and as required by the test method or a Department-approved method.

(k) *Background adjustment.* For LDAR inspections using a gas leak detector in accordance with EPA Method 21, the owner or operator may choose to adjust the gas leak detection instrument readings to account for the background organic concentration level as determined by the procedures of Section 8.3.2 of EPA Method 21.

(l) *Repair and resurvey provisions.* The owner or operator shall repair a leak detected from a fugitive emissions component as follows:

(1) A first attempt at repair must be made within 5 calendar days of detection, and repair must be completed no later than 15 calendar days after the leak is detected unless:

(i) The purchase of a part is required. The repair must be completed no later than 10 calendar days after the receipt of the purchased part.

(ii) The repair is technically infeasible because of one of the following reasons:

(A) It requires vent blowdown.

(B) It requires facility shutdown.

(C) It requires a well shut-in.

(D) It is unsafe to repair during operation of the unit.

(iii) A repair that is technically infeasible under subparagraph (ii) must be completed at the earliest of the following:

(A) After a planned vent blowdown.

(B) The next facility shutdown.

(C) Within 2 years.

(2) The owner or operator shall resurvey the fugitive emissions component no later than 30 calendar days after the leak is repaired.

(3) For a repair that cannot be made during the monitoring survey when the leak is initially found, the owner or operator shall do one of the following:

(i) Take a digital photograph of the fugitive emissions component which includes:

(A) The date the photo was taken.

(B) Clear identification of the component by location, such as by latitude and longitude or other descriptive landmarks visible in the picture.

(ii) Tag the component for identification purposes.

(4) A gas leak is considered repaired if:

(i) There is no visible leak image when using OGI equipment calibrated according to subsection (h).

(ii) A leak concentration of less than 500 ppm as methane is detected when the gas leak detector probe inlet is placed at the surface of the fugitive emissions component for a gas leak detector calibrated according to subsection (i).

(iii) There are no detectable emissions consistent with Section 8.3.2 of EPA Method 21.

(iv) There is no bubbling at the leak interface using the soap solution bubble test specified in Section 8.3.3 of EPA Method 21.

(m) *Recordkeeping and reporting requirements.* The owner or operator of a fugitive emissions component subject to this section shall maintain the records under § 129.140(g) and submit the reports under § 129.140(k)(3)(vi).

§ 129.138. Covers and closed vent systems.

(a) *Requirements for a cover on a storage vessel, reciprocating compressor or centrifugal compressor.* The owner or operator shall perform the following for a cover of a source subject to § 129.133(b)(1)(i) or § 129.136(b)(2) or (c)(2) (relating to storage vessels; and compressors), as applicable:

(1) Ensure that the cover and all openings on the cover form a continuous impermeable barrier over each subject source as follows:

(i) The entire surface area of the liquid in the storage vessel.

(ii) The entire surface area of the liquid in the wet seal fluid degassing system of a centrifugal compressor.

(iii) The rod packing emissions collection system of a reciprocating compressor.

(2) Ensure that each cover opening is covered by a gasketed lid or cap that is secured in a closed, sealed position except when it is necessary to use an opening for one or more of the following:

(i) To inspect, maintain, repair or replace equipment.

(ii) To route a liquid, gas, vapor or fume from the source to a control device or a process that meets the applicable requirements of § 129.139 (relating to control devices) through a closed vent system designed and operated in accordance with subsection (b).

(iii) To inspect or sample the material in a storage vessel.

(iv) To add material to or remove material from a storage vessel, including openings necessary to equalize or balance the internal pressure of the storage vessel following changes in the level of the material in the storage vessel.

(3) Ensure that each storage vessel thief hatch is equipped, maintained and operated with the following:

(i) A mechanism to ensure that the lid remains properly seated and sealed under normal operating conditions, including when working, standing or breathing, or when flash emissions may be generated.

(ii) A gasket made of a suitable material based on the composition of the fluid in the storage vessel and weather conditions.

(4) Conduct an initial AVO inspection on or before January 31, 2023, with monthly inspections thereafter separated by at least 15 calendar days but not more than 45 calendar days for defects that could result in air emissions. Defects include the following:

(i) A visible crack, hole or gap in the cover.

(ii) A visible crack, hole or gap between the cover and the separator wall.

(iii) A broken, cracked or otherwise damaged seal or gasket on a closure device.

(iv) A broken or missing hatch, access cover, cap or other closure device.

(5) Inspect only those portions of the cover that extend to or above the surface and the connections on those portions of the cover, including fill ports, access hatches and gauge wells that can be opened to the atmosphere for a storage vessel that is partially buried or entirely underground.

(6) Repair a detected leak or defect as specified in § 129.137(l) (relating to fugitive emissions components).

(7) Maintain the records under § 129.140(h) (relating to recordkeeping and reporting) and submit the report under § 129.140(k)(3)(vii).

(b) *Requirements for a closed vent system.* The owner or operator shall perform the following for each closed vent system installed on a source subject to § 129.133(b)(1)(ii), § 129.135(b)(1)(i) or (c)(1)(ii) (relating to natural gas-driven diaphragm pumps) or § 129.136(b)(2) or (c)(2):

(1) Design the closed vent system to route the liquid, gas, vapor or fume emitted from the source to a control device or process that meets the applicable requirements in § 129.139.

(2) Operate the closed vent system with no detectable emissions as determined by the following:

(i) Conduct an initial AVO inspection on or before January 31, 2023, with monthly inspections thereafter separated by at least 15 calendar days but not more than 45 calendar days for defects that could result in air emissions. Defects include the following:

(A) A visible crack, hole or gap in piping.

(B) A loose connection.

(C) A liquid leak.

(D) A broken or missing cap or other closure device.

(ii) Conducting a no detectable emissions inspection as specified in subsection (d) during the facility's scheduled LDAR inspection in accordance with § 129.137(c)(2)(ii) and (c)(3)(ii) or (e)(2).

(3) Repair a detected leak or defect as specified in § 129.137(l).

(4) Except as specified in subparagraph (iii), if the closed vent system contains one or more bypass devices that could be used to divert the liquid, gas, vapor or fume from routing to the control device or to the process under paragraph (1), perform one or more of the following:

(i) Install, calibrate, operate and maintain a flow indicator at the inlet to the bypass device so when the bypass device is open it does one of the following:

(A) Sounds an alarm.

(B) Initiates a notification by means of a remote alarm to the nearest field office.

(ii) Secure the bypass device valve installed at the inlet to the bypass device in the non-diverting position using the following procedure:

(A) Installing either of the following:

(I) A car-seal.

(II) A lock-and-key configuration.

(B) Visually inspecting the mechanism in clause (A) to verify that the valve is maintained in the non-diverting position on or before January 31, 2023, with monthly inspections separated by at least 15 calendar days but not more than 45 calendar days.

(C) Maintaining the records under § 129.140(i)(4).

(iii) Subparagraphs (i) and (ii) do not apply to a low leg drain, high point bleed, analyzer vent, open-ended valve or line or safety device.

(5) Conduct an assessment that meets the requirements of subsection (c).

(6) Maintain the records under § 129.140(i) and submit the reports under § 129.140(k)(3)(viii).

(c) *Requirements for closed vent system design and capacity assessment.* An owner or operator that installs a closed vent system under subsection (b) shall perform a design and capacity assessment which must include the following:

(1) Be prepared under the supervision of an in-house engineer or qualified professional engineer.

(2) Verify the following:

(i) That the closed vent system is of sufficient design and capacity to ensure that the emissions from the emission source are routed to the control device or process.

(ii) That the control device or process is of sufficient design and capacity to accommodate the emissions from the emission source.

(3) Be certified, signed and dated by the engineer supervising the assessment, including the statement: "I certify that the closed vent design and capacity assessment was prepared under my supervision. I further certify that the assessment was conducted and this report was prepared under the requirements of 25 Pa. Code § 129.138(c). Based on my professional knowledge and experience, and inquiry of personnel involved in the assessment, the certification submitted herein is true, accurate, and complete. I am aware that there are penalties for knowingly submitting false information."

(d) *No detectable emissions procedures.* The owner or operator shall conduct the no detectable emissions inspection required under subsection (b)(2)(ii) by performing one of the following:

(1) Use OGI equipment that meets § 129.137(h).

(2) Use a gas leak detection instrument that meets § 129.137(i). The owner or operator may adjust the gas leak detection instrument readings as specified in § 129.137(k).

(3) Use another leak detection method approved by the Department.

(4) Determine if a potential leak interface operates with no detectable emissions, if the gas leak detection

instrument reading is not a leak as defined in § 129.132(a) (relating to definitions, acronyms and EPA methods).

§ 129.139. Control devices.

(a) *Applicability.* This section applies to the owner or operator of each control device that receives a liquid, gas, vapor or fume from a source subject to § 129.133(b)(1)(iii), § 129.135(b)(1)(ii) or (c)(1), or § 129.136(b)(2) or (c)(2) (relating to storage vessels; natural gas-driven diaphragm pumps; and compressors).

(1) The owner or operator shall perform the following:

(i) Operate each control device whenever a liquid, gas, vapor or fume is routed to the control device.

(ii) Maintain the records under § 129.140(j) (relating to recordkeeping and reporting) and submit the reports under § 129.140(k)(3)(ix).

(2) The owner or operator may route the liquid, gas, vapor or fume from more than one source subject to § 129.133(b)(1)(iii), § 129.135(b)(1)(ii) or (c)(1), or § 129.136(b)(2) or (c)(2) to a control device installed and operated under this section.

(b) *General requirements for a control device.* The owner or operator of a control device subject to this section shall install and operate one or more control devices listed in subsections (c)—(i). The owner or operator shall meet the following requirements, as applicable:

(1) Operate the control device following the manufacturer's written operating instructions, procedures and maintenance schedule to ensure good air pollution control practices for minimizing VOC emissions.

(2) Ensure that the control device is maintained in a leak-free condition by conducting a physical integrity check according to the manufacturer's instructions, with monthly inspections separated by at least 15 calendar days but not more than 45 calendar days.

(3) Maintain a pilot flame while operating the control device and monitor the pilot flame by installing a heat sensing CPMS as specified under subsection (m)(3). If the heat sensing CPMS indicates the absence of the pilot flame or if the control device is smoking or shows other signs of improper equipment operation, ensure the control device is returned to proper operation by performing the following procedures:

(i) Checking the air vent for obstruction and clearing an observed obstruction.

(ii) Checking for liquid reaching the combustor.

(4) Operate the control device with no visible emissions, except for periods not to exceed a total of 1 minute during a 15-minute period as determined by conducting a visible emissions test according to Section 11 of EPA Method 22.

(i) Each monthly visible emissions test shall be separated by at least 15 calendar days but not more than 45 calendar days.

(ii) The observation period for the test in subparagraph (i) shall be 15 minutes.

(5) Repair the control device if it fails the visible emissions test of paragraph (4) as specified in subparagraph (i) or subparagraph (ii) and return the control device to compliant operation.

(i) The manufacturer's repair instructions, if available.

(ii) The best combustion engineering practice applicable to the control device if the manufacturer's repair instructions are not available.

(6) Ensure the control device passes the EPA Method 22 visual emissions test described in paragraph (4) following return to operation from a maintenance or repair activity.

(7) Record the inspection, repair and maintenance activities for the control device in a maintenance and repair log.

(c) *Compliance requirements for a manufacturer-tested combustion device.* The owner or operator of a control device subject to this section that installs a control device tested under 40 CFR 60.5413a(d) (relating to what are the performance testing procedures for control devices used to demonstrate compliance at my centrifugal compressor and storage vessel affected facilities?) shall meet subsection (b)(1)—(7) and the following:

(1) Maintain the inlet gas flow rate at less than or equal to the maximum flow rate specified by the manufacturer. This is confirmed by one of the following:

(i) Installing, operating and maintaining a flow CPMS that meets subsection (m)(1) and (2)(i) to measure gas flow rate at the inlet to the control device.

(ii) Conducting a periodic performance test under subsection (k) instead of installing a flow CPMS to demonstrate that the mass content of VOC in the gases vented to the device is reduced by 95.0% by weight or greater.

(2) Submit an electronic copy of the performance test results to the EPA as required by 40 CFR 60.5413a(d) in accordance with 40 CFR 60.5413a(e)(6).

(d) *Compliance requirements for an enclosed combustion device.* The owner or operator of a control device subject to this section that installs an enclosed combustion device, such as a thermal vapor incinerator, catalytic vapor incinerator, boiler or process heater, shall meet subsection (b)(1)—(7) and the following:

(1) Ensure the enclosed combustion control device is designed and operated to meet one of the following performance requirements:

(i) To reduce the mass content of VOC in the gases vented to the device by 95.0% by weight or greater, as determined under subsection (k).

(ii) To reduce the concentration of TOC in the exhaust gases at the outlet to the device to a level less than or equal to 275 ppmvd as propane corrected to 3% oxygen as determined under subsection (l).

(iii) To operate at a minimum temperature of 760 °Celsius (1,400 °Fahrenheit), if it is demonstrated during the performance test conducted under subsection (k) that combustion zone temperature is an indicator of destruction efficiency.

(iv) To introduce the vent stream into the flame zone of the boiler or process heater if a boiler or process heater is used as the control device.

(2) Install, calibrate, operate and maintain a CPMS according to the manufacturer's specifications and subsection (m) to measure the values of the operating parameters appropriate to the control device as follows:

(i) For a thermal vapor incinerator that demonstrates under subsection (m)(6)(i) that combustion zone temperature is an accurate indicator of performance, a temperature CPMS that meets subsection (m)(1) and (4) with the

temperature sensor installed at a location representative of the combustion zone temperature.

(ii) For a catalytic vapor incinerator, a temperature CPMS capable of monitoring temperature at two locations and that meets subsection (m)(1) and (4) with one temperature sensor installed in the vent stream at the nearest feasible point to the catalyst bed inlet and a second temperature sensor installed in the vent stream at the nearest feasible point to the catalyst bed outlet.

(iii) For a boiler or process heater that demonstrates under subsection (m)(6)(i) that combustion zone temperature is an accurate indicator of performance, a temperature CPMS that meets subsection (m)(1) and (4) with the temperature sensor installed at a location representative of the combustion zone temperature. The monitoring requirements do not apply if the boiler or process heater meets either of the following:

(A) Has a design heat input capacity of 44 megawatts (150 MMBtu per hour) or greater.

(B) Introduces the vent stream with the primary fuel or uses the vent stream as the primary fuel.

(iv) For a control device complying with paragraph (1)(ii), an organic concentration CPMS that meets subsection (m)(1) and (5) that measures the concentration level of organic compounds in the exhaust vent stream from the control device.

(3) Operate the control device in compliance with the operating parameter value established under subsection (m)(6).

(4) Calculate the daily average of the monitored operating parameter for each operating day, using the valid data recorded by the monitoring system under subsection (m)(7).

(5) Ensure that the daily average of the monitoring parameter value calculated under paragraph (4) complies with the parameter value established under paragraph (3) as specified in subsection (m)(9).

(6) Operate the CPMS installed under paragraph (2) whenever the source is operating, except during the times specified in subsection (m)(8)(iii).

(e) *Compliance requirements for a flare.* The owner or operator of a control device subject to this section that installs a flare designed and operated in accordance with 40 CFR 60.18(b) (relating to general control device and work practice requirements) shall meet subsection (b)(3)—(7).

(f) *Compliance requirements for a carbon adsorption system.* The owner or operator of a control device subject to this section that installs a carbon adsorption system shall meet subsection (b)(1) and (2) and the following:

(1) Design and operate the carbon adsorption system to reduce the mass content of VOC in the gases vented to the device as demonstrated by one of the following:

(i) Determining the VOC emission reduction is 95.0% by weight or greater as specified in subsection (k).

(ii) Reducing the concentration of TOC in the exhaust gases at the outlet to the device to a level less than or equal to 275 ppmvd as propane corrected to 3% oxygen as determined under subsection (l).

(iii) Conducting a design analysis in accordance with subsection (g)(6) or subsection (h)(2) as applicable.

(2) Include a carbon replacement schedule in the design of the carbon adsorption system.

(3) Replace the carbon in the control device with fresh carbon on a regular schedule that is no longer than the carbon service life established according to the design analysis in subsection (g)(6) or subsection (h)(2) or according to the replacement schedule in paragraph (2).

(4) Manage the spent carbon removed from the carbon adsorption system in paragraph (3) by one of the following:

(i) Regenerating or reactivating the spent carbon in one of the following:

(A) A thermal treatment unit for which the owner or operator has been issued a permit under 40 CFR Part 270 (relating to EPA administered permit programs: the hazardous waste permit program) that implements the requirements of 40 CFR Part 264, Subpart X (relating to miscellaneous units).

(B) A unit equipped with operating organic air emission controls in accordance with an emissions standard for VOC under a subpart in 40 CFR Part 60 (relating to standards of performance for new stationary sources) or 40 CFR Part 63 (relating to National emission standards for hazardous air pollutants for source categories).

(ii) Burning the spent carbon in one of the following:

(A) A hazardous waste incinerator, boiler or industrial furnace for which the owner or operator complies with the requirements of 40 CFR Part 63, Subpart EEE (relating to National emission standards for hazardous air pollutants from hazardous waste combustors) and has submitted a Notification of Compliance under 40 CFR 63.1207(j) (relating to what are the performance testing requirements?).

(B) An industrial furnace for which the owner or operator has been issued a permit under 40 CFR Part 270 that implements the requirements of 40 CFR Part 266, Subpart H (relating to hazardous waste burned in boilers and industrial furnaces).

(C) An industrial furnace designed and operated in accordance with the interim status requirements of 40 CFR Part 266, Subpart H.

(g) *Additional compliance requirements for a regenerative carbon adsorption system.* The owner or operator of a control device subject to this section that installs a regenerative carbon adsorption system shall meet subsection (f) and the following:

(1) Install, calibrate, operate and maintain a CPMS according to the manufacturer's specifications and the applicable requirements of subsection (m) to measure the values of the operating parameters appropriate to the control device as follows:

(i) For a source complying with subsection (f)(1)(i), a flow CPMS system that meets the requirements of subsection (m)(1) and (2)(ii) to measure and record the average total regeneration steam mass flow or volumetric flow during each carbon bed regeneration cycle. The owner or operator shall inspect the following:

(A) The mechanical connections for leakage with monthly inspections separated by at least 15 calendar days but not more than 45 calendar days.

(B) The components of the flow CPMS for physical and operational integrity if the flow CPMS is not equipped with a redundant flow sensor with quarterly inspections separated by at least 60 calendar days but not more than 120 calendar days.

(C) The electrical connections of the flow CPMS for oxidation and galvanic corrosion if the flow CPMS is not equipped with a redundant flow sensor with quarterly inspections separated by at least 60 calendar days but not more than 120 calendar days.

(ii) For a source complying with subsection (f)(1)(i), a temperature CPMS that meets the requirements of subsection (m)(1) and (4) to measure and record the average carbon bed temperature for the duration of the carbon bed steaming cycle and measure the actual carbon bed temperature after regeneration and within 15 minutes of completing the cooling cycle.

(iii) For a source complying with subsection (f)(1)(ii), an organic concentration CPMS that meets subsection (m)(1) and (5) that measures the concentration level of organic compounds in the exhaust vent stream from the control device.

(2) Operate the control device in compliance with the operating parameter value established under subsection (m)(6).

(3) Calculate the daily average of the applicable monitored operating parameter for each operating day, using the valid data recorded by the CPMS as specified in subsection (m)(7).

(4) Ensure that the daily average of the monitoring parameter value calculated under paragraph (3) complies with the parameter value established under paragraph (2) as specified in subsection (m)(9).

(5) Operate the CPMS installed in paragraph (1) whenever the source is operating, except during the times specified in subsection (m)(8)(iii).

(6) Ensure that the design analysis to meet subsection (f)(1)(iii) and (2) for the regenerable carbon adsorption system meets the following:

(i) Includes an analysis of the vent stream, including the following information:

- (A) Composition.
- (B) Constituent concentrations.
- (C) Flowrate.
- (D) Relative humidity.
- (E) Temperature.

(ii) Establishes the following parameters for the regenerable carbon adsorption system:

- (A) Design exhaust vent stream organic compound concentration level.
- (B) Adsorption cycle time.
- (C) Number and capacity of carbon beds.
- (D) Type and working capacity of activated carbon used for the carbon beds.
- (E) Design total regeneration stream flow over the period of each complete carbon bed regeneration cycle.
- (F) Design carbon bed temperature after regeneration.
- (G) Design carbon bed regeneration time.
- (H) Design service life of the carbon.

(h) *Additional compliance requirements for a non-regenerative carbon adsorption system.* The owner or operator of a control device subject to this section that installs a non-regenerative carbon adsorption system shall meet subsection (f) and the following:

(1) Monitor the design carbon replacement interval established in subsection (f)(2) or paragraph (2). The design carbon replacement interval must be based on the total carbon working capacity of the control device and the source operating schedule.

(2) Ensure that the design analysis to meet subsection (f)(1)(iii) and (2) for a non-regenerable carbon adsorption system, such as a carbon canister, meets the following:

(i) Includes an analysis of the vent stream including the following information:

- (A) Composition.
- (B) Constituent concentrations.
- (C) Flowrate.
- (D) Relative humidity.
- (E) Temperature.

(ii) Establishes the following parameters for the non-regenerable carbon adsorption system:

(A) Design exhaust vent stream organic compound concentration level.

(B) Capacity of the carbon bed.

(C) Type and working capacity of activated carbon used for the carbon bed.

(D) Design carbon replacement interval based on the total carbon working capacity of the control device and the source operating schedule.

(iii) Incorporates dual carbon canisters in case of emission breakthrough occurring in one canister.

(i) *Compliance requirements for a condenser or non-destructive control device.* The owner or operator of a control device subject to this section that installs a condenser or other non-destructive control device shall meet subsection (b)(1) and (2) and the following:

(1) Design and operate the condenser or other non-destructive control device to reduce the mass content of VOC in the gases vented to the device as demonstrated by one of the following:

(i) Determining the VOC emissions reduction is 95.0% by weight or greater under subsection (k).

(ii) Reducing the concentration of TOC in the exhaust gases at the outlet to the device to a level less than or equal to 275 ppmvd as propane corrected to 3% oxygen as determined under subsection (l).

(iii) Conducting a design analysis in accordance with paragraph (7).

(2) Prepare a site-specific monitoring plan that addresses the following CPMS design, data collection, and quality assurance and quality control elements:

(i) The performance criteria and design specifications for the CPMS equipment, including the following:

(A) The location of the sampling interface that allows the CPMS to provide representative measurements. For a temperature CPMS that meets the requirements of subsection (m)(1) and (4) the sensor must be installed in the exhaust vent stream as detailed in the procedures of the site-specific monitoring plan.

(B) Equipment performance checks, system accuracy audits or other audit procedures.

(I) Performance evaluations of each CPMS shall be conducted in accordance with the site-specific monitoring plan.

(II) CPMS performance checks, system accuracy audits or other audit procedures specified in the site-specific monitoring plan shall be conducted at least once every 12 months.

(ii) Ongoing operation and maintenance procedures in accordance with 40 CFR 60.13(b) (relating to monitoring requirements).

(iii) Ongoing reporting and recordkeeping procedures in accordance with 40 CFR 60.7(c), (d) and (f) (relating to notification and record keeping).

(3) Install, calibrate, operate and maintain a CPMS according to the site-specific monitoring plan described in paragraph (2) and the applicable requirements of subsection (m) to measure the values of the operating parameters appropriate to the control device as follows:

(i) For a source complying with paragraph (1)(i), a temperature CPMS that meets subsection (m)(1) and (4) to measure and record the average condenser outlet temperature.

(ii) For a source complying with paragraph (1)(ii), an organic concentration CPMS that meets subsection (m)(1) and (5) that measures the concentration level of organic compounds in the exhaust vent stream from the control device.

(4) Operate the control device in compliance with the operating parameter value established under subsection (m)(6).

(5) Calculate the daily average of the applicable monitored operating parameter for each operating day, using the valid data recorded by the CPMS as follows:

(i) For a source complying with paragraph (1)(i), use the calculated daily average condenser outlet temperature as specified in subsection (m)(7) and the condenser performance curve established under subsection (m)(6)(iii) to determine the condenser efficiency for the current operating day. Calculate the 365-day rolling average TOC emission reduction, as appropriate, from the condenser efficiencies as follows:

(A) If there is less than 120 days of data for determining average TOC emission reduction, calculate the average TOC emission reduction for the first 120 days of operation. Compliance is demonstrated with paragraph (1)(i) if the 120-day average TOC emission reduction is equal to or greater than 95.0% by weight.

(B) After 120 days and no more than 364 days of operation, calculate the average TOC emission reduction as the TOC emission reduction averaged over the number of days of operation for which there is data. Compliance is demonstrated with paragraph (1)(i) if the average TOC emission reduction is equal to or greater than 95.0% by weight.

(C) If there is data for 365 days or more of operation, compliance is demonstrated with the TOC emission reduction if the rolling 365-day average TOC emission reduction calculated in subparagraph (i) is equal to or greater than 95.0% by weight.

(ii) For a source complying with paragraph (1)(ii), calculate the daily average concentration for each operating day, using the data recorded by the CPMS as specified in subsection (m)(7). Compliance is demonstrated with paragraph (1)(ii) if the daily average concentration is less than the operating parameter under paragraph (4) as specified in subsection (m)(9).

(6) Operate the CPMS installed in accordance with paragraph (3) whenever the source is operating, except during the times specified in subsection (m)(8)(iii).

(7) Ensure that the design analysis to meet paragraph (1)(iii) for a condenser or other non-destructive control device meets the following:

(i) Includes an analysis of the vent stream including the following information:

- (A) Composition.
- (B) Constituent concentrations.
- (C) Flowrate.
- (D) Relative humidity.
- (E) Temperature.

(ii) Establishes the following parameters for the condenser or other non-destructive control device:

- (A) Design outlet organic compound concentration level.
- (B) Design average temperature of the condenser exhaust vent stream.
- (C) Design average temperatures of the coolant fluid at the condenser inlet and outlet.

(j) *General performance test requirements.* The owner or operator shall meet the following performance test requirements:

(1) The owner or operator shall do the following, as applicable:

(i) Except as specified in subparagraph (iii), conduct an initial performance test within 180 days after installation of a control device.

(ii) Except as specified in subparagraph (iii), conduct a performance test of an existing control device on or before July 30, 2023, unless the owner or operator of the control device is complying with an established performance test interval, in which case the current schedule should be maintained.

(iii) The performance test in subparagraph (i) or subparagraph (ii) is not required if the owner or operator meets one or more of the following:

- (A) Installs a manufacturer-tested combustion device that meets the requirements of subsection (c).
- (B) Installs a flare that meets the requirements of subsection (e).
- (C) Installs a boiler or process heater with a design heat input capacity of 44 megawatts (150 MMBtu per hour) or greater.
- (D) Installs a boiler or process heater which introduces the vent stream with the primary fuel or uses the vent stream as the primary fuel.
- (E) Installs a boiler or process heater which burns hazardous waste that meets one or more of the following:

(I) For which an operating permit was issued under 40 CFR Part 270 (relating to EPA administered permit programs: the hazardous waste permit program) and complies with the requirements of 40 CFR Part 266, Subpart H.

(II) For which compliance with the interim status requirements of 40 CFR Part 266, Subpart H has been certified.

(III) Which complies with 40 CFR Part 63, Subpart EEE and for which a Notification of Compliance under 40 CFR 63.1207(j) was submitted to the Department.

(IV) Which complies with 40 CFR Part 63, Subpart EEE and for which a Notification of Compliance under 40 CFR 63.1207(j) will be submitted to the Department within 90 days of the completion of the initial performance test report unless a written request for an extension is submitted to the Department.

(F) Installs a hazardous waste incinerator which meets the requirements of 40 CFR Part 63, Subpart EEE and for which the Notification of Compliance under 40 CFR 63.1207(j):

(I) Was submitted to the Department.

(II) Will be submitted to the Department within 90 days of the completion of the initial performance test report unless a written request for an extension is submitted to the Department.

(G) Requests the performance test be waived under 40 CFR 60.8(b) (relating to performance tests).

(2) Conduct a periodic performance test no more than 60 months after the most recent performance test unless the owner or operator:

(i) Monitors the inlet gas flow for a manufacturer-tested combustion device under subsection (c)(1)(i).

(ii) Installs a control device exempt from testing requirements under paragraph (1)(iii)(A)—(G).

(iii) Establishes a correlation between firebox or combustion chamber temperature and the VOC performance level for an enclosed combustion device under subsection (d)(2)(iii).

(3) Conduct a performance test when establishing a new operating limit.

(k) *Performance test method for demonstrating compliance with a control device weight-percent VOC emission reduction requirement.* Demonstrate compliance with the control device weight-percent VOC emission reduction requirements of subsections (c)(1)(ii), (d)(1)(i), (f)(1)(i) and (i)(1)(i) by meeting subsection (j) and the following:

(1) Conducting a minimum of three test runs of at least 1-hour duration.

(2) Using EPA Method 1 or EPA Method 1A, as appropriate, to select the sampling sites which must be located at the inlet of the first control device and at the outlet of the final control device. References to particulate mentioned in EPA Method 1 or EPA Method 1A do not apply to this paragraph.

(3) Using EPA Method 2, EPA Method 2A, EPA Method 2C or EPA Method 2D, as appropriate, to determine the gas volumetric flowrate.

(4) Using EPA Method 25A to determine compliance with the control device percent VOC emission reduction performance requirement using the following procedure:

(i) Convert the EPA Method 25A results to a dry basis, using EPA Method 4.

(ii) Compute the mass rate of TOC using the following equations:

$$E_i = K_2 C_i M_p Q_i$$

$$E_o = K_2 C_o M_p Q_o$$

Where:

E_i = Mass rate of TOC at the inlet of the control device on a dry basis, in kilograms per hour (pounds per hour).

E_o = Mass rate of TOC at the outlet of the control device on a dry basis, in kilograms per hour (pounds per hour).

K_2 = Constant, 2.494×10^{-6} (ppm) (mole per standard cubic meter) (kilogram per gram) (minute per hour) where standard temperature (mole per standard cubic meter) is 20 °Celsius

Or

K_2 = Constant, 1.554×10^{-7} (ppm) (lb-mole per standard cubic feet) (minute per hour), where standard temperature (lb-mole per standard cubic feet) is 68 °Fahrenheit.

C_i = Concentration of TOC, as propane, of the gas stream as measured by EPA Method 25A at the inlet of the control device, ppmvd.

C_o = Concentration of TOC, as propane, of the gas stream as measured by EPA Method 25A at the outlet of the control device, ppmvd.

M_p = Molecular weight of propane, 44.1 gram per mole (pounds per lb-mole).

Q_i = Flowrate of gas stream at the inlet of the control device in dry standard cubic meter per minute (dry standard cubic feet per minute).

Q_o = Flowrate of gas stream at the outlet of the control device in dry standard cubic meter per minute (dry standard cubic feet per minute).

(iii) Calculate the percent reduction in TOC as follows:

$$R_{cd} = \frac{E_i - E_o}{E_i} * 100\%$$

Where:

R_{cd} = Control efficiency of control device, percent.

E_i = Mass rate of TOC at the inlet to the control device as calculated in subparagraph (ii), kilograms per hour (pounds per hour).

E_o = Mass rate of TOC at the outlet of the control device as calculated in subparagraph (ii), kilograms per hour (pounds per hour).

(iv) If the vent stream entering a boiler or process heater with a performance testing requirement is introduced with the combustion air or as a secondary fuel, the owner or operator shall:

(A) Calculate E_i in subparagraph (ii) by using the TOC concentration in all combusted vent streams, primary fuels and secondary fuels as C_i .

(B) Calculate E_o in subparagraph (ii) by using the TOC concentration exiting the device as C_o .

(C) Determine the weight-percent reduction of TOC across the device in accordance with subparagraph (iii).

(5) The weight-percent reduction of TOC across the control device represents the VOC weight-percent reduction for demonstration of compliance with subsections (c)(1)(ii), (d)(1)(i), (f)(1)(i) and (i)(1)(i).

(1) *Performance test method for demonstrating compliance with an outlet concentration requirement.* Demonstrate compliance with the TOC concentration requirement of subsections (d)(1)(ii), (f)(1)(ii) and (i)(1)(ii) by meeting subsection (j) and the following:

(1) Conducting a minimum of three test runs of at least 1-hour duration.

(2) Using EPA Method 1 or EPA Method 1A, as appropriate, to select the sampling sites which must be located at the outlet of the control device. References to particulate mentioned in EPA Method 1 or EPA Method 1A do not apply to this paragraph.

(3) Using EPA Method 2, EPA Method 2A, EPA Method 2C, or EPA Method 2D, as appropriate, to determine the gas volumetric flowrate.

(4) Using EPA Method 25A to determine compliance with the TOC concentration requirement using the following procedures:

(i) Measure the TOC concentration, as propane.

(ii) For a control device subject to subsection (f) or subsection (i), the results of EPA Method 25A in subparagraph (i) may be adjusted by subtracting the concentration of methane and ethane measured using EPA Method 18 taking either:

(A) An integrated sample.

(B) A minimum of four grab samples per hour using the following procedures:

(I) Taking the samples at approximately equal intervals in time, such as 15-minute intervals during the run.

(II) Taking the samples during the same time as the EPA Method 25A sample.

(III) Determining the average methane and ethane concentration per run.

(iii) The TOC concentration must be adjusted to a dry basis, using EPA Method 4.

(iv) The TOC concentration must be corrected to 3% oxygen as follows:

(A) The oxygen concentration must be determined using the emission rate correction factor for excess air, integrated sampling and analysis procedures from one of the following methods:

(I) EPA Method 3A.

(II) EPA Method 3B.

(III) ASTM D6522-00.

(IV) ANSI/ASME PTC 19.10-1981, Part 10.

(B) The samples for clause (A) must be taken during the same time that the samples are taken for determining the TOC concentration.

(C) The TOC concentration for percent oxygen must be corrected as follows:

$$C_c = C_m \left(\frac{17.9}{20.9 - \%O_{2m}} \right)$$

Where:

C_c = TOC concentration, as propane, corrected to 3% oxygen, ppmvd.

C_m = TOC concentration, as propane, ppmvd.

$\%O_{2m}$ = Concentration of oxygen, percent by volume as measured, dry.

(m) *Continuous parameter monitoring system requirements.* The owner or operator of a source subject to § 129.131(a) (relating to general provisions and applicability) and controlled by a device listed in subsections (c)—(i) that is required to install a CPMS shall:

(1) Ensure the CPMS measures the applicable parameter at least once every hour and continuously records either:

(i) The measured operating parameter value.

(ii) The block average operating parameter value for each 1-hour period calculated using the following procedures:

(A) The block average from all measured data values during each period.

(B) If values are measured more frequently than once per minute, a single value for each minute may be used instead of all measured values.

(2) Ensure the flow CPMS has either:

(i) An accuracy of $\pm 2\%$ or better at the maximum expected flow rate.

(ii) A measurement sensitivity of 5% of the flow rate or 10 standard cubic feet per minute, whichever is greater.

(3) Ensure the heat-sensing CPMS indicates the presence of the pilot flame while emissions are routed to the control device. Heat-sensing CPMS are exempt from the calibration, quality assurance and quality control requirements in this section.

(4) Ensure the temperature CPMS has a minimum accuracy of $\pm 1\%$ of the temperature being monitored in °Celsius ($\pm 1.8\%$ in °Fahrenheit) or ± 2.5 °Celsius (± 4.5 °Fahrenheit), whichever value is greater.

(5) Ensure the organic concentration CPMS meets the requirements of Performance Specification 8 or 9 of 40 CFR Part 60, Appendix B (relating to performance specifications).

(6) Establish the operating parameter value to define the conditions at which the control device must be operated to continuously achieve the applicable performance requirement as follows:

(i) For a parameter value established while conducting a performance test under subsection (k) or subsection (l):

(A) Base each minimum operating parameter value on the value established while conducting the performance test and supplemented, as necessary, by the design analysis of subsection (g)(6), subsection (h)(2) or subsection (i)(7), the manufacturer's recommendations, or both.

(B) Base each maximum operating parameter value on the value established while conducting the performance test and supplemented, as necessary, by the design analysis of subsection (g)(6), subsection (h)(2) or subsection (i)(7), the manufacturer's recommendations, or both.

(ii) Except as specified in clause (C), for a parameter value established using a design analysis in subsection (g)(6), subsection (h)(2) or subsection (i)(7):

(A) Base each minimum operating parameter value on the value established in the design analysis and supplemented, as necessary, by the manufacturer's recommendations.

(B) Base each maximum operating parameter value on the value established in the design analysis and supplemented, as necessary, by the manufacturer's recommendations.

(C) If the owner or operator and the Department do not agree on a demonstration of control device performance using a design analysis as specified in clause (A) or (B), then the owner or operator shall perform a performance test under subsection (k) or subsection (l) to resolve the disagreement. The Department may choose to have an authorized representative observe the performance test.

(iii) For a condenser, establish a condenser performance curve showing the relationship between condenser outlet temperature and condenser control efficiency that demonstrates the condenser complies with the applicable performance requirements in subsection (i)(1) as follows:

(A) Based on the value measured while conducting a performance test under subsection (k) or subsection (l) and supplemented, as necessary, by a condenser design analysis performed under subsection (i)(7), the manufacturer's recommendations, or both.

(B) Based on the value from a condenser design analysis performed under subsection (i)(7) supplemented, as necessary, by the manufacturer's recommendations.

(7) Except for the CPMS in paragraphs (2) and (3), calculate the daily average for each monitored parameter for each operating day using the data recorded by the CPMS. Valid data points must be available for 75% of the operating hours in an operating day to compute the daily average where the operating day is:

(i) A 24-hour period if the control device operation is continuous.

(ii) The total number of hours of control device operation per 24-hour period.

(8) Except as specified in subparagraph (iii), do both of the following:

(i) Ensure the data recorded by the CPMS is used to assess the operation of the control device and associated control system.

(ii) Report the failure to collect the required data in paragraph (1) as a deviation of the monitoring requirements.

(iii) The requirements of subparagraphs (i) and (ii) do not apply during:

(A) A monitoring system malfunction.

(B) A repair associated with a monitoring system malfunction.

(C) A required monitoring system quality assurance or quality control activity.

(9) Determine compliance with the established parameter value by comparing the calculated daily average to the established operating parameter value as follows:

(i) For a minimum operating parameter established in paragraph (6)(i)(A) or paragraph (6)(ii)(A), the control device is in compliance if the calculated value is equal to or greater than the established value.

(ii) For a maximum operating parameter established in paragraph (6)(i)(B) or paragraph (6)(ii)(B), the control device is in compliance if the calculated value is less than or equal to the established value.

§ 129.140. Recordkeeping and reporting.

(a) *Recordkeeping.* The owner or operator of a source subject to §§ 129.131—129.139 shall maintain the applicable records onsite or at the nearest local field office for 5 years. The records shall be made available to the Department upon request.

(b) *Storage vessels.* The records for each storage vessel must include the following, as applicable:

(1) The identification and location of each storage vessel subject to § 129.133 (relating to storage vessels). The location of the storage vessel shall be in latitude and longitude coordinates in decimal degrees to an accuracy and precision of 5 decimals of a degree using the North American Datum of 1983.

(2) Each deviation when the storage vessel was not operated in compliance with the requirements specified in § 129.133.

(3) The identity of each storage vessel removed from service under § 129.133(e) and the date on which it was removed from service.

(4) The identity of each storage vessel returned to service under § 129.133(f) and the date on which it was returned to service.

(5) The identity of each storage vessel and the VOC potential to emit calculation under § 129.133(a)(2).

(6) The identity of each storage vessel and the actual VOC emission calculation under § 129.133(c)(2)(i) including the following information:

(i) The date of each monthly calculation performed under § 129.133(c)(2)(i).

(ii) The calculation determining the actual VOC emissions each month.

(iii) The calculation demonstrating that the actual VOC emissions are less than 2.7 TPY determined as a 12-month rolling sum.

(7) The records documenting the time the skid-mounted or mobile storage vessel under § 129.133(d)(1) is located on site. If a skid-mounted or mobile storage vessel is removed from a site and either returned or replaced within 30 calendar days to serve the same or similar function, count the entire period since the original storage vessel was removed towards the number of consecutive days.

(8) The identity of each storage vessel required to reduce VOC emissions under § 129.133(b)(1) and the demonstration under § 129.133(b)(1)(iv).

(c) *Natural gas-driven continuous bleed pneumatic controllers.* The records for each natural gas-driven continuous bleed pneumatic controller must include the following, as applicable:

(1) The required compliance date, identification, location and manufacturer specifications for each natural gas-driven continuous bleed pneumatic controller subject to § 129.134(c) (relating to natural gas-driven continuous bleed pneumatic controllers).

(2) Each deviation when the natural gas-driven continuous bleed pneumatic controller was not operated in compliance with the requirements specified in § 129.134(c).

(3) If the natural gas-driven continuous bleed pneumatic controller is located at a natural gas processing plant, the documentation that the natural gas bleed rate is zero.

(4) For a natural gas-driven continuous bleed pneumatic controller under § 129.134(b), the determination based on a functional requirement for why a natural gas bleed rate greater than the applicable standard is required. A functional requirement includes one or more of the following:

(i) Response time.

(ii) Safety.

(iii) Positive actuation.

(d) *Natural gas-driven diaphragm pumps.* The records for each natural gas-driven diaphragm pump must include the following, as applicable:

(1) The required compliance date, location and manufacturer specifications for each natural gas-driven diaphragm pump subject to § 129.135 (relating to natural gas-driven diaphragm pumps).

(2) Each deviation when the natural gas-driven diaphragm pump was not operated in compliance with the requirements specified in § 129.135.

(3) For a natural gas-driven diaphragm pump under § 129.135(d), the records of the days of operation each calendar year. Any period of operation during a calendar day counts toward the 90-calendar-day threshold.

(4) For a natural gas-driven diaphragm pump under § 129.135(c)(1), maintain the following records:

(i) The records under subsection (j) for the control device type.

(ii) One of the following:

(A) The results of a performance test under § 129.139(k) or (l) (relating to control devices).

(B) A design evaluation indicating the percentage of VOC emissions reduction the control device is designed to achieve.

(C) The manufacturer's specifications indicating the percentage of VOC emissions reduction the control device is designed to achieve.

(5) For a well site with no available control device or process under § 129.135(c)(2), maintain a copy of the certification submitted under subsection (k)(3)(iii)(B)(II).

(6) The engineering assessment substantiating a claim under § 129.135(c)(3), including the certification under § 129.135(c)(3)(ii)(C).

(7) For a natural gas-driven diaphragm pump required to reduce VOC emissions under § 129.135(b)(1), the demonstration under § 129.135(b)(1)(iii).

(e) *Reciprocating compressors.* The records for each reciprocating compressor must include the following, as applicable:

(1) For a reciprocating compressor under § 129.136(b)(1)(i) (relating to compressors), the following records:

(i) The cumulative number of hours of operation.

(ii) The date and time of each rod packing replacement.

(2) For a reciprocating compressor under § 129.136(b)(1)(ii), the following records:

(i) The number of months since the previous replacement of the rod packing.

(ii) The date of each rod packing replacement.

(3) For a reciprocating compressor under § 129.136(b)(2), the following records:

(i) A statement that emissions from the rod packing are being routed to a control device or a process through a closed vent system under negative pressure.

(ii) The date of installation of a rod packing emissions collection system and closed vent system as specified in § 129.136(b)(2).

(4) Each deviation when the reciprocating compressor was not operated in compliance with § 129.136(b).

(f) *Centrifugal compressors.* The records for each centrifugal compressor must include the following, as applicable:

(1) An identification of each existing centrifugal compressor using a wet seal system subject to § 129.136(c).

(2) Each deviation when the centrifugal compressor was not operated in compliance with § 129.136(c).

(3) For a centrifugal compressor required to reduce VOC emissions under § 129.136(c)(1), the demonstration under § 129.136(c)(3).

(g) *Fugitive emissions components.* The records for each fugitive emissions component must include the following, as applicable:

(1) For an oil well site subject to § 129.137(c)(1)(ii) (relating to fugitive emissions components):

(i) The location of each well and its United States Well ID Number.

(ii) The analysis documenting a GOR of less than 300 standard cubic feet of gas per barrel of oil produced, conducted using generally accepted methods. The analysis must be signed by and include a certification by the responsible official stating that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.

(2) For each well site, the average production calculations required under § 129.137(b)(1) and § 129.137(c)(4).

(3) For a well site subject to § 129.137(c)(2) or (c)(3), a natural gas gathering and boosting station or a natural gas processing plant:

(i) The fugitive emissions monitoring plan under § 129.137(g).

(ii) The records of each monitoring survey conducted under § 129.137(c)(2)(ii), (c)(3)(ii) or (e)(2). The monitoring survey must include the following information:

- (A) The facility name and location.
- (B) The date, start time and end time of the survey.
- (C) The name of the equipment operator performing the survey.
- (D) The monitoring instrument used.
- (E) The ambient temperature, sky conditions and maximum wind speed at the time of the survey.
- (F) Each deviation from the monitoring plan or a statement that there were none.

(G) Documentation of each fugitive emission including:

(I) The identification of each component from which fugitive emissions were detected.

(II) The instrument reading of each fugitive emissions component that meets the definition of a leak under § 129.132(a) (relating to definitions, acronyms and EPA methods).

(III) The repair methods applied in each attempt to repair the component.

(IV) The tagging or digital photographing of each component not repaired during the monitoring survey in which the fugitive emissions were discovered.

(V) The reason a component was placed on delay of repair.

(VI) The date of successful repair of the component.

(VII) If repair of the component was not completed during the monitoring survey in which the fugitive emissions were discovered, the information on the instrumentation or the method used to resurvey the component after repair.

(h) *Covers.* The records for each cover include the results of each cover inspection under § 129.138(a) (relating to covers and closed vent systems).

(i) *Closed vent systems.* The records for each closed vent system must include the following, as applicable:

(1) The results of each closed vent system inspection under § 129.138(b)(2).

(2) For the no detectable emissions inspections of § 129.138(d), a record of the monitoring survey as specified under subsection (g)(3)(ii).

(3) The engineering assessment under § 129.138(c), including the certification under § 129.138(c)(3).

(4) If the closed vent system includes a bypass device subject to § 129.138(b)(4), a record of:

- (i) Each time the alarm is activated.
- (ii) Each time the key is checked out, as applicable.
- (iii) Each inspection required under § 129.138(b)(4)(ii)(B).

(j) *Control devices.* The records for each control device must include the following, as applicable:

(1) Make, model and serial number of the purchased device.

(2) Date of purchase.

(3) Copy of purchase order.

(4) Location of the control device in latitude and longitude coordinates in decimal degrees to an accuracy and precision of 5 decimals of a degree using the North American Datum of 1983.

(5) For the general requirements under § 129.139(b):

(i) The manufacturer's written operating instructions, procedures and maintenance schedule to ensure good air pollution control practices for minimizing emissions under § 129.139(b)(1).

(ii) The results of each monthly physical integrity check performed under § 129.139(b)(2).

(iii) The CPMS data which indicates the presence of a pilot flame during the device's operation under § 129.139(b)(3).

(iv) The results of the visible emissions test under § 129.139(b)(4) using Figure 22-1 in EPA Method 22 or a form which includes the following:

(A) The name of the company that owns or operates the control device.

(B) The location of the control device.

(C) The name and affiliation of the person performing the observation.

(D) The sky conditions at the time of observation.

(E) Type of control device.

(F) The clock start time.

(G) The observation period duration, in minutes and seconds.

(H) The accumulated emission time, in minutes and seconds.

(I) The clock end time.

(v) The results of the visible emissions test required in § 129.139(b)(6) under subparagraph (iv) following a return to operation from a maintenance or repair activity performed under § 129.139(b)(5).

(vi) The maintenance and repair log under § 129.139(b)(7).

(6) For a manufacturer-tested combustion control device under § 129.139(c), maintain the following records:

(i) The records specified in paragraph (5)(i)—(vi).

(ii) The manufacturer's specified inlet gas flow rate.

(iii) The CPMS results under § 129.139(c)(1)(i).

(iv) The results of each performance test conducted under § 129.139(c)(1)(ii) as performed under § 129.139(k).

(7) For an enclosed combustion device in § 129.139(d):

(i) The records specified in paragraph (5)(i)—(vi).

(ii) The results of each performance test conducted under § 129.139(d)(1)(i) as performed under § 129.139(k).

(iii) The results of each performance test conducted under § 129.139(d)(1)(ii) as performed under § 129.139(l).

(iv) The data and calculations for the CPMS installed, operated or maintained under § 129.139(d)(2).

(8) For a flare in § 129.139(e), the records specified in paragraph (5)(iii)—(vi).

(9) For a regenerative carbon adsorption device in § 129.139(g):

(i) The records specified in paragraph (5)(i) and (ii).

(ii) The results of the performance test conducted under § 129.139(f)(1)(i) as performed under § 129.139(k).

(iii) The results of the performance test conducted under § 129.139(f)(1)(ii) as performed under § 129.139(l).

(iv) The control device design analysis, if one is performed under § 129.139(g)(6).

(v) The data and calculations for a CPMS installed, operated or maintained under § 129.139(g)(1)—(5).

(vi) The schedule for carbon replacement, as determined by § 129.139(f)(2) or the design analysis requirements of § 129.139(g)(6) and records of each carbon replacement under § 129.139(f)(3) and (4).

(10) For a nonregenerative carbon adsorption device in § 129.139(h):

(i) The records specified in paragraph (5)(i) and (ii).

(ii) The results of the performance test conducted under § 129.139(f)(1)(i) as performed under § 129.139(k).

(iii) The results of the performance test conducted under § 129.139(f)(1)(ii) as performed under § 129.139(l).

(iv) The control device design analysis, if one is performed under § 129.139(h)(2).

(v) The schedule for carbon replacement, as determined by § 129.139(f)(2) or the design analysis requirements of § 129.139(h)(2) and records of each carbon replacement under § 129.139(f)(3) and (4).

(11) For a condenser or other nondestructive control device in § 129.139(i):

(i) The records specified in paragraph (5)(i) and (ii).

(ii) The results of the performance test conducted under § 129.139(i)(1)(i) as performed under § 129.139(k).

(iii) The results of the performance test conducted under § 129.139(i)(1)(ii) as performed under § 129.139(l).

(iv) The control device design analysis, if one is performed under § 129.139(i)(7).

(v) The site-specific monitoring plan under § 129.139(i)(2).

(vi) The data and calculations for a CPMS installed, operated or maintained under § 129.139(i)(3)—(5).

(k) *Reporting.* The owner or operator of a source subject to § 129.131(a) (relating to general provisions and applicability) shall do the following:

(1) Submit an initial annual report to the Air Program Manager of the appropriate Department Regional Office by December 2, 2023, and annually thereafter on or before June 1.

(i) The responsible official must sign, date and certify compliance and include the certification in the initial report and each subsequent annual report.

(ii) The due date of the initial report may be extended with the written approval of the Air Program Manager of the appropriate Department Regional Office.

(2) Submit the reports under paragraph (3) in a manner prescribed by the Department.

(3) Submit the information specified in subparagraphs (i)—(ix) for each report as applicable:

(i) *Storage vessels.* The report for each storage vessel must include the information specified in subsection (b)(1)—(4) for the reporting period, as applicable.

(ii) *Natural gas-driven continuous bleed pneumatic controllers.* The initial report for each natural gas-driven continuous bleed pneumatic controller must include the information specified in subsection (c), as applicable. Subsequent reports must include the following:

(A) The information specified in subsection (c)(1) and (2) for each natural gas-driven continuous bleed pneumatic controller.

(B) The information specified in subsection (c)(3) and (4) for each natural gas-driven continuous bleed pneumatic controller installed during the reporting period.

(iii) *Natural gas-driven diaphragm pumps.* The report for each natural gas-driven diaphragm pump must include the following:

(A) The information specified in subsection (d)(1) and (2) for the reporting period, as applicable.

(B) A certification of the compliance status of each natural gas-driven diaphragm pump during the reporting period using one of the following:

(I) A certification that the emissions from the natural gas-driven diaphragm pump are routed to a control device or process under § 129.135(b)(1)(ii) or (c)(1). If the control device is installed during the reporting period under § 129.135(c)(2)(iii), include the information specified in subsection (d)(4).

(II) A certification under § 129.135(c)(2) that there is no control device or process available at the facility during the reporting period. This includes if a control device or process is removed from the facility during the reporting period.

(III) A certification according to § 129.135(c)(3)(ii)(C) that it is technically infeasible to capture and route emissions from:

(-a-) A natural gas-driven diaphragm pump installed during the reporting period to an existing control device or process.

(-b-) An existing natural gas-driven diaphragm pump to a control device or process installed during the reporting period.

(-c-) An existing natural gas-driven diaphragm pump to another control device or process located at the facility due to the removal of the original control device or process during the reporting period.

(iv) *Reciprocating compressors.* The report for each reciprocating compressor must include the information specified in subsection (e) for the reporting period, as applicable.

(v) *Centrifugal compressors.* The report for each centrifugal compressor must include the information specified in subsection (f) for the reporting period, as applicable.

(vi) *Fugitive emissions components.* The report for each fugitive emissions component must include the records of each monitoring survey conducted during the reporting period as specified in subsection (g)(3)(ii).

(vii) *Covers.* The report for each cover must include the information specified in subsection (h) for the reporting period, as applicable.

(viii) *Closed vent systems.* The report for each closed vent system must include the information specified in subsection (i)(1) and (2) for the reporting period, as applicable. The information specified in subsection (i)(3) is only required for the initial report or if the closed vent system was installed during the reporting period.

(ix) *Control devices.* The report for each control device must include the information specified in subsection (j), as applicable.

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Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF AUCTIONEER EXAMINERS

[49 PA. CODE CH. 1]

Fees

The State Board of Auctioneer Examiners (Board) and the Acting Commissioner of the Bureau of Professional and Occupational Affairs (Acting Commissioner) amends Chapter 1 (relating to State Board of Auctioneer Examiners) by amending § 1.41 (relating to schedule of fees) to read as set forth in Annex A.

This final-form rulemaking increases application fees to reflect updated costs of processing applications and increases all the Board's biennial renewal fees to ensure its revenue meets or exceeds the Board's current and projected expenses. This final-form rulemaking increases the following application fees on a graduated basis: auctioneer, apprentice auctioneer, auction company, trading as-

istant, trading assistant company, special license and course of study. Approximately 141 applicants are impacted annually by the increased application fees.

The Board is also increasing the graduated biennial renewal fees for the following licenses and registrations: auctioneer, apprentice auctioneer, auction company, trading assistant and trading assistant company. There are approximately 2,437 individuals who possess current licenses and registrations issued by the Board who are required to pay more to renew their licenses or registrations.

Effective Date

This final-form rulemaking is effective upon final-form publication in the *Pennsylvania Bulletin*. The initial increase for application fees will be implemented immediately upon publication. Thereafter, the subsequent graduated increases for application fees are implemented on a 2-fiscal-year basis on July 1, 2025, and July 1, 2027.

The increased biennial renewal fees are implemented for the March 1, 2023—February 28, 2025, biennial renewal period. Thereafter, the subsequent graduated increases are implemented for the March 1, 2025—February 28, 2027, biennial renewal period and then again for the March 1, 2027—February 28, 2029, biennial renewal period, and thereafter.

Statutory Authority

Under section 6(a) and (b) of the Auctioneer Licensing and Trading Assistant Registration Act (act) (63 P.S. § 734.6(a) and (b)), the license and examination fees and all other fees imposed under the provisions of this act shall be fixed by the Board by regulation and shall be subject to review in accordance with the Regulatory Review Act (71 P.S. §§ 745.1—745.14). If the revenues generated by fees, fines and civil penalties imposed in accordance with the provisions of this act are not sufficient to match expenditures over a 2-year period, the Board shall increase these fees by regulation, subject to review in accordance with the Regulatory Review Act, that the projected revenues will meet or exceed projected expenditures. If the Bureau of Professional and Occupational Affairs (Bureau) determines that the fees established by the Board are inadequate to meet the minimum enforcement efforts required, then the Bureau, after consultation with the Board, shall increase the fees by regulation, subject to review in accordance with the Regulatory Review Act, that adequate revenues are raised to meet the required enforcement effort. In addition to the previous cited authority, other sections of the act support the Board's authority to amend its fees by regulation when necessary.

Section 32 of the act (63 P.S. § 734.32) provides that "[t]he board may adopt rules and regulations necessary for the proper administration and enforcement of this act." Section 33(a) of the act (63 P.S. § 734.33(a)) provides that "[a]ll fees fixed pursuant to section 203 of the act of July 1, 1978 (P.L. 700, No. 124), known as the Bureau of Professional and Occupational Affairs Fee Act, shall continue in full force and effect until changed by the board." Regarding fees for trading assistant registration, the act of October 8, 2008 (P.L. 1080, No. 89) (Act 89 of 2008) established trading assistant registration by adding section 10.1. Section 10.1(c) specifically required that a registration fee of \$100 be included with each application for registration. When the act was amended by the act of July 20, 2016 (P.L. 789, No. 88) (Act 88 of 2016), it added section 5.1 requiring trading assistants and trading assistant companies to register with the Board and repealed

section 10.1. Section 5.1(c) of the act (63 P.S. § 734.5.1(c)) established an initial \$100 registration fee for trading assistants and trading assistant companies and expressly added the new language of allowing the Board to establish this fee by regulation. According to the fiscal notes for Act 88 of 2016 from the House and Senate Appropriations Committees, the statutory fee of \$100 for the registration and renewal of trading assistants established by section 10.1 was deleted and section 5.1(c) provided language giving the Board the authority to increase this fee for both trading assistants and trading assistant companies when needed to increase its revenue. Here, section 5.1 expressly provides the authority for the Board to establish this fee by regulation and with the other sections of the act cited previously provides the Board with the authority to amend this initial fee by regulation when necessary.

The Commissioner is appointed by the Governor and has a number of powers and duties. Specifically, under section 810(a)(7) of The Administrative Code of 1929 (71 P.S. § 279.1(a)(7)), the Commissioner has the power and duty, “[u]nless otherwise provided by law, to fix the fees to be charged by the several professional and occupational examining boards within the department.”

Background and Purpose

Under section 6(a) of the act, the Board is required to support its operations from the revenue it generates from fees, fines and civil penalties. The act further provides that the Board shall increase fees when expenditures outpace revenue. Most of the general operating expenses of the Board are borne by the licensee population through revenue generated by the biennial renewal of licenses. A small percentage of its revenue comes from application fees, fines and civil penalties.

In January of 2021, the Board voted to increase its renewal and application fees based on its review of incoming revenue and biennial expenses. The Board’s Fee Increase Report showed summaries of the Board’s revenue and expenses for Fiscal Years (FY) 2018-2019 and 2019-2020 and the projected revenue and expenses through FY 2023-2024. During FYs 2018-2019 through 2019-2020, the Board received biennial revenue of \$589,612.09, incurred expenses of \$651,142.11 and ended with a deficit of \$276,136.32. For FYs 2020-2021 and 2021-2022, the Board anticipates receiving biennial revenue of \$571,000 and anticipates incurring expenses of \$667,000. At the end of FY 2020-2021, the Department of State’s Bureau of Finance and Operations (BFO) anticipates a deficit balance of \$372,136.22. For FYs 2022-2023 and 2023-2024, with the implementation of this fee increase, the Board projects receiving biennial revenue of \$890,000 and projects incurring expenses of \$687,000, ending with a deficit of \$169,136.32. The BFO’s data demonstrated that the Board was not able to meet expenditures over a 2-year period and recommended a fee increase.

The proposed rulemaking for the fee increase was published at 52 Pa.B. 1736 (March 26, 2022) for review and comment. Publication was followed by a 30-day public comment period during which the Board received no public comments. The Senate Consumer Protection/Professional Licensure Committee (SCP/PLC) did not submit any comments. The House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) submitted comments as detailed as follows.

Since the proposed rulemaking was published, the Board continues to be in a deficit, and it continues to increase as anticipated by the BFO.

Summary of Comments and the Board and Commissioner’s Response

In preparing this final-form rulemaking, the Board considered all comments submitted by the HPLC and IRRC.

HPLC comment regarding potential impact of the fee increase

The HPLC questioned the Board regarding the potential impact the regulation could have on this Commonwealth’s ability to compete with other states because the proposed increase to the fees for initial licensure and renewal for auctioneers are significantly higher than surrounding states that license auctioneers. IRRC shared the same concern.

The Board and the Acting Commissioner find that the increases in fees for initial licensure and renewal for auctioneers are necessary to equate for the rising costs associated with reviewing and processing the initial applications and to help continue the Board’s mission of providing public protection through licensure of the profession and the enforcement of the act. As described in detail as follows, the increase in the initial application fees will not deter applicants from applying for licensure in this Commonwealth or put this Commonwealth at a competitive disadvantage. Also, increasing initial application fees to cover the cost of processing those applications will lessen the burden on existing licensees regarding biennial fee increases. Adjusting the initial application fees to cover the costs of applications is a fair and equitable approach because existing licensees will not have to bear all of the burden of initial applicant costs through higher biennial licensure fee increases. Unfortunately, the increases to the initial application fees are not sufficient to alleviate the Board’s financial deficit so the Board’s decision to increase the renewal fees for licensure, albeit at a lower amount than if the initial application fees were not increased, is also needed. The Board does not believe that the increase of these fees will put the Commonwealth at a competitive disadvantage as outlined as follows.

In comparing professional licensing in this Commonwealth to states in the Northeast Region (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Vermont and West Virginia), about half of the states regulate auctioneers to varying degrees. Some only require them to register as a business for tax purposes; others require auctioneers to be licensed. Pennsylvania, Maine, Massachusetts, New Hampshire, Ohio, Vermont and West Virginia are the only states in the Northeast Region that license auctioneers. In comparing this Commonwealth’s current application fee of \$50 to the other states, it is well below what the other states currently charge. For the new initial application fee of \$180, that fee is still lower than some of the other states and well within the range of fees among states. Maine has a license period of 1 year and requires an application fee of \$271; Massachusetts and West Virginia each have a license period of 1 year and require an application fee of \$100. New Hampshire and Ohio each have a license period of 2 years like the Commonwealth and require an application fee of \$200; Vermont has a license period of 2 years and requires an application fee of \$100. Therefore, while the initial application fee increase from \$50 to \$180 repre-

sents an increase for the Commonwealth, the increase itself is actually just bringing the Commonwealth closer to the average application fees for auctioneers being charged by the surrounding states. Thus, the Board does not believe the application fee increase will put the Commonwealth at a competitive disadvantage.

In addition to being a fair and necessary increase in fees, professional licensure provides assurance to the consumers that the auction being conducted is being done so in accordance with the law. This is important and works as a competitive advantage for the Commonwealth over the states that do not license the profession. Furthermore, the Commonwealth is the fifth largest state by population based on the 2020 United States Census so there is more opportunity here for auctioneers to conduct a profitable business. As such, the Board finds that an increase in fees would not put the Commonwealth at a competitive disadvantage.

In comparing this Commonwealth's biennial renewal fee for auctioneers of \$400 (effective with the 2023—2025 biennial renewal), Maine has an annual renewal of \$200, Massachusetts has an annual renewal of \$100 and West Virginia has an annual renewal of \$50. New Hampshire and Ohio each have biennial renewals of \$200 and Vermont's fee is \$240. While the Board's biennial renewal fee for auctioneers is higher than other states, the Board does not believe it will make this Commonwealth less competitive as compared to other states. As stated earlier, because of the large population size and the fact that this Commonwealth conducts more auctions per year than the smaller surrounding states, the Board does not believe an increase of \$140 (equating to \$70 per year over 2 years) will deter licensees from practicing in this Commonwealth or put this Commonwealth at a competitive disadvantage.

IRRC comments

IRRC asked the Board to explain how the proposed application and biennial renewal fees were calculated and how it determined that the proposed fee increases to be implemented during the first phase, including those for applications and renewals for the five categories of licenses, are both appropriate and reasonable. IRRC also asked the Board to explain how the implementation schedule, particularly the first phase, is reasonable. IRRC also asked the Board to provide in this final-form rule-making additional information and updates in the Regulatory Analysis Form (RAF).

Calculation of application and renewal fees; reasonableness of fee increases

IRRC asked the Board to detail how the proposed application fees, to be implemented during the first phase, were calculated. Boards and commissions under the Bureau calculate and design initial application fees to cover the cost to process applications. Application fees are based on time study reports created within the Bureau that lay out each step in processing an application and the amount of time it takes to complete each step. That amount of time per application is multiplied by the total number of anticipated application requests for 1 year to get the total number of minutes per year necessary to process applications. (The number of minutes per year is multiplied by two since the increases are biennial.) Initial application fees are based on a formula that multiplies the number of minutes to perform the processing function by the pay rate for the classification of the personnel performing the function and adding a proportionate share of administrative overhead. The corresponding fee report forms for each application fee describe in detail how the

fees are calculated. For example, the application fee for an auctioneer license is calculated by taking the cost of 1 hour of clerical staff time to review the application and 1 hour of the clerical supervisor's time for review and sign off and then finally 1 hour of the Board's administrator's time to process the application along with standard administrative overhead costs to achieve a total cost. The Board finds that the fee increases are reasonable based on the fees charged by the neighboring states and are appropriate based on the fee report forms that outline the costs to the Board to review and process the applications.

As reflected in Annex A, the application fees would increase on a graduated level for the licenses and registrations for auctioneer, apprentice auctioneer, auction company, trading assistant and trading assistant company. The application fees will be increased on a graduated basis so that the application fees collected during each biennium reflect the anticipated costs of processing applications for that biennium. These fees are designed to cover the cost to process applications and are borne by individual applicants. Application fees for FY 2021-2022 are based on the time study reports created within the Bureau giving each step in the process and the amount of time it takes to process one application. That amount is multiplied by the anticipated application requests for 1 year (times two since the increases are biennial). Increases effective July 1, 2025, and July 1, 2027, are calculated at a 9.5% increase based upon raises under current Commonwealth union contracts. Application fees are almost entirely dependent upon personnel-related costs.

IRRC also asked the Board to explain how it calculated the fee increases for biennial renewal of licenses for auctioneer, apprentice auctioneer, auction company, trading assistant and trading assistant company which will take effect beginning with the March 1, 2023, March 1, 2025, and March 1, 2027 biennium renewal periods. Biennial renewal fees were calculated by the BFO using the Board's revenues and expenses while using past histories of prior fee increases as well as changes in the licensee population as a guide in determining the graduated fee increases. The Board last increased its fees in 2015 and based on those fees if left unchanged the Board's current deficit would continue to grow. The biennial fee increases are calculated to ensure that the projected revenues will meet or exceed projected expenditures, as required by the act. In calculating the new renewal fees, the BFO considered the licensure population and adjusted the current biennial renewal fees upward to an amount that would put the Board back on stable financial footing by the end of the 2027 renewal cycle.

IRRC asked the Board to explain how it determined that the proposed fee increases to be implemented during the first phase, including those for applications and renewals for these five categories of licenses, are both appropriate and reasonable. As indicated previously, the first fee increase for application fees are calculated to cover the cost to process applications. This initial increase brings the application fee in line with the cost to process the applications. Because application fees are almost entirely dependent upon personnel-related costs, the subsequent increases effective July 1, 2025, and July 1, 2027, are calculated at a 9.5% increase based upon raises under current Commonwealth union contracts. Thus, moving forward, the Board anticipates that the subsequent increases will cover future costs to process applications. In determining the biennial renewal fees, the BFO calculated the increase needed to allow the Board to meet its

operational costs while also reducing the accumulated deficit in the most efficient manner. Most of the Board's operational costs are personnel-related, and much of those costs are not within the Board's control. Staff are generally employees of the Commonwealth, most of whom are civil service personnel; many are in union positions. For these employees, the Board is bound by the negotiated contract. Personnel costs associated with investigation and enforcement depend largely on the number of complaints received that need to be investigated, and the number of those matters that result in disciplinary action. The Board has no control over the number of complaints that are filed against licensees and unlicensed individuals, nor may they control which matters are, or are not, prosecuted. The BFO also considered and incorporated the projected increases in initial application fees that could be used to help reduce the deficit by bringing those costs into alignment with the actual costs required to process the applications. Furthermore, it was noted that increases in expenses have steadily rose over the last few years. Some of the increase in expenses is simply due to personnel cost of living increases over time. However, over the last few fiscal years, the Board has had some sizable increases to expenses for a variety of reasons.

One of the largest financial impacts for the Board was the incorporation of The Pennsylvania Justice Network (JNET), due in part to the enactment of the act of February 15, 2018 (P.L. 14, No. 6) (Act 6 of 2018), which requires mandatory self-reporting of criminal convictions. The Board uses JNET to identify criminal convictions of licensees and to verify compliance with Act 6 of 2018's mandatory reporting requirement. There was a sizable increase in the number of complaints being processed and opened for prosecution. The additional complaints resulted in increased expenses due to higher prosecutions, investigations, expert witness usage and hearings. Since incorporation of JNET, expenses have increased steadily in all of these cost categories.

In addition to the legal expense increases, the 29 boards and commissions under the Bureau have undergone an information technology transformation upgrade with the incorporation of the Pennsylvania Licensing System (PALS). Expenses associated with PALS, including the initial build as well as ongoing maintenance, are proportionately spread across all entities based on licensee population to effectively share costs per licensee. While the initial build is in the past, it has contributed to higher administrative expenses for all boards during the last few fiscal years. Due to PALS' high functioning database with enhanced features over the Bureau's previous License 2000 platform, maintenance for this system requires a larger financial commitment from all boards and commissions than the previous system. As detailed in the BFO's Fee Increase Report, these costs were also considered in calculating the renewal fee increase.

As noted previously in answering the comment received from the HPLC, because the application fees were calculated based on the current rates for processing auctioneer applications and they are in line with the other states' application fees, the Board finds them to be reasonable. The same applies to the renewal fees for auctioneers.

For apprentice auctioneers, the Commonwealth, Ohio and West Virginia are the only states in the Northeast Region that license apprentice auctioneers. In comparing the Commonwealth's application fee of \$145, Ohio and West Virginia each have an application fee of \$100. The Commonwealth's biennial renewal fee of \$200 (effective

with the 2023—2025 biennial renewal) is comparable to annual rates for Ohio at \$100 and West Virginia at \$100.

The Commonwealth is the only state in the Northeast Region that licenses an auction company. Ohio licenses an auction corporation, partnership or association but not a company. The Commonwealth's application fee of \$120 in 2023, \$135 in 2025 and \$150 in 2027 is comparatively lower than Ohio's application fee of \$200 for an auction corporation. The Commonwealth's biennial renewal fee of \$400 (effective with the 2023—2025 biennial renewal) is comparatively higher than Ohio's biennial renewal fee for an auction corporation at \$200, but the Board does not believe that this would put the Commonwealth at a competitive disadvantage because the Commonwealth is the only state in the region that licenses auction companies. Ohio's licensure differs from the Commonwealth's in that it requires that at least 50% of the owners of an auction corporation, partnership or association also have an auctioneer's license. The Commonwealth's auction company license does not require this and as such, holds an advantage over Ohio's due to the lack of that ownership element. The Commonwealth's license only requires that an auctioneer of record be on file with the auction company and that person does not have to be an owner. Thus, it is easier for more auction type companies to do business in this Commonwealth as opposed to the neighboring states which is a competitive advantage. Thus, charging a higher fee than Ohio should not put the Commonwealth at a competitive disadvantage.

A license is not required by any other comparison state in the Northeast Region for trading assistants and trading assistant companies. Trading assistants and trading assistant companies are licenses granted to those individuals looking to sell other people's property using only an online auction format and not an in-person auction. Having a licensure requirement to conduct online only auctions without having to have a full auctioneer's license is a competitive advantage for the Commonwealth because it allows more individuals to engage in this business, while providing the security of accountability that is provided through the licensure of professionals. The Commonwealth is the only state in the region that issues these types of licenses; therefore, the Board does not anticipate that the fee increase will put the Commonwealth at a competitive disadvantage.

Reasonableness of the implementation schedule

IRRC asked the Board to explain how the implementation schedule, particularly the first phase, is reasonable. The Board and the Acting Commissioner submit that the graduated application fee increases are appropriate and reasonable because the increased fees are projected to cover the cost to process the applications for that biennial period. The Board carefully considered the best way to implement an increase in application fees and determined that a graduated fee schedule is favorable because it aligns the actual cost to process applications in each biennial period with the fee for that period. While the Board is reluctant to put additional fiscal burdens on its applicants, the increased fees are not significant when looking at the total increase in dollars. Moreover, even with the implementation of the graduated application fee increase, the Board's fees are still comparable with other states.

The Board and the Acting Commissioner further submit that the graduated increases to the biennial renewal fees are also appropriate and reasonable based on the BFO's calculations. Significantly, the Board has not increased its fees since 2015. These needed increases are appropriate

because they are necessary to ensure revenues meet or exceed expenses, as required by the act. Currently the Board has had a steady increase in its expenses, while its revenues have remained stagnant which has created a sizable deficit. The biennial renewal fee increases were calculated to reduce the deficit as quickly as possible. Therefore, the initial increase had to be higher. However, because the initial fee increase would not totally eliminate the Board's deficit, there was a need to implement additional smaller increases for the following renewal cycles. The needed biennial renewal fee increases are reasonable because they are made on a graduated basis to reduce the impact to the licensee population, while also allowing the Board to meet or exceed its projected expenditures to put the Board back on firm financial ground in the most efficient manner possible.

The Board submits that the implementation schedule is reasonable based on the current financial circumstances of the Board. Currently, the Board's expenses are exceeding its revenues and while the Board can continue to do business through its reliance on dollars from the Professional Licensure Augmentation Account (PLAA), where the 26 licensing boards under the Department of State deposit revenue; the Board cannot rely on PLAA funds to address its growing deficit. Thus, the Board has implemented a graduated fee schedule to reduce its deficit in the most efficient manner while lessening the immediate burden to applicants and the licensee population that would occur with a flat fee increase. While applicants and licensed individuals will be impacted economically, the graduated increases, as opposed to a flat fee increase, will ensure that fees charged coincide more closely with the projected expenses for each biennium.

The Board finds that the implementation schedule for the application fees is reasonable and fair because the graduated application fee increases are designed to reflect the anticipated costs of processing applications for that biennium.

Additionally, the Board finds that the implementation schedule for the biennial renewal fees is also reasonable. As noted previously, the need for the increased revenue through biennial renewal fees is necessary because the Board's expenses have increased based on the increase in complaints being filed because of the Board's use of JNET and the resulting increase in expenses due to higher prosecutions, investigations, expert witness usage and hearings. More than likely, this new level of legal workload will be part of the financial picture for the Board going forward so any delays in implementing new fees will push the Board into a larger deficit. Furthermore, the Board continues to pay for the administrative expenses involving the upgrade to PALS and will continue to pay ongoing expenses in the form of yearly maintenance costs for the foreseeable future. Thus, the Board's decision to implement the graduated biennial renewal fee schedule is reasonable based on its current financial position and the need to implement the higher fees in a manner to reduce its deficit in a quick and efficient manner to return the Board to a financially stable environment.

Updates to the RAF

Finally, IRRC asked the Board to update the RAF to include a dollar estimate in its response to RAF question # 21 for the cost to implement the regulation or explain why it is not possible to do so; to elaborate on any alternative regulatory provisions in response to RAF question # 26, which the Board considered and rejected; to provide fee report forms provisions in response to RAF

question # 28 for the fees described herein; and to delete any meeting dates provisions in response to RAF question # 30 that have passed. The Board has updated the RAF as requested.

Regarding RAF question # 21, to implement this final-form rulemaking, paper and online applications will have to be revised to reflect the new fees. Paper documents will be revised by Board administrative staff, who will change the fee amounts on an electronic copy of the paper document; this process will take about 15 minutes of staff time to complete the revisions per renewal year to revise the documents, as well as 15 minutes for the Bureau Business Licensing Division Chief, Bureau Deputy Commissioner and Board Counsel to each review and sign-off on the revisions. Online applications will be revised in PALS by Board administrative staff; this process will take about 1 hour of staff time to complete the revisions per renewal year, as well as 15 minutes for the Bureau Business Licensing Division Chief, Bureau Deputy Commissioner and Board Counsel to each review and sign-off on the revisions. The total estimated cost to revise paper and online documents is \$381; \$127 in FY 2022-2023, \$127 in FY 2024-2025 and \$127 in FY 2026-2027.

Regarding RAF question # 26, the Board considered an alternative fee increase that did not include a graduated fee schedule but decided to not move forward with that version because the Board believes that the graduated application fee and graduated biennial renewal fee increases are more beneficial to the Board and to the licensees. The application fee increases on a graduated basis are reflective of the actual costs to process applications over time, which is more beneficial to the licensees to spread the needed increase in fees over time and not try to reduce the deficit all at once with higher fees. A nongraduated fee increase would have been much larger and may have put the Commonwealth at a competitive disadvantage to the other states in the region based on those higher fees. The same is true for the graduated increase to the biennial renewal fees because increasing fees in this manner coincides more closely with the projected expenses for each biennium. This is less impactful on the licensee population by spreading the needed fee increase out over several renewal cycles instead of implementing a higher fee all at once.

Regarding RAF question # 28, when calculating the new application fees, the Board relied on fee report forms which were inadvertently not included with the RAF in its prior submission. This error has been corrected as noted previously and those reports are attached to the RAF in this final-form rulemaking.

Fees for biennial license renewal, however, are not determined in the same way as fees for initial applications. Renewing a license is an online process through PALS where a licensee answers several questions and pays the appropriate fee. Generally, PALS automatically renews the license. Thus, there are no fee report forms for the biennial renewal fees. As noted previously, unlike initial application fees, biennial renewal fees are designed to cover the operational costs of the Board. These costs include salaries for administrative and legal staff as well as the cost for investigation of complaints, enforcement of statutory and regulatory requirements, hearing expenses and board member expenses. The biennial fees are calculated to ensure that the Board can meet or exceed its operational costs. Since biennial renewal fees are based on operating expenses and do not reflect the cost to process a renewal application, fee report forms are not utilized for biennial renewal fees.

Miscellaneous amendments for clarity

The Board and the Acting Commissioner made minor amendments to the effective dates to clarify that the increase is applicable to each renewal period, and thereafter. In doing so, the effective dates of the biennial fee increases were amended to clarify that the first renewal fee increase will be implemented for the March 1, 2023—February 28, 2025, biennial renewal period. Thereafter, the subsequent graduated increases will be implemented for the March 1, 2025—February 28, 2027, biennial renewal period and then again for the March 1, 2027—February 28, 2029, biennial renewal period, and thereafter.

Fiscal Impact and Paperwork Requirements

When the Board voted to increase the renewal and application fees, the Board was deficit spending and the BFO noted that if the Board did not increase its fees that deficit would continue to increase. The new fee structure approved by the Board will eliminate the deficit spending and decrease the current deficit balance. This will allow the Board to meet or exceed its projected expenditures in the coming biennial renewal cycles and will eventually put the Board back on firm financial ground.

To accomplish this goal, the amendments will increase application and biennial renewal fees. Applicants, licensees and registrants will be required to comply with the regulation. The fees may be paid by applicants, licensees or registrants or may be paid by their employers, should their employers choose to pay these fees. This final-form rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions of the Commonwealth.

Approximately 141 applicants will be impacted annually by the increased application fees. Specifically, the number of applicants affected are as follows: 25 auctioneers, 40 apprentice auctioneers, 1 course of study, 45 auction companies, 10 special licenses, 10 trading assistants and 10 trading assistant companies.

Based upon the graduated application fee increases, the total economic impact per fiscal year is as follows:

FY 2021-2022:	\$10,735
FY 2022-2023:	\$10,735
FY 2023-2024:	\$ 2,245
FY 2024-2025:	\$ 2,245
FY 2025-2026:	\$ 2,245
FY 2026-2027:	\$ 2,245
Total:	\$30,450

There are approximately 2,437 individuals who possess current licenses and registrations issued by the Board who will be required to pay more to renew their licenses and registrations.

Based upon the above biennial renewal fee increases, the economic impact is as follows:

FY 2021—2023:	\$321,340
FY 2023—2025:	\$175,025
FY 2025—2027:	\$ 68,675
Total:	\$565,040

Thus, the total economic impact to applicants, licensees, registrants, or employers, if employers choose to pay application or licensing fees, is \$595,490. This amount reflects the economic impact that will occur between FY 2021-2022 through FY 2026-2027.

This final-form rulemaking will require the Board to revise its printed and online application forms. The amendments will not create additional paperwork for the regulated community or for the private sector.

Sunset Date

The Board continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned. Additionally, the BFO provides the Board with an Annual Board Budget Report detailing the Board's financial condition. In this way, the Board continuously monitors the adequacy of its fee schedule.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 10, 2022, the Board submitted a copy of the notice of proposed rulemaking published at 52 Pa.B. 1736 and a copy of an RAF to IRRC and to the Chairpersons of the SCP/PLC and the HPLC, for review and comment. Publication was followed by a 30-day public comment period during which the Board received no public comments.

Under section 5(c) of the Regulatory Review Act, the Board is required to submit to IRRC, the HPLC and the SCP/PLC copies of comments received during the public comment period, as well as other documents when requested. The SCP/PLC did not submit comments. In preparing the final-form rulemaking, the Board and the Acting Commissioner have considered all comments from IRRC and the HPLC.

Under section 5.1(g)(3) and (j.2) of the Regulatory Review Act (71 P.S. § 745.5a(g)(3) and (j.2)), on October 19, 2022, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 20, 2022, and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Terri Koche, Board Administrator, State Board of Auctioneer Examiners, P.O. Box 2649, Harrisburg, PA 17105-2649, RA-AUCTIONEER@pa.gov.

Findings

The State Board of Auctioneer Examiners and the Acting Commissioner find that:

(1) Public notice of intention to adopt a regulation at 49 Pa. Code, Chapter 1, was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law and the regulations promulgated under those sections at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) The amendments to this final-form rulemaking do not enlarge the original purpose for the proposed regulation published at 52 Pa.B. 1736.

(4) These amendments to the regulations of the State Board of Auctioneer Examiners are necessary and appropriate for the regulation of the practice of auctioneering in the Commonwealth.

Order

The Board therefore orders that:

(A) The regulations of the State Board of Auctioneer Examiners, 49 Pa. Code, Chapter 1, are amended by amending § 1.41 to read as set forth in Annex A.

(B) The Board shall submit a copy of this final-form rulemaking to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

(C) The Board shall submit this final-form rulemaking to IRRC, the HPLC and the SCP/PLC as required by law.

(D) The Board shall certify this final-form rulemaking and shall deposit it with the Legislative Reference Bureau as required by law.

(E) This final-form rulemaking shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

NEVIN B. RENTZEL,
 Chairperson, State Board of Auctioneer Examiners
 ARION CLAGGETT,
 Acting Commissioner, Bureau of Professional and Occupational Affairs

(Editor's Note: See 52 Pa.B. 6941 (November 5, 2022) for IRRC's approval order.)

Fiscal Note: Fiscal Note 16A-6411 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 1. STATE BOARD OF AUCTIONEER EXAMINERS

FEES

§ 1.41. Schedule of fees.

(a) An applicant for a license, certificate, registration or service shall pay the following fees at the time of application:

		<i>Effective December 10, 2022</i>	<i>Effective July 1, 2025</i>	<i>Effective July 1, 2027</i>
(1) <i>Auctioneer</i>	Application for license to practice as an auctioneer	\$180	\$200	\$220
(2) <i>Apprentice auctioneer</i>	Application for license to practice as an apprentice auctioneer	\$145	\$160	\$175
	Application fee to change sponsor	\$15	\$15	\$15
(3) <i>Auction company</i>	Application for license to practice as an auction company	\$120	\$135	\$150
	Application fee to change auction company license	\$15	\$15	\$15
(4) <i>Trading assistant</i>	Application for registration to practice as a trading assistant	\$120	\$135	\$150
(5) <i>Trading assistant company</i>	Application for registration to practice as a trading assistant company	\$120	\$135	\$150
(6) <i>Miscellaneous</i>	Special license to conduct auction	\$120	\$135	\$150
	Application fee to approve course	\$180	\$200	\$220
	Certification of scores, permit or registration	\$25	\$25	\$25
	Verification of license, registration, permit or approval	\$15	\$15	\$15

(b) An applicant for biennial renewal of a license, certificate or registration shall pay the following fees:

		<i>March 1, 2023— February 28, 2025 biennial renewal</i>	<i>March 1, 2025— February 28, 2027 biennial renewal</i>	<i>March 1, 2027— February 28, 2029 biennial renewal and thereafter</i>
(1) <i>Auctioneer</i>	Biennial renewal	\$400	\$475	\$500
(2) <i>Apprentice auctioneer</i>	Biennial renewal	\$200	\$250	\$300
(3) <i>Auction company</i>	Biennial renewal	\$400	\$475	\$500
(4) <i>Trading assistant</i>	Biennial renewal	\$200	\$250	\$300
(5) <i>Trading assistant company</i>	Biennial renewal	\$200	\$250	\$300

[Pa.B. Doc. No. 22-1926. Filed for public inspection December 9, 2022, 9:00 a.m.]

