

**INDEPENDENT REGULATORY
REVIEW COMMISSION
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JAN 25 2022

**Independent Regulatory
Review Commission**

IRRC Number: **3330**

Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency: Pennsylvania Public Utility Commission

(2) Agency Number: L-2019-3010267

Identification Number: 57-335

(3) PA Code Cite: 52 Pa. Code §§ 59.33, 59.131-59.143

(4) Short Title: Rulemaking Regarding Hazardous Liquid Public Utility Safety Standards

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Colin W. Scott, Assistant Counsel (717-783-5949, colin.scott@pa.gov)

Secondary Contact: Hayley E. Dunn, Assistant Counsel (717-214-9594, haydunn@pa.gov)

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation

- Emergency Certification Regulation;
- Certification by the Governor
- Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

A "hazardous liquid public utility" is "a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transporting or conveying crude oil, gasoline, petroleum or petroleum products, by pipeline or conduit, for the public for compensation." The proposed regulations would establish design and construction standards for hazardous liquid public utilities constructing new pipelines and converting, relocating, replacing, or otherwise changing existing pipelines, as well as accident and other reporting, pressure testing, operations and maintenance, qualification of pipeline personnel, land agent, and corrosion control standards for all hazardous liquid public utilities.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Pursuant to 66 Pa.C.S. § 501(b), the Pennsylvania Public Utility Commission (PUC) has the general administrative power and authority to supervise and regulate all public utilities doing business in the Commonwealth and to make such regulations as may be necessary or proper in the exercise of its powers or for the performance of its duties. The term "public utilities" includes persons or corporations owning or operating equipment or facilities for "transporting or conveying . . . crude oil, gasoline, or petroleum products . . . by pipeline or conduit for the public for compensation." 66 Pa. C.S. § 102(1)(v). Thus, the PUC has jurisdiction over and authority to regulate the pipeline transportation of petroleum products and other hazardous liquids.

The Commonwealth participates as a certified state in the pipeline safety program administered by the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA)

under 49 U.S.C.A. § 60105(a). Pursuant to 49 U.S.C.A. § 60105(b), certified states must adopt the minimum Federal pipeline safety standards, and the PUC adopted those standards at 52 Pa. Code § 59.33(b). Certified states may also adopt “additional more stringent regulations so long as they are compatible” with the minimum Federal standards. 49 CFR Part 195, Appendix A. Thus, as a certified state participating in PHMSA’s pipeline safety program, the PUC may adopt additional compatible hazardous liquid pipeline safety standards that are more stringent than the minimum Federal standards.

Further, public utilities in the Commonwealth have an affirmative duty to “furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as may be necessary or proper for the accommodation, convenience and safety of the utility’s customers and the public.” 66 Pa.C.S. § 1501. The term “service” is broadly defined by 66 Pa.C.S. § 102 to include a wide range of actions. Thus, the PUC has general authority to ensure, *inter alia*, the adequacy, efficiency, safety, and reasonableness of hazardous liquid public utility service and facilities.

Accordingly, pursuant to Sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, 45 P.S. §§ 1201-1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; Section 204(b) of the Commonwealth Attorneys Act, 71 P.S. § 732.204(b); Section 745.5 of the Regulatory Review Act, 71 P.S. § 745.5; and Section 612 of the Administrative Code of 1929, 71 P.S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231-7.234, the PUC is considering adopting the proposed regulations set forth in the Annex of the Notice of Proposed Rulemaking.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

As explained in the response to No. 8, pursuant to 49 U.S.C.A. § 60105(b), the PUC is required to adopt the minimum Federal pipeline safety standards because the PUC is a certified state participating in PHMSA’s pipeline safety program. The PUC is not required to adopt additional more stringent regulations but is permitted to do so, provided that regulations are compatible with the minimum Federal pipeline safety standards. *See* 49 CFR Part 195, Appendix A.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

A more comprehensive and complete regulatory framework for hazardous liquid public utilities in the Commonwealth is necessary to address the concerns of the public regarding aging pipeline infrastructure and pipeline integrity. Proponents of stronger regulations for new and existing pipelines have identified hazardous liquid public utility incidents like spills, leaks, sinkholes, and private well contamination to support their position. As noted in the response to No. 14, in 2019, the PUC entered an Advance Notice of Proposed Rulemaking (ANOPR) and solicited comments. In response, several commenters requested greater public awareness between hazardous liquid public utilities and the affected public, public officials, emergency responders, and school administrators near hazardous liquid pipelines.

The PUC’s proposed regulations would take up these concerns by requiring additional communication by hazardous liquid public utilities. The requirements of the regulations would benefit the affected public, public officials, and emergency responders – as defined in proposed 52 Pa. Code § 59.132 – as well as school administrators. The regulations would benefit those in areas of high population density

where a pipeline incident could result in significant injury or loss of life. The regulations would better ensure the safe operation of hazardous liquid public utilities to protect hazardous liquid public utility personnel and the general public who live, work, and congregate near pipelines and pipeline facilities.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

The proposed modifications to the existing regulation at 52 Pa. Code § 59.33 would reflect that the minimum safety standards for all natural gas public utilities are those found under the Federal pipeline safety laws. Likewise, the proposed regulation at 52 Pa. Code § 59.133 would state that the minimum safety standards for all hazardous liquid public utilities are those found under the Federal pipeline safety laws and regulations. As explained in the responses to Nos. 8 and 9, the PUC must adopt these minimum Federal pipeline safety standards but may adopt more stringent and compatible regulations. *See* 49 U.S.C.A. § 60105(b); 49 CFR Part 195, Appendix A. Thus, with the exception of 52 Pa. Code § 59.33 and 52 Pa. Code § 59.133, the proposed regulations are generally more stringent than, but still compatible with, the Federal standards.

In particular, the proposed regulations at 52 Pa. Code §§ 59.134-59.143 would establish more stringent design and construction standards for hazardous liquids public utilities constructing new pipelines and converting, relocating, replacing, or otherwise changing existing pipelines, as well as more stringent accident and other reporting, pressure testing, operations and maintenance, qualification of pipeline personnel, land agent, and corrosion control standards for all hazardous liquids public utilities. These proposed regulations are necessary to enable more comprehensive regulation of public utilities that transport petroleum products and other hazardous liquids in intrastate commerce in Pennsylvania. Specifically, the proposed regulations would improve the safety of construction, operation, maintenance, and other functions of hazardous liquid public utilities.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

The proposed regulations are comparable to the regulations of other states. Each certified state participating in PHMSA's pipeline safety program is permitted to implement regulations that are more stringent than, but compatible with, the minimum Federal pipeline safety standards, and there are 15 certified states. *See* 49 CFR Part 195, Appendix A; *Appendix F—State Program Certification/Agreement Status*, PHMSA (Revised December 2020) available at [2021 Appendix F—State Program Certification Agreement Status_0.pdf \(dot.gov\)](#). Pennsylvania is not distinct in moving forward with this proposed rulemaking. For instance, Texas is a certified state that has implemented regulations that are more stringent than the Federal pipeline safety standards. The proposed regulations at 52 Pa. Code § 59.140(c) and (d) would require hazardous liquid public utilities to conduct liaison activities with emergency responders and school administrators when a school building or facility is located within 1,000 feet, or within the lower flammability limit (LFL), of a pipeline or pipeline facility, whichever is greater. This requirement is similar to the liaison activity requirements already in place in Texas. *See* 16 TAC §§ 8.310, 8.3115.

Further, the proposed regulations have no bearing on Pennsylvania's ability to compete with other states. The overarching focus of the proposed regulations is pipeline safety for hazardous liquid public utilities, which is a common goal shared by other states.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The proposed regulation at 52 Pa. Code § 59.138, which would address horizontal directional drilling (HDD) and trenchless technology (TT) or direct buried methodologies, would complement the existing requirements of the Pennsylvania Department of Environmental Protection (DEP). In particular, when using HDD or TT for a pipeline with bore diameter eight inches or greater, bore depth greater than 10 feet, or pipeline length greater than 250 feet, 52 Pa. Code § 59.138(c) would require hazardous liquid public utilities to comply with all DEP Trenchless Technology Technical Guidance. Additionally, for HDD or TT construction or operation and maintenance (O&M) activities near a private or public water supply source, 52 Pa. Code § 59.138(d) would require hazardous liquid public utilities to comply with DEP regulations, including 25 Pa. Code § 78a.68a and 25 Pa. Code Chapters 102, 105, and 109, as well as DEP Trenchless Technology Technical Guidance. Hazardous liquid public utilities would be required to comply with the same under 52 Pa. Code § 59.138(e) if HDD, TT, or direct buried construction or O&M activities cause adverse impacts to a private or public water supply source. Further, 52 Pa. Code § 59.138(e) would require hazardous liquid public utilities to notify DEP of such adverse impacts and implement corrective action under DEP regulations to address the impacts.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

On June 13, 2019, the PUC issued an ANOPR directing the filing of comments from interested stakeholders within 60 days of publication in the *Pennsylvania Bulletin*. The ANOPR was published in the *Pennsylvania Bulletin* on June 29, 2019, at 49 Pa.B. 3316.

The PUC received a total of 93 comments in response to the ANOPR, including comments from 51 individuals, and comments from advocates, industry affiliates, local governments, and members of the Pennsylvania General Assembly. The comment breakdown among those groups is as follows:

- **Advocates**: Bucks County Concerned Citizens Against the Pipelines, Clean Air Council, Conservation Voters of PA, Del Chesco United for Pipeline Safety, Pipeline Safety Coalition, and Responsible Drilling Alliance.
- **Industry affiliates**: American Society of Civil Engineers, Associated Petroleum Industries of Pennsylvania, the Association of Oil Pipelines, JARI, Marcellus Shale Coalition, Operating Engineers Local 542, PA Chamber of Business and Industry, Pennsylvania Energy Infrastructure Alliance, Schmid & Co., Inc., Steamfitters Local 420, Shepstone Management Company, Inc., SolSpec Aerial Analytics, Sunoco Pipeline, L.P., and Washington Chamber of Commerce.
- **Local government**: Borough of Lemoyne, Capital Region Council of Governments, Chester County Association of Township Officials, County Commissioners Association of Pennsylvania, County of Chester, Cumberland County Board of Commissioners, Downingtown Area School District, the East Goshen Township Board of Supervisors, Hampden Township Board of Supervisors, Lower Allen Township Board of Supervisors, Monroe Township Board of Supervisors, Pennsylvania State Association of Township Supervisors, Silver Spring Township Board of Supervisors, Township of Middletown in Delaware County, Uwchlan Township Board of Supervisors, and West Whiteland Township Board of Supervisors.

- Members of the Pennsylvania General Assembly: Representative Carolyn Comitta, Representative Danielle Otten, Senator Andrew Dinniman, Senator Judith Schwank, and Senator Tom Killion.

On July 15, 2021, the PUC entered a Notice of Proposed Rulemaking Order (NOPR). The NOPR directs posting of the NOPR and accompanying Annex on the PUC's website. The NOPR also directs service of the same upon all jurisdictional hazardous liquid public utilities, the Office of Consumer Advocate, the Office of Small Business Advocate, and the PUC's Bureau of Investigation and Enforcement. The NOPR and Annex were corrected by an Errata, changing the section numbering of the proposed regulations at 52 Pa. Code §§ 59.130-59.142 to 52 Pa. Code §§ 59.131-59.143 in accordance with the *Pennsylvania Code & Bulletin Style Manual*. The Errata was served on August 17, 2021, and replaced the original posting in its entirety. Further, the NOPR directs submission of the NOPR and Annex to the Legislative Committees and IRRC and publication in the *Pennsylvania Bulletin*. Interested stakeholders will have 60 days from publication in the *Pennsylvania Bulletin* to file comments and 30 days thereafter to file reply comments.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Primarily, the regulation would affect Pennsylvania's two hazardous liquid public utilities, Sunoco Pipeline, L.P., a/k/a Energy Transfer Partners, and Laurel Pipeline Company, L.P. These hazardous liquid public utilities would be required to meet more stringent standards than required by the Federal pipeline safety standards. It is difficult to quantify the public and organizations that would be impacted by the proposed regulations; however, these parties would benefit from greater public awareness and communication requirements for hazardous liquid public utilities. For example, as noted in the response to No. 12, hazardous liquid public utilities would be required to have more contact with emergency responders as well as school administrators when a school building or facility is located either within 1,000 feet or within the LFL of a pipeline or pipeline facility, whichever is greater. The PUC does not anticipate that persons, businesses or small businesses would be adversely affected by the proposed regulation.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

The proposed changes to the existing regulation at 52 Pa. Code § 59.33 would apply to all natural gas public utilities. Under the existing 52 Pa. Code § 59.1, natural gas public utilities include "persons or corporations owning or operating in this Commonwealth equipment or facilities for producing, generating, transmitting, distributing, or furnishing gas for the production of light, heat, or power to or for the public for compensation," but do not include "producer[s] or manufacturer[s] of gas not engaged in distributing the gas directly to the public for compensation." However, these proposed changes would not substantively affect the requirements for natural gas public utilities. The changes would merely serve to reformat the existing regulations to carve out separate requirements for hazardous liquid public utilities. Thus, requirements in the PUC's regulations for natural gas public utilities would remain unchanged.

With regard to the proposed regulations at 52 Pa. Code §§ 59.131-59.143, all hazardous liquid public utilities would be required to comply. The proposed regulations define a hazardous liquid public utility as "a person or corporation now or hereafter owning or operating in this Commonwealth equipment or

facilities for transporting or conveying crude oil, gasoline, petroleum or petroleum products, by pipeline or conduit, for the public for compensation.” Currently, Pennsylvania’s two hazardous liquid public utilities are Sunoco Pipeline, L.P., a/k/a Energy Transfer Partners, and Laurel Pipeline Company, L.P.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The financial and economic impact of the proposed regulation would fall most squarely on the two hazardous liquid public utilities in the Commonwealth that would be required to comply with the more stringent safety standards. The expected social benefits of the regulations include an anticipated reduction in pipeline incidents like spills, leaks, sinkholes, and water well contamination. Additional accident reporting requirements and more frequent interaction by these utilities through public awareness events are intended to address stakeholder concerns about pipeline integrity, aging infrastructure, and the existence and testing of emergency plans and evacuation plans in areas of high population density.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The proposed regulations would strike a balance between industry affiliates’ contention that Pennsylvania’s energy success depends on increased pipeline construction and believe that the PUC should defer to existing Federal regulations, on one hand, and public advocate groups, local government bodies, members of the General Assembly, and private citizens who contend that more stringent standards are required and that hazardous liquid public utilities must communicate more regularly and meaningfully with local communities to ensure public safety, on the other hand.

While compliance with heightened standards may increase costs for hazardous liquid public utilities, these costs would be outweighed by the safety and infrastructure integrity concerns raised by the public who seek incremental additions to existing Federal pipeline safety standards as well as greater communication about emergency and accident preparedness from hazardous liquid public utilities.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Pennsylvania’s two hazardous liquid public utilities are currently required to comply with the Federal pipeline safety standards. The PUC has not quantified the total costs associated with complying with those Federal regulations and has not yet discerned the additional costs that would be incurred to meet the proposed regulations. Commenters to the ANOPR did not discuss the specific costs or resources that might be required for the proposed regulations; neither did they quantify any specific savings from the proposed regulations. The PUC will address any cost issues raised in comments and reply comments to the NOPR. The PUC anticipates that costs to the regulated community would be outweighed by the benefits to the public interest.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Local governments are not expected to experience any compliance costs or savings through the PUC's proposed regulations since the proposed regulations primarily impact the two hazardous liquid public utilities operating in the Commonwealth.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The PUC has resolved to proceed with its proposed regulation to amend Chapter 59 with fiscal impacts largely unquantified. At this time, the PUC does not anticipate additional staffing being required to implement the regulation; in fact, the additional reporting requirements to the PUC proposed in Section 59.135 are expected to increase the efficiency of the PUC pipeline safety staff that regularly interact with hazardous liquid public utilities.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The hazardous liquid public utilities additional reporting requirements are expressly stated in the Annex. No additional reporting, recordkeeping, or other paperwork is required to implement the regulation.

(22a) Are forms required for implementation of the regulation?

No.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

N/A

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

In the July 15, 2021 NOPR, the PUC solicited comments regarding the proposed regulations. The PUC expects that the regulatory community and other interested stakeholders will weigh in regarding costs related to the specific provisions proposed. Thus, the PUC will know more about potential costs and saving to the regulated community after the receipt of comments and reply comments.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	Cannot be estimated					

Local Government	Cannot be estimated					
State Government	Cannot be estimated					
Total Savings	Cannot be estimated					
COSTS:						
Regulated Community	See above, No. 19					
Local Government	See above, No. 20					
State Government	See above, No. 21					
Total Costs	Cannot be estimated					
REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Not applicable.				

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The PUC does not anticipate that the proposed regulations would adversely impact small businesses. As explained in the response to No. 15, the proposed regulations primarily impact the two hazardous liquid public utilities operating in the Commonwealth; they are not small businesses.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

The proposed regulations would serve to meet the needs of the affected public, public officials, emergency responders, and school administrators. For example, the proposed regulations would require increased notice of activities performed by hazardous liquid public utilities to these groups. In particular, 52 Pa. Code § 59.134(e) would require notice to emergency responders of certain accidents; 52 Pa. Code § 59.135(b)(5) would require notice to public officials prior to the introduction of a hazardous liquid in a pipeline; and 52 Pa. Code § 59.138(b) would require notice to the affected public prior to drilling for HDD, TT, or direct buried construction or O&M activities.

Additionally, 52 Pa. Code § 59.140(b)(2) would require hazardous liquid public utilities to develop a continuing education program for the affected public and emergency responders to meet their educational needs as it pertains to nearby hazardous liquid pipelines. Moreover, as noted in the responses to Nos. 12 and 15, 52 Pa. Code § 59.140(c) and (d) would require hazardous liquid public utilities to conduct liaison activities with emergency responders and with school administrators in certain circumstances. Similarly, 52 Pa. Code § 59.140(e) would set forth specific public awareness communication requirements for hazardous liquid public utilities as it pertains to the affected public, emergency responders, and public officials.

Finally, the proposed regulations would consider the needs of other groups, including farmers. For instance, the proposed regulation at 52 Pa. Code § 59.137(e)(1) would require at least 40 inches of cover for all pipe under active commercial farms that have been cultivated two or more of the past five (5) years, as identified by the farmland owner or operator. This regulation would also require hazardous liquid public utilities to verify and maintain the depth of cover for active commercial farms at least every three (3) years.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory provisions have been considered and rejected.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

As noted in the response to No. 24, the PUC does not anticipate that the proposed regulations would adversely impact small businesses. The proposed regulations would primarily impact the two hazardous liquid public utilities, which are not small businesses, operating in the Commonwealth.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail 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. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Specific empirical data were not the basis for the proposed regulation.

(29) Include a schedule for review of the regulation including:

- | | |
|---|---------------------------------------|
| A. The length of the public comment period: | <u>60 days</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>None</u> |
| C. The expected date of delivery of the final-form regulation: | <u>3rd Quarter of 2022</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon publication as final</u> |
| E. The expected date by which compliance with the final-form regulation will be required: | <u>Upon publication as final</u> |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <u>None required</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The PUC would evaluate the effectiveness of the proposed regulations through inspections as well as the monitoring of records. Pursuant to the proposed regulation at 52 Pa. Code § 59.133(b), hazardous liquid public utilities would be subject to inspections for compliance with safety standards. In addition, under 52 Pa. Code § 59.133(c), hazardous liquid public utilities would be required to keep records of compliance generally, which would be made accessible to the PUC's Pipeline Safety Section upon request. Other provisions of the regulations, including 52 Pa. Code §§ 59.138(f), 59.139(e), 59.140(d), and 59.141(c), would also require recordkeeping in order to document compliance.

The PUC would also assess the effectiveness of the proposed regulations through the reporting and notice requirements therein. For example, 52 Pa. Code § 59.134 would require hazardous liquid public utilities to provide reports regarding accidents to the PUC's Pipeline Safety Section, while 52 Pa. Code § 59.135 would require hazardous liquid public utilities to provide reports to the PUC's Pipeline Safety Section regarding construction, O&M, and other activities. Additionally, notice would be required for HDD, TT, or direct buried construction or O&M activities under 52 Pa. Code § 59.138, and for pressure testing under 52 Pa. Code § 59.139. These reporting and notice requirements would provide the PUC with a means to evaluate the effectiveness of the proposed regulations as implemented.

Finally, the PUC would monitor the effectiveness of the regulations via the filing of complaints. Under the Public Utility Code, the PUC has authority over complaints filed with respect to the service and facilities of hazardous liquid public utilities. See 66 Pa.C.S. § 701.

**FISCAL NOTE FOR DOCUMENTS
FILED WITH THE LEGISLATIVE REFERENCE BUREAU**

August 24, 2021

Agency: Public Utility Commission

Agency Identification Number: 57-335

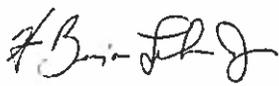
Subject of Regulation: Rulemaking Regarding Hazardous Liquid Public Utility Safety Standards

Pursuant to Section 612 of the act of April 9, 1929 (P.L. 177, No. 175), known as the Administrative Code of 1929, I am submitting the following fiscal note for publication in the *Pennsylvania Bulletin* to accompany this notice of regulatory action or administrative procedure.

FISCAL NOTE AS REQUIRED BY SECTION 612
Administrative Code of 1929
(See also 4 Pennsylvania Code § 7.231, *et seq.* [9 Pennsylvania Bulletin])

This action will not result in a loss of revenue or an increase in program costs to the commonwealth or its political subdivisions.

The Secretary of the Budget recommends adoption of this regulatory action or administrative procedure.

 for

Secretary of the Budget

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

RECEIVED

JAN 25 2022

**Independent Regulatory
Review Commission**

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General.</p> <p>Amy M. Elliott <small>Digitally signed by Amy M. Elliott DN: cn=Amy M. Elliott, o=Commonwealth Office of Attorney General, email=Chief Deputy Attorney General, email=am@attorneygeneral.gov Date: 2021.12.20 07:35:58 -0500</small></p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p align="center"><u>12/20/21</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p align="center"><u>Pennsylvania Public Utility Commission</u> (PA PUC) (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. L2019-3010267/57-335</p> <p>DATE OF PUC Public Meeting: <u>7/15/2021</u> <u>Date of ENTRY: 7/15/2021</u></p> <p>BY: <u>/s/ Rosemary Chiavetta</u> Rosemary Chiavetta</p> <p>TITLE: <u>Secretary</u> (SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>/s/ Renardo L. Hicks</u> Renardo L. Hicks Chief Counsel</p> <p align="center"><u>08/17/2021</u> DATE OF APPROVAL</p> <p>Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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PA PUC Docket No. L-2019-3010267
 Fiscal Note Number 57-335
 Notice of Proposed Rulemaking
 Hazardous Liquid Public Utility Safety Standards
 52 Pa. Code Chapter 59 (Sections 59.33 & 59.131-143)

The proposed regulations would establish design and construction standards for hazardous liquid public utilities constructing new pipelines and converting, relocating, replacing, or otherwise changing existing pipelines, and accident and other reporting, pressure testing, operations and maintenance, qualification of pipeline personnel, land agent, and corrosion control standards for all hazardous liquid public utilities.

The contact persons for this rulemaking are Colin W. Scott, (717) 783-5949, colinscott@pa.gov, Hayley E. Dunn, (717) 214-9594, haydunn@pa.gov, Adam D. Young, (717) 787-4700, adyoung@pa.gov; Erin N. Tate, (717) 214-1956, etate@pa.gov; and Melanie J. El Atieh, (717) 783-2811, melatieh@pa.gov; Louise Fink Smith, Assistant Counsel, Law Bureau, finksmith@pa.gov; and Karen Thorne, Regulatory Review Assistant, Law Bureau, kathorne@pa.gov.

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held July 15, 2021

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
David W. Sweet, Vice Chairman
John F. Coleman, Jr.
Ralph V. Yanora

Rulemaking Regarding Hazardous Liquid Public
Utility Safety Standards at 52 Pa. Code Chapter 59

L-2019-3010267

NOTICE OF PROPOSED RULEMAKING ORDER

BY THE COMMISSION:

The Pennsylvania Public Utility Commission (Commission) adopts this Notice of Proposed Rulemaking (NOPR) Order and seeks comment on proposed amendments to our existing regulations and the addition of new regulations in Chapter 59 of Title 52, 52 Pa. Code, Chapter 59, to enable more comprehensive regulation of public utilities that transport petroleum products and other hazardous liquids in intrastate commerce.

BACKGROUND

Under Section 501(b) of the Public Utility Code, the Commission has the general administrative power and authority to supervise and regulate all public utilities doing business within the Commonwealth and to make such regulations as may be necessary or proper in the exercise of its powers or for the performance of its duties. 66 Pa.C.S. § 501(b). Section 102, in pertinent part, defines a public utility as:

- (1) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for:

...

(v) Transporting or conveying natural or artificial gas, crude oil, gasoline, or petroleum products, materials for refrigeration, or oxygen or nitrogen, or other fluid substance, by pipeline or conduit, for the public for compensation.

66 Pa.C.S § 102, definition of public utility (1)(v). Accordingly, the Commission has jurisdiction over and authority to regulate, *inter alia*, the transportation of petroleum products transported via pipeline or conduit for the public for compensation. 66 Pa.C.S. §§ 102, 501(b); *see also* 66 Pa.C.S. § 506 (inspection of facilities and records). The term “petroleum products” includes refined petroleum products such as fuel oil and diesel as well as natural gas liquids such as ethane, benzene and propane. *See e.g., Petition of Granger Energy of Honey Brook, LLC*, Docket No. P-00032043 (Order entered September 8, 2004) (“petroleum products” as used in Section 102 of the Code, has a broad meaning as a “catch all phrase” to include what would otherwise be an exhaustive list of products); *see also* 49 CFR § 195.2 (defining a petroleum product as “flammable, toxic, or corrosive products obtained from distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks and other miscellaneous hydrocarbon compounds.”).

Consistent with that authority, effective September 22, 2012, the Commission amended its regulations at Chapter 59 to address the safety of petroleum products pipelines by incorporating the Federal pipeline safety regulations at 49 CFR Part 195. *See* 42 Pa.B. 5967; *Rulemaking Re Liquid Fuels Pipeline Regulations*, Docket No. L-2008-2034622 (Order entered March 1, 2012).

The Commission participates as a certified state in the pipeline safety program administered by the U.S. Department of Transportation’s Pipeline and Hazardous

Materials Safety Administration (PHMSA) under 49 U.S.C. § 60105(a).¹ The Commission incorporated 49 CFR Part 195 in its regulations, in part, to comport with the requirements of PHMSA’s pipeline safety program. Participating certified states must adopt the minimum Federal pipeline safety standards and are permitted to adopt additional more stringent regulations so long as they are compatible with the minimum Federal pipeline safety standards. As stated in Appendix A to Part 195:

For the remainder of pipeline facilities, denominated “intrastate pipeline facilities,” the [Hazardous Liquids Pipeline Safety Act (HLPSA)] provides that the same Federal regulation and enforcement will apply unless a State certifies that it will assume those responsibilities. A certified State must adopt the same minimal standards but may adopt additional more stringent standards so long as they are compatible.

49 CFR Part 195, *Appendix A to Part 195 – Delineation Between Federal and State Jurisdiction – Statement of Agency Policy and Interpretation*. Based on the foregoing, as a certified state in PHMSA’s pipeline safety program, the Commission may adopt additional standards beyond the minimum Federal pipeline safety standards.

Part 195 prescribes safety standards and reporting requirements for pipeline facilities used in the transportation of hazardous liquids. 49 CFR § 195.0. Under Part 195, hazardous liquids include “petroleum, petroleum products, anhydrous ammonia, or ethanol.” 49 CFR § 195.2. In sequence, Part 195 addresses the following: General; Annual, Accident, and Safety-Related Condition Reporting; Design Requirements;

¹ Certification is an annual process, in which PHMSA makes available appropriate forms to each State agency, which is included with the annual grant program. Each year, the Commission completes and submits these forms to PHMSA. To view the Commission’s 2021 certification status, refer to *Appendix F – State Program Certification/Agreement Status*, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation (Last accessed May 12, 2021) available at https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2021-03/2021%20Appendix%20F%20-%20State%20Program%20Certification%20Agreement%20Status_0.pdf.

Construction; Pressure Testing; Operation and Maintenance; Qualification of Pipeline Personnel; and Corrosion Control. See 49 CFR Subparts A–H.

At present, the safety standards for hazardous liquid public utilities are limited to the Commission’s adoption of the minimum standards in Part 195 in Chapter 59 of the Commission’s regulations. Section 59.33 provides in relevant part, as follows:

(b) *Safety code.* The minimum safety standards for all natural gas and hazardous liquid public utilities in the Commonwealth shall be those included under the pipeline safety laws as found in 49 U.S.C.A. §§ 60101–60503 and as implemented at 49 CFR Parts 191–193, 195 and 199, including all subsequent amendments thereto. Future Federal amendments to 49 CFR Parts 191–193, 195 and 199, as amended or modified by the Federal government, shall have the effect of amending or modifying the Commission’s regulations with regard to the minimum safety standards for all natural gas and hazardous liquid public utilities. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification may not take effect.

(c) *Definition.* For the purposes of this section, “hazardous liquid public utility” means a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transporting or conveying crude oil, gasoline, petroleum or petroleum products by pipeline or conduit, for the public for compensation.

52 Pa. Code §§ 59.33(b)–(c).

In order to more comprehensively regulate the design, construction, and operations and maintenance of public utilities transporting petroleum products and other hazardous liquids under the jurisdiction of the Commission, on June 13, 2019, the Commission entered an Advanced Notice of Proposed Rulemaking (ANOPR) inviting

comments on the amendment and enhancement of Chapter 59. In particular, the ANOPR focused on expanding Section 59.33 to provide a more complete regulatory framework for hazardous liquid public utilities. The ANOPR was published in the *Pennsylvania Bulletin* on June 29, 2019, and comments from interested stakeholders were due within 60 days. Upon review and consideration of the comments received, the Commission hereby proceeds with this NOPR to begin the process of modifying the regulations at Chapter 59 as proposed in the attached Annex.

DISCUSSION

Comments

In response to the ANOPR, the Commission received a total of 93 comments, ranging from one-page resolutions to 339-page submissions. A variety of interested stakeholders filed comments including advocates, industry affiliates, local governments, members of the Pennsylvania General Assembly, and private citizens. Below, we summarize the comments received from each of the above groups in the subject areas identified in the ANOPR and in other subject areas. To the extent that the Commission does not identify a particular comment herein, it has nonetheless been duly considered.

Advocates

The following advocates filed comments with the Commission in response to the ANOPR: Bucks County Concerned Citizens Against the Pipelines, the Clean Air Council, the Conservation Voters of PA, Del Chesco United for Pipeline Safety, the Pipeline Safety Coalition, and the Responsible Drilling Alliance (collectively, advocates). The advocates generally seek strengthened regulations for new and existing pipelines. The advocates also express concern about aging pipeline infrastructure and pipeline integrity. They point to pipeline incidents, including spills, leaks, sinkholes, and private well contamination, as the basis for strengthening regulations. The advocates note that any new regulations should consider the needs of the public, the environment, and

pipeline infrastructure. Accordingly, the advocates seek new regulations that provide for meaningful public engagement and take into account industry best practices.

For example, some advocates state that the Commission should develop a regulatory process to address pipeline siting, including a permitting process to determine where pipelines facilities are located. The advocates also recommend that hazardous liquid public utilities be required to periodically review and reassess the depth of pipeline cover. In addition, the advocates suggest that all new valves be remote operated, and that emergency flow restricting devices (EFRDs) be installed in high consequence areas (HCAs) in consultation with public officials. The advocates also suggest additional regulations for HCAs. Moreover, the advocates recommend that the Commission regulate construction techniques, such as horizontal directional drilling (HDD), and require the identification of water supplies as well as the use of geophysical testing.

Further, the advocates recommend enhanced pressure testing and maximum operating pressure requirements. The advocates suggest the use of in-line inspection tools. Additionally, the advocates propose requirements for the placement of additional line markers and the provision of additional information regarding line markers. The advocates also comment on pipeline rights-of-way. One advocate proposes, *inter alia*, the creation of natural habitats on rights-of-way. Another advocate suggests that the Commission require hazardous liquid public utilities to inspect rights-of-way on foot once per quarter. Some advocates also call for the use of enhanced leak detection technology. Moreover, the advocates suggest improved pipeline personnel training and additional qualifications for individuals acting as land agents. Similarly, at least one advocate recommends that background checks be required for contractors and laborers.

Regarding hazardous liquid public utility interactions with the community, the advocates recommend that the Commission require communications with public officials, emergency responders, and landowners. The advocates also recommend the development

of emergency plans, including evacuation plans in areas of high population density. One advocate recommends tabletop and functional exercises for emergency responders, including the creation of After Action Reports by an impartial entity. One advocate also requests that the Commission revise its formal complaint process to be more accessible to all residents regardless of economic or financial resources.

In addition to the advocates identified above, the Commission's Bureau of Investigation and Enforcement (BIE), filed Comments with the Commission in response to the ANOPR. BIE's recommendations are based on the experience of and research conducted by staff in BIE's Safety Division. According to BIE, the objective of its comments is to ensure the safety of utilities, utility personnel, and the general public.

BIE's design and construction comments focus on external loads, miter joints, pipeline location, cover over buried pipelines, and valves. For example, regarding location, BIE recommends that no pipelines be installed under any building or structure intended for human occupancy. BIE also submitted comments regarding HDD techniques, including water well and supply protection. Additionally, BIE commented on pressure testing, including hydrostatic testing. BIE's operation and maintenance comments focus on requiring additional liaison activities, line markers, inspections of pipeline rights-of-way, and leak detection measures. In this regard, BIE suggests, *inter alia*, enhanced requirements for patrolling pipeline facilities as well as the use of odorant for leak detection purposes. BIE also recommends that hazardous liquid public utilities file notifications with the Commission prior to any major construction or maintenance activities. Further, BIE recommends more stringent qualifications for pipeline personnel, including requalification intervals. Finally, regarding corrosion control measures, BIE focuses on cathodic protection requirements.

Industry Affiliates

The following industry affiliates filed comments with the Commission in response to the ANOPR: the American Society of Civil Engineers, Associated Petroleum Industries of Pennsylvania, the Association of Oil Pipelines, JARI, the Marcellus Shale Coalition, Operating Engineers Local 542, the PA Chamber of Business and Industry, the Pennsylvania Energy Infrastructure Alliance, Schmid & Co., Inc., Steamfitters Local 420, Shepstone Management Company, Inc., SolSpec Aerial Analytics, Sunoco Pipeline, L.P., and the Washington Chamber of Commerce (collectively, industry affiliates). The industry affiliates largely contend that Pennsylvania's energy success relies on increased pipeline construction, that pipelines are the safest and most reliable mode of energy transportation, and that new pipeline regulations will result in increased inefficiencies. The industry affiliates recommend, generally, that the Commission defer to existing Federal regulations and not add to the American Petroleum Institute (API) Recommended Practices already incorporated into PHMSA's regulations. The industry affiliates posit that more comprehensive regulations may reverse hard-earned energy growth that the Commonwealth has experienced.

The industry affiliates also recommend that the Commission exercise caution in integrating new regulation on existing facilities, noting that retroactive applicability is barred in certain instances. They remind the Commission that, while states may promulgate additional regulations for pipelines, new regulations must be compatible with Federal regulations. The industry affiliates also direct the Commission's attention to pending Federal rulemaking proceedings and note that PHMSA's rules are intentionally rigorous to mitigate risks and protect communities as well as the environment. Further, the industry affiliates advise in their comments that many hazardous liquid public utilities face heightened scrutiny and already exceed required standards to ensure public safety.

Regarding construction as well as operation and management standards, the industry affiliates advise that pipelines are built from materials that exceed the Federal

density standards, are often buried deeper than required, are pressure tested well above operational level, are treated with cathodic protection, and incorporate required EFRDs. Thus, the industry affiliates argue that any prospective changes to such standards should occur at the Federal level. Some industry affiliates also claim that the Commission has not explained the risk to be mitigated or the basis for needing regulatory changes. In this regard, the industry affiliates generally contend that enhancements to pipeline cover, valve, line marker, and pipeline personnel qualifications are not necessary. The industry affiliates also ask that Federal accident reporting requirements be given great deference.

The industry affiliates also state that the Commission should work with the Pennsylvania Department of Environmental Protection (DEP) and partner with hazardous liquid public utilities to enforce existing regulations, rather than adding additional rules. The industry affiliates also suggest that the Commission defer to the expertise of the DEP for HDD standards and standards for other construction techniques. Regarding HDD, the industry affiliates also note that HDD is cost effective and minimizes surface disturbance and environmental impacts. Some commenters also address claims regarding inadvertent returns, noting that there are no long term hazards for ground water.

With regard to utility interaction with public officials and the community, the industry affiliates recommend that the Commission's regulations align with existing API Recommended Practices. Some industry affiliates also stated that they have already developed resources aimed at addressing public awareness. In addition, one industry affiliate suggests that the Commission conduct a survey of past public awareness meetings and emergency drill attendance, noting that public officials rarely attend.

Finally, the industry affiliates stressed the need to safeguard sensitive information and pointed to the Confidential Security Information Disclosure Protection Act, 35 P.S. §§ 2141.1-2141.6, and the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101, et seq., as being provisions that the Commission's NOPR may not override.

Local Government

The following local government bodies and associations also filed comments with the Commission in response to the ANOPR: the Borough of Lemoyne, Capital Region Council of Governments, the Chester County Association of Township Officials, the County Commissioners Association of Pennsylvania, the County of Chester, the Cumberland County Board of Commissioners, Downingtown Area School District, the East Goshen Township Board of Supervisors, the Hampden Township Board of Supervisors, the Lower Allen Township Board of Supervisors, the Monroe Township Board of Supervisors, the Pennsylvania State Association of Township Supervisors, the Silver Spring Township Board of Supervisors, the Township of Middletown in Delaware County, the Uwchlan Township Board of Supervisors, and the West Whiteland Township Board of Supervisors (collectively, government entities). Generally, the government entities seek additional regulations with a focus on public awareness.

A number of government entities filed identical resolutions calling for public awareness meetings. The resolutions noted that the operation of pipelines may pose a danger to the public without adequate safety measures and regulatory oversight, and that efforts should be made to enhance the public's trust. The resolutions stated that one hazardous liquid public utility has refused invitations to county-hosted meetings addressing citizens' concerns on three occasions. The resolutions also noted that, since the Commission has the authority to require hazardous liquid public utilities to conduct regional and periodic public outreach meetings, public awareness meetings should be held at least once a year on a local or regional basis.

Aside from these resolutions, the government entities submitted comments focusing on many of the same areas as the advocates. For example, the government entities suggest, the creation of an approval process for pipeline siting, requirements for the replacement of depth of cover, the installation of remote valves, requirements for

additional line markers, mandatory notice to Commission before construction activity, and the registration of land agents.

The government entities also recommend enhancements to pipeline conversion requirements, such as Commission approval prior to pipeline conversion, including public notice and hearings. In addition, the government entities suggest that the Commission impose strict regulatory practices to protect stored pipelines prior to construction and to limit the exposure of pipelines to natural elements. In this regard, the government entities suggest reporting requirements for construction delays, including the length of pipeline exposure and corrosion data. The government entities also recommend that construction permits consider the impact of HDD on residents. Further, the government entities state that risk information regarding pipelines should be provided to emergency responders and that hazardous liquid public utilities create emergency plans for schools at their own expense. The government entities also suggest that accident reports be filed with the Commission.

Members of the Pennsylvania General Assembly

The following members of the Pennsylvania General Assembly filed comments with the Commission: Representative Carolyn Comitta, Representative Danielle Otten, Senator Andrew Dinniman, Senator Judith Schwank, and Senator Tom Killion (collectively, the legators). The legislators encourage the Commission to promulgate regulations for all areas of the ANOPR. The legislators note that local and county public officials as well as constituents have concerns regarding pipeline conversion, older pipelines, geophysical testing, the protection of public and private water wells, and communication with public officials and the community. Accordingly, the legislators ask the Commission to consider, *inter alia*, construction methods, leak detection, public notification systems, and the role of land agents. For example, the legislators ask the commission to establish increased requirements for cover over buried pipelines and underground clearances. The legislators also request enhanced requirements for valve

spacing and the use of vehicle barriers as well as additional placement of line markers. Moreover, the legislators note the importance of requiring hazardous liquid public utilities to develop emergency response plans in coordination with public officials and emergency responders, as well as public education plans.

Individual Commenters

Finally, approximately 51 individuals filed comments with the Commission. These individuals largely focus their comments on the same areas as the advocates, government entities, and legislators. Many of the individuals included personal anecdotes in their comments regarding experiences they had while living near pipelines in the Commonwealth. For example, some individuals described their experience with the Revolution Pipeline incident in 2018. The individual commenters generally call for additional regulation of hazardous liquid public utilities, and primarily take issue with HDD practices, land agents and the use of eminent domain, and a lack of communication and public outreach by hazardous liquid public utilities.

Regarding HDD, the individual commenters echo concerns regarding geological impacts as well as the contamination of private wells, inadvertent returns, sink holes, and the exposure of adjacent pipelines. Some individuals also note concerns regarding noise. For instance, one individual states that he lives in an area where constant noise and vibrations continued for months due to drilling. The individual commenters maintain that HDD should only be used when absolutely necessary and that hazardous liquid public utilities must be required to adhere to noise ordinances.

As it pertains to land agents, some individuals note that their neighbors have been coerced by land agents, and state that land agents should not bully homeowners into agreeing to allow a pipeline to pass through their property. The individual commenters suggest that land agents be monitored and held responsible for deceiving landowners during negotiations and engaging in fraudulent or unlawful practices. In addition, the

individual commenters claim that hazardous liquid public utilities are misusing the eminent domain process and that eminent domain should only be used for the greater good when landowners are adequately compensated.

Finally, regarding public outreach, the individual commenters request that hazardous liquid public utilities be required to provide emergency responders, the affected public, and public officials with contact information prior to the operation of a pipeline. One individual notes that referring to line markers for emergency information is not practical as line markers may be in forests or on property that they do not own. Another individual states that she lives in an “evacuation zone” and has never received information regarding emergency procedures. She notes that the hazardous liquid public utility claims it is not required to provide such information due to security concerns. The individual commenters request meetings with public officials regarding construction and frequent public awareness meetings with the public, emergency responders, and schools.

Gas Service and Facilities Provisions

First, the Commission proposes to create a new heading within Chapter 59 to encompass the “Hazardous Liquid Public Utility Safety Standards.” In conjunction with the creation of this new heading, we propose revising the existing “Service and Facilities” heading for Sections 59.11- 59.38 to “Gas Service and Facilities.” This revision is intended to indicate that Sections 59.11-59.38 of the Commission’s existing regulations are applicable to only natural gas distribution public utilities.

§ 59.33. Safety.

Section 59.33, which addresses safety, will continue to fall under the heading for “Gas Service and Facilities.” Currently, Section 59.33 addresses both natural gas distribution utilities and hazardous liquid public utilities. We propose to remove all references to “hazardous liquid public utilities” in Section 59.33. Thus, we will amend Section 59.33(b) and mark Section 59.33(c) as “reserved.” The provisions of Section

59.33 pertaining to hazardous liquid public utilities will now be addressed in “Hazardous Liquid Public Utility Safety Standards.” We do not propose any changes to the remaining portions of Section 59.33.

Hazardous Liquid Public Utility Safety Standards

As noted above, the Commission will create a new heading within Chapter 59 to encompass the “Hazardous Liquid Public Utility Safety Standards.” This heading indicates that Sections 59.131-59.143 of the Commission’s proposed regulations are applicable only to hazardous liquid public utilities.

§ 59.131. Purpose.

Section 59.131 of the Commission’s proposed regulations formalizes the notion that, as a certified State participating in PHMSA’s hazardous liquid pipeline safety program, the Commonwealth must adopt and enforce, as a minimum, all Federal pipeline safety standards at 49 CFR Part 195 and 199 for hazardous liquid public utilities. As a certified State, however, the Commonwealth may also promulgate additional regulations for hazardous liquid public utility pipeline safety that are more stringent than the PHMSA federal regulations so long as the state regulations are compatible with the HLPESA and the minimum safety standards in PHMSA’s regulations. Thus, Section 59.131 states that the purpose of the proposed regulations encompassed in the Commission’s “Hazardous Liquid Public Utility Safety Standards” is to set forth the safety standards for all hazardous liquid public utilities in the Commonwealth, implicitly recognizing that these standards apply only to intrastate hazardous liquid pipelines operated by public utilities.

§ 59.132. Definitions.

Section 59.132 of the Commission’s proposed regulations sets forth general definitions pertinent to the regulations of hazardous liquid pipeline safety. We define “hazardous liquid public utility” consistent with the definition formally found in

Section 59.33 of the Commission's regulations.² Thus, a "hazardous liquid public utility" is a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transporting or conveying crude oil, gasoline, petroleum or petroleum products, by pipeline or conduit, for the public for compensation.

Additionally, we explain the difference between the terms "pipe or line pipe," "pipeline," and "pipeline facility" as it pertains to the transportation of hazardous liquids. For example, the term "pipeline" refers to all parts of a pipeline facility through which a hazardous liquid moves in transportation, including, but not limited to, line pipe, valves and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. The definitions are compatible with those in 49 CFR 195.2.

Moreover, in Section 59.132, we delineate key stakeholders implicated in the proposed regulations by defining the terms "affected public," "emergency responders," and "public officials." "Affected public" refers to residents and places of congregation (businesses, schools, etc.) along the pipeline and the associated right-of-way within 1,000 feet, or within the lower flammability limit (LFL), of a pipeline or pipeline facility, whichever is greater. "Emergency responders" refers to local fire, police, and emergency medical services, along with county hazmat teams, Department of Emergency Services, and 911 centers, and other emergency local, city, county, or state officials and representatives. "Public officials" refers to elected local, city, county, and state officials and their staff having land use and street or road jurisdiction along the pipeline route.

Further, in Section 59.132, we incorporate by reference the definitions of a number of technical terms in 49 CFR Part 195, including "computational pipeline monitoring system," "external corrosion direct assessment," "ERFDs," and "HCAs." We

² As noted earlier, the definition of "hazardous liquid public utility" was removed from Section 59.33(c) because that portion of the regulations will now address only "Gas Service and Facilities."

incorporate these terms to ensure consistency and compatibility among the proposed regulations and the minimum safety standards in PHMSA's regulations. The definitions of other technical terms are also consistent with PHMSA guidance and documents.

The Commission welcomes comments regarding the definitions proposed in Section 59.132. The Commission also seeks comment regarding the need for additional definitions to enhance the readability of the proposed regulations and better clarify any technical terms or references to technical documents therein.

§ 59.133. General.

Section 59.133 of the Commission's proposed regulations establishes general provisions applicable to hazardous liquid public utilities. Subsection (a) stems in part from the existing regulation at Section 59.33(b) under "Gas Service and Facilities." Subsection (a) here mirrors Section 59.33(b) in that it adopts the Federal pipeline safety standards, as a minimum, as required by the Commonwealth's participation in PHMSA's hazardous liquid pipeline safety program. The Federal pipeline standards are the minimum safety standards, unless otherwise specified in the proposed regulations at Sections 59.131-59.143.³ Future Federal amendments will automatically take effect for purposes of the Commission's regulations after 60 days, unless otherwise directed. In this regard, we created new language to indicate that future amendments to the Federal regulations that are more stringent than the Commission's requirements under proposed Sections 59.131-59.143 will control.

Section 59.133 also addresses enforcement and records. Subsections (b) and (c) provide for the inspection of hazardous liquid public utilities for compliance purposes, require hazardous liquid public utilities to make their facilities, books, and records

³ The Commission may promulgate additional regulations that are more stringent than the PHMSA Federal regulations so long as the state regulations are compatible with the HLPSCA and the minimum safety standards in PHMSA's regulations.

accessible to the Pipeline Safety Section, and require the provision of reports, data, and other information to the Pipeline Safety Section upon request. These subsections will aid the Commission in ensuring compliance with the proposed regulations.

Finally, Section 59.133 addresses pipeline conversion. Subsection (d) directs hazardous liquid public utilities to notify the Commission's Pipeline Safety Section before a pipeline is converted from service not previously covered by the "Hazardous Liquid Pipeline Safety Standards." This subsection also requires hazardous liquid public utilities engaged in conversion, flow reversal, or commodity change subject to 49 CFR Part 195.5 to comply with *Pipeline Safety: Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service*, PHMSA Advisory Bulletin ADB-201-04, Docket No. 2014-0040; 79 FR 56121-56122. These requirements will provide additional oversight for pipeline conversions.

With regard to Section 59.133, the Commission seeks comment on the impact of future amendments to the Federal regulations that are more stringent than proposed Sections 59.131-59.143, and the language addressing such amendments in subsection (a). The Commission also seeks comment regarding the pipeline conversion notification and compliance provisions set forth in subsection (c).

§ 59.134. Accident reporting.

Section 59.134 of the Commission's proposed regulations set forth requirements for hazardous liquid public utilities reporting accidents. Section 59.134 works in conjunction with 49 CFR 195.50 and 49 CFR 195.52. Subsections (b) and (c) require that, after any accident causing the conditions described in 49 CFR 195.50, a hazardous liquid public utility must provide a failure analysis report and a root cause analysis report to the Commission's Pipeline Safety Section. The failure analysis report and root cause analysis report must be provided within 120 days of the accident or within 10 days of report completion, whichever comes first. The failure analysis and root cause analysis

must be performed by an independent third-party laboratory and an independent third-party consultant, respectively. A hazardous liquid public utility must provide status reports to the Pipeline Safety Section every 14 days if the respective deadlines are not met. Subsection (d) sets forth the process for obtaining approval of a third-party laboratory and consultant.

Subsection (e) requires that, after the release of a hazardous liquid causing the conditions described in 49 CFR 195.52, a hazardous liquid public utility must provide immediate notice to the Pipeline Safety Section and emergency responders. Notice must be provided at the earliest practicable moment and no later than one hour after confirmed discovery. The accident reports required by Section 59.134 will provide the Commission's Pipeline Safety Section, and emergency responders in the case of subsection (e), with additional information regarding pipeline accidents.

The Commission welcomes comment on the accident reporting requirements proposed in Section 59.134, including the timeframe for reporting accidents and the content of a hazardous liquid public utility's accident reports.

§ 59.135. Construction, operation and maintenance, and other reports.

Section 59.135 of the Commission's proposed regulations sets forth requirements for hazardous liquid public utilities reporting construction, operation and maintenance, and other activities. Subsection (b) requires hazardous liquid public utilities to notify the Pipeline Safety Section of (1) proposed major construction, major reconstruction, or major maintenance involving an expenditure in excess of \$300,000 or 10% of the cost of the pipe in service, whichever is less, and (2) maintenance, verification digs, and assessments involving an expenditure in excess of \$50,000, and the unearthing of suspected leaks, dents, pipe ovality features, cracks, gouges or corrosion anomalies, or other suspected metal losses, 45 days prior to commencement and 10 days prior to commencement, respectively. Subsection (b) also requires hazardous liquid public

utilities to immediately notify the Commission's Pipeline Safety section of excavation damages, washout, or unplanned replacement of any pipeline section or cut out.

Subsections (c), (d), and (e) detail requirements for the content of these notices. For example, a hazardous liquid public utility must provide the following information in its notice to the Commission's Pipeline Safety Section: name, pipeline route, length, of the pipeline, the counties and municipalities traversed, estimated start and completion dates; pipeline identification information; any change in flow direction, and commodity or product. A hazardous liquid public utility may be required to provide additional information regarding, *inter alia*, the following areas upon request from the Commission's Pipeline Safety Section: project information; pipe specifications; operating pressure and stress; welding; railroad, road, and water crossings; valves; minimum cover and clearance; piping; pressure and leakage tests; and pipeline rights-of-way.

Moreover, Section 59.135 addresses notice for variations from a hazardous liquid public utility's established construction methodologies, requiring notice to the Pipeline Safety Section 30 days prior to commencement, and notice prior to the introduction of a hazardous liquid, requiring notice to the Pipeline Safety Section and public officials 30 days prior to introduction. These notification requirements and the other notification requirements in Section 59.135 detailed above will provide the Commission's Pipeline Safety Section, and public officials in the case of hazardous liquid introduction, with further information on construction, operation and maintenance, and other activities.

The Commission seeks comment on the construction, operation and maintenance, and other reporting requirements proposed in Section 59.135, including the types of activities for which notice is required, the timeframe for providing notice, and the content of the notice provided to the Commission's Pipeline Safety Section and the information provided to the Pipeline Safety Section upon request.

§ 59.136. Design requirements.

Section 59.136 of the Commission's proposed regulations sets forth design requirements for hazardous liquid public utilities constructing new pipelines, and converting, relocating, replacing, or otherwise changing existing pipelines. In particular, subsection (b) works in conjunction with 49 CFR 195.410(a) and requires that, in addition to providing external loads for earthquakes, vibration, and thermal expansion and contraction, a hazardous liquid public utility must account for anticipated external loads for landslides, sinkholes, subsidence, and other geotechnical hazards. This requirement is intended to require hazardous liquid public utilities to account external loads for all common geotechnical hazards that may impact pipelines in the Commonwealth.

The Commission seeks comment regarding whether other specific geotechnical hazards should be included in the proposed external load provision at Section 59.136.

§ 59.137. Construction.

Section 59.137 of the Commission's proposed regulations prescribes construction standards for hazardous liquid public utilities constructing new pipelines, and converting, relocating, replacing, or otherwise changing existing pipelines. Subsection (b) addresses pipeline location and provides that, in addition to the requirements of 49 CFR 195.210, no pipeline may be located under private dwelling, industrial buildings, and places of public assembly. Subsections (c) and (d) address welding, providing that miter joints are not permitted and that all welds must be nondestructively tested using the methods set forth in 49 CFR 195.234. Additionally, subsections (e) and (f) establish requirements for cover over buried pipelines and clearances between pipe and underground structures. Subsection (e) works in conjunction with 49 CFR 195.248, and provides for set-interval testing for depth of cover, which will aid in ensuring the proper depth of cover is maintained. Subsection (f) requires a minimum of 12 inches between the outside of a

pipe and any underground structure, including structures owned by the hazardous liquid public utility and foreign structures, without exception.

Further, Section 59.137 addresses valves placement and vehicle barriers. For pipelines transporting HVLs, subsection (g) requires the installation of EFRDs on a main line every five miles and the installation of additional valves based on a pipeline's proximity to schools, churches, hospitals, daycares, nursing facilities, commercial facilities, sport complexes, and public parks with the outer most areas of the LFL. Subsection (g) also requires a hazardous liquid public utility to develop and maintain a risk-based plan addressing valve spacing. Finally, subsection (h) requires a hazardous liquid public utility to install barriers designed to protect against large vehicles at above-ground valve stations adjacent to roadways. These requirements will provide for enhanced shut off capabilities, including remote shut off, and additional protection for valve stations, including protection from large vehicles.

The Commission seeks comment regarding the construction requirements proposed in Section 59.137. We note that, like the design requirements in Section 59.136, the construction requirements detailed above are applicable to hazardous liquid public utilities constructing new pipelines, and converting, relocating, replacing, or otherwise changing existing pipelines. The Commission seeks comment regarding the applicability of these requirements to other hazardous liquid public utilities.

§ 59.138. Horizontal directional drilling and trenchless technology, or direct buried methodologies.

Section 59.138 of the Commission's proposed regulations sets forth requirements for hazardous liquid public utilities using HDD, trenchless technology (TT), or direct buried methodologies in construction or operation and maintenance. Subsection (b) requires a hazardous liquid public utility to provide both a 30-day and a 24-hour notice to the Commission's Pipeline Safety Section and the affected public before beginning HDD,

TT, or direct buried construction or operation and maintenance activities. This requirement will ensure that the Pipeline Safety Section and the affected public receive adequate notice of HDD or TT.

Further, subsection (c) requires hazardous liquid public utilities using HDD or TT for construction or operation and maintenance activities to consider geological and environmental impacts and to comply with DEP Trenchless Technology Technical Guidance. For example, this subsection requires a hazardous liquid public utility to, *inter alia*, conduct a geotechnical evaluation of subsurface conditions along a pipeline facility and conduct geological sampling at locations where suspected anomalous conditions are identified through geophysics, including post-construction geophysics. Subsection (c) also requires the hazardous liquid public utility to provide information, including geotechnical reports, regarding HDD or TT to the Commission's Pipeline Safety Section upon request. These provisions are intended to enhance the safety of hazardous liquid public utilities' service and facilities.

Additionally, Section 59.138 addresses the protection of water wells and supplies. Subsections (d) requires, *inter alia*, that a hazardous liquid public utility comply with all relevant DEP regulations, including but not limited to 25 Pa. Code § 78a.68a and 25 Pa. Code Chapters 102, 105, and 109, and all DEP Trenchless Technology Technical Guidance when using HDD or TT for construction or operation and maintenance activities near private or public water supply sources, such as wells or reservoirs. In the event that HDD, TT, or direct buried methodologies cause adverse impacts for a private or public water supply source, subsection (e) sets forth certain compliance, notification, and corrective action requirements for hazardous liquid public utilities. Like subsection (c), subsections (d) and (e) are intended to enhance safety.

The Commission welcomes comment regarding the provisions addressing a hazardous liquid public utility's HDD, TT, and direct buried methodologies proposed in

Section 59.138, including the requirements for geological testing and the protection of water wells and supplies. The Commission also seeks comment regarding the notice requirements in Section 59.138.

§ 59.139. Pressure testing.

Section 59.139 of the Commission's proposed regulations sets forth the pressure testing requirements for hazardous liquid public utilities. Section 59.139 works in conjunction with 49 CFR 195.304. Subsection (b) addresses hydrostatic testing and reassessment, and sets forth requirements for pipelines installed before 1970, pipelines installed after 1970, and pipelines that have been placed back in service after a leak has been repaired. Subsection (c) addresses hydrostatic testing in HCAs. Further, subsection (d) requires that a hazardous liquid public utility notify the Commission's Pipeline Safety Section and public officials prior to beginning testing. Section 59.139 is intended to enhance testing requirements, while ensuring that methods and frequency are suitable for the type of pipeline involved.

The Commission seeks comment regarding the hydrostatic testing requirements proposed in Section 59.139, including the frequency at which testing should be conducted and whether additional testing intervals should be established.

§ 59.140. Operation and maintenance.

Section 59.140 of the Commission's proposed regulations sets forth operation and maintenance requirements for hazardous liquid public utilities. In particular, this Section provides standards for emergency procedures manuals, liaison activities with emergency responders, liaison activities with school administrators when a school building or facility is within 1,000 feet or within the LFL of a pipeline or pipeline facility, public awareness communications, line markers, inspections of pipeline rights-of-way, leak detection and odorization, and EFRDs in HCAs.

Subsection (b) requires hazardous liquid public utilities to consult with emergency responders in developing and updating an emergency procedures manual. The manual must address (1) steps to inform emergency responders of the practices and procedures to be followed for providing them with information regarding the pipeline, (2) the development of a continuing education program for emergency responders and the affected public, and (3) table-top drills to be conducted twice a year and a response drill to be conducted annually to simulate a pipeline emergency.

Subsections (c) and (d) address liaison activities. As it pertains to emergency responders, subsection (c) requires a hazardous liquid public utility to conduct the liaison activities set forth in 49 CFR 195.402(c)(12) via in-person meetings held twice a year. Subsection (c) prescribes the way in which a hazardous liquid public utility must attempt to arrange these meetings, including via mail, or telephone call, facsimile, or e-mail. A hazardous liquid public utility is permitted to utilize alternative conduct liaison activities by alternative means if attempts to arrange an in-person meeting are unsuccessful. Similarly, subsection (d) requires hazardous liquid public utilities to engage in certain liaison activities with school administrators when a school building or facility is located within 1,000 feet, or within the LFL, of a pipeline or pipeline facility, whichever is greater. For example, a hazardous liquid public utility must appear regularly at school administrator meetings for such schools upon request. The liaison requirements in subsections (c) and (d) are similar to those required by other states, including Texas, and are intended to improve relations between hazardous liquid public utilities and the affected public, emergency responders, and public officials.

Moreover, subsection (e) provides for further hazardous liquid public utility interaction with emergency responders, public officials, and the affected public. Subsection (e) works in conjunction with and goes beyond the practices set forth in API Recommended Practice 1162. For example, subsection (e) requires a hazardous liquid public utility to provide baseline messages to the affected public and emergency

responders at least twice a year and to public officials annually. This subsection also requires a hazardous liquid public utility to hold at least one open house or group meeting with the affected public annually, meet with emergency responders once per quarter, and meet with public officials annually. These requirements are intended to increase communications and information sharing.

The remaining portions of Section 59.140 address the more technical aspects of operations and maintenance. For example, subsection (f) builds upon 49 CFR 195.410 by setting forth requirements for the placement of additional line markers. Subsection (g) likewise builds upon 49 CFR 195.412 by requiring group patrol of pipeline facilities in non-HCAs at least twice a year and ground patrol in HCAs at least four times a year. Section 59.132 defines “ground patrol” as a method of non-aerial patrol that includes walking, driving, using a low-flying drone with sufficient optical resolution operated by a qualified drone operator with an altitude limit of 25 feet, or other like non-aerial means of traversing a pipeline right-of-way. Further, Section 59.140 addresses leak detection. Subsection (h) builds upon 49 CFR 195.444 by requiring, *inter alia*, leak detection systems that are Real Time Transient Models under API Recommended Practice 1130. A hazardous liquid public utility is required to odorize an HVL pipeline if it does not meet the requirements of subsection (h) within five years. Finally, subsection (i) builds upon 49 CFR 195.452 by requiring a hazardous liquid public utility to install EFRDs in consultation with public officials in all HCAs, based on limiting the LFL to 660 feet on either side of a pipeline. These provisions are intended to enhance the current operation and maintenance requirements for hazardous liquid public utilities.

The Commission seeks comments on the emergency procedures manual, liaison activity, public awareness, line marker, inspection of pipeline rights-of-way, leak detection and odorization, and HCA EFRD requirements proposed in Section 59.140.

§ 59.141. Qualification of pipeline personnel.

Section 59.141 of the Commission’s proposed regulations prescribes requirements for hazardous liquid public utilities qualifying individuals to perform covered tasks on a pipeline facility. Section 59.141 of the proposed regulations defines “covered task.” The term “covered task” carries the same meaning as in 49 CFR 195.501, but also includes a construction task identified by a hazardous liquid public utility.

Section 59.141 works in conjunction with 49 CFR 195.505, which requires the development of a written qualification program meeting certain criteria. Subsection (b) requires that a hazardous liquid public utility’s qualification program also include (1) the adoption of the provisions for a written qualification program for construction tasks, (2) a process that trains all individuals qualified to identify and react to facility specific abnormal operating conditions, and (3) requalification intervals for each covered task. Additionally, subsection (c) makes the record keeping requirements for covered tasks in 49 CFR 195.507 applicable to construction tasks. These additional requirements will provide increased training opportunities for individuals performing covered tasks and enhanced oversight of pipeline personnel.

The Commission welcomes comment on the additional qualification program requirements proposed in Section 59.141, including the definition of “covered task.”

§ 59.142. Land agents.

Section 59.142 of the Commission’s proposed regulations sets forth requirements for hazardous liquid public utilities employing or contracting land agents. In particular, Section 59.142 requires land agents to hold a valid Pennsylvania professional license as an attorney, real estate salesperson, real estate broker, professional engineer, professional land surveyor, or professional geologist during the performance of land agent work or services. This requirement will prevent hazardous liquid public utilities from employing

or contracting individuals who are not properly qualified to act as a land agent and provide additional accountability in the performance of land agent work or services.

The Commission seeks comment regarding the need for additional requirements addressing hazardous liquid public utilities employing or contracting land agents.

§ 59.143. Corrosion control.

Section 59.143 of the Commission's proposed regulations prescribes the requirements for hazardous liquid public utilities protecting pipelines against corrosion. Subsection (b) requires written procedures for the design, installation, operation, and maintenance of cathodic protection systems, including, *inter alia*, the average and the worst-case corrosion rate experienced for each pipeline segment. Subsections (c) and (d) address the level of cathodic protection that a cathodic protection system must provide and the frequency at which a hazardous liquid public utility is required to test a cathodically-protected pipeline, respectively. Subsection (e) requires a hazardous liquid public utility to conduct close interval surveys, including paved surfaces, every three years and to adhere to the standards set forth in NACE International Standard Practice 0207-2007, *Performing Close-Interval Potential Surveys and DC Surface Potential Gradient Surveys on Buried or Submerged Metallic Pipelines* (March 10, 2007).⁴

The Commission seeks comment regarding the cathodic protection provisions proposed in Section 59.143, including the level of cathodic protection and the frequency of testing to determine the adequacy of cathodic protection. The Commission also seeks comment regarding the requirements for close interval surveys and interference currents at Section 59.143. Finally, the Commission welcomes comment regarding the need for any additional corrosion control measures.

⁴ NACE International was initially the National Association of Corrosion Engineers. NACE International and the Society for Protective Coatings are now the Association for Materials Protection and Performance.

CONCLUSION

For the reasons set forth above, the Commission commences the rulemaking process. The Commission seeks comments from all interested parties regarding the proposed regulations in the Annex to this Notice of Proposed Rulemaking as well as regarding the need for any additional provisions addressing hazardous liquid pipeline safety standards within the Commission's jurisdiction.

Accordingly, under Sections 501 and 1501 of the Public Utility Code, 66 Pa. C.S. §§ 501 and 1501; Sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, 45 P.S. §§ 1201-1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; Section 204(b) of the Commonwealth Attorneys Act, 71 P.S. § 732.204(b); Section 745.5 of the Regulatory Review Act, 71 P.S. § 745.5; and Section 612 of the Administrative Code of 1929, 71 P.S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231-7.234, we are considering adopting the proposed regulations set forth in Annexes A and B, attached hereto; **THEREFORE,**

IT IS ORDERED:

1. That a proposed rulemaking be opened to consider the regulations set forth in the Annex.
2. That the Law Bureau shall submit this Notice of Proposed Rulemaking Order and the Annex to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review for fiscal impact.
3. That the Law Bureau shall submit this Notice of Proposed Rulemaking Order and the Annex for review and comment to the Independent Regulatory Review Commission and Legislative Standing Committees.

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

5. That interested parties may submit written comments, via the Commission's electronic filing system, referencing Docket No. L-2019-3010267 within sixty (60) days from the date the Notice of Proposed Rulemaking Order is published in the *Pennsylvania Bulletin*, and reply comments thirty (30) days thereafter. Comments shall be filed consistent with the Commission's July 27, 2020 Secretarial Letter. *Modification to Filing and Service Requirements Emergency Order*, Docket No. M-2020-3019262 (Secretarial Letter issued July 27, 2020). Pursuant to this Secretarial Letter, all filings are to be made by e-filing or by electronic mail. This information can be found on the Commission's website at www.puc.pa.gov/filing-resources/efiling/.

6. That the Secretary shall serve this Notice of Proposed Rulemaking Order and Annex upon all jurisdictional hazardous liquids public utilities; the Office of Consumer Advocate; the Office of Small Business Advocate; and the Commission's Bureau of Investigation and Enforcement.

7. That a copy of this Order and Annex shall be posted on the Commission's website, www.pa.puc.gov, at the web page for *Pipeline Safety*.

8. The contact persons for this matter are Assistant Counsel Colin W. Scott, (717) 783-5949, colinscott@pa.gov; Hayley E. Dunn, (717) 214-9594, haydunn@pa.gov; Adam D. Young, (717) 787-4700, adyoung@pa.gov; Erin N. Tate, (717) 214-1956, etate@pa.gov; and Melanie J. El Atieh, (717) 783-2811, melatieh@pa.gov in the Commission's Law Bureau.

BY THE COMMISSION



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: July 15, 2021

ORDER ENTERED: July 15, 2021

ANNEX
TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
SUBPART C. FIXED SERVICE UTILITIES
CHAPTER 59. GAS SERVICE

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GAS SERVICE AND FACILITIES

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§ 59.33. Safety.

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- (b) *Safety code.* The minimum safety standards for all natural gas **[and hazardous liquid]** public utilities in this Commonwealth shall be those issued under the pipeline safety laws found in 49 U.S.C.A. §§ 60101—60503 and as implemented at 49 CFR Parts 191—193, **[195]** and 199, including all subsequent amendments thereto. Future Federal amendments to 49 CFR Parts 191—193, **[195]** and 199, as amended or modified by the Federal government, shall have the effect of amending or modifying the Commission’s regulations with regard to the minimum safety standards for all natural gas **[and hazardous liquid]** public utilities. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification may not take effect.
- (c) *[Definition.* For the purposes of this section, “**hazardous liquid public utility**” means a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transporting or conveying crude oil, gasoline, petroleum or petroleum products, by pipeline or conduit, for the public for compensation.] *Reserved.*

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HAZARDOUS LIQUID PUBLIC UTILITY SAFETY STANDARDS

§ 59.131. Purpose.

For hazardous liquid public utilities in the Commonwealth, under the HLPUSA, as implemented at 49 CFR Parts 195 and 199 (relating to transportation of hazardous liquids by pipeline; and to drug and alcohol testing), the Commonwealth, as a certified State participating in PHMSA's Federal hazardous liquid pipeline safety program, must adopt and enforce, as a minimum, all Federal pipeline safety standards at 49 CFR Part 195 and 199. As a certified State, the Commonwealth may also promulgate additional regulations for hazardous liquid pipeline safety that are more stringent than the PHMSA Federal regulations so long as the state regulations are compatible with the HLPUSA and the minimum safety standards in PHMSA's regulations.

The purpose of §§ 59.131—59.143 is to set forth safety standards for all hazardous liquid public utilities in the Commonwealth. These sections establish design and construction standards for hazardous liquids public utilities constructing new pipelines and converting, relocating, replacing, or otherwise changing existing pipelines, as well as accident reporting, other reporting, HDD and TT, pressure testing, operations and maintenance, qualification of pipeline personnel, land agent, and corrosion control standards for all hazardous liquids public utilities.

§ 59.132. Definitions.

The following words and terms, when used in §§ 59.131—59.143, have the following meanings, unless the context clearly indicates otherwise:

Affected public—residents and places of congregation (businesses, schools, and the like) along the pipeline and the associated right-of-way within 1,000 feet, or within the LFL, of a pipeline or pipeline facility, whichever is greater.

API RP 1130—API Recommended Practice 1130 – the term as defined in 49 CFR 195.3 (relating to document incorporated by reference partly or wholly).

API RP 1162—API Recommended Practice 1162 – the term as defined in 49 CFR 195.3.

As-called anomaly—in-line inspection predicted anomaly.

As-found anomaly—field measured anomaly.

CPM—Computational pipeline monitoring system—the term as defined in 49 CFR 195.2 (relating to definitions).

Covered task—the term as defined in 49 CFR 195.501 (relating to scope) but modifying that term to also include a construction task identified by a hazardous liquid public utility.

EFRDs—Emergency flow restricting device—the term as defined in 49 CFR 195.450 (relating to definitions).

Emergency responders—local fire, local police and local emergency medical services; county hazmat teams, Department of Emergency Services and 911 centers; and other emergency local, city, county or state officials or representatives.

Geotechnical hazard—a geological and environmental feature which may be caused by natural or human-induced conditions, involve long-term or short-term geological processes, and lead to widespread damage or risk.

Ground patrol—a method of non-aerial patrol that includes walking, driving, using a low-flying drone with sufficient optical resolution operated by a qualified drone operator with an altitude limit of 25 feet or other like non-aerial means of traversing a pipeline right-of-way.

Hazardous liquid—crude oil, gasoline, petroleum or petroleum products.

Hazardous liquid public utility—a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transporting or conveying crude oil, gasoline, petroleum or petroleum products, by pipeline or conduit, for the public for compensation.

HCA—High consequence areas—the term as defined in 49 CFR 195.450.

HDD—Horizontal directional drilling—a trenchless construction methodology for installing pipelines, conduits or cable utilizing drilling fluid, often pressurized, and consisting of a directionally controlled (e.g., steerable) pilot hole drilled along a predetermined path extending from grade at one end of drilled segment to grade at the opposite end; enlarging the pilot hole to a size which will accommodate a pipeline; pulling a pipeline/conduit into the enlarged hole; and a method accomplished using horizontal drilling rig.

HLP*SA*—Hazardous Liquids Pipeline Safety Act of 1979—Federal safety legislation governing the transportation of hazardous liquids by pipeline at 49 U.S.C.A. §§ 60101—60143, and as implemented at 49 CFR Part 195.

HVL—Highly volatile liquid—the term as defined in 49 CFR 195.2.

Land agent—a person who negotiates easements on behalf of a hazardous liquid public utility for use in connection with a pipeline.

LFL—Lower flammability limit—usually expressed in volume percent, the lower end of the concentration range over which flammable mixture of gas or vapor in air can be ignited at a given temperature and pressure; and the flammability range is delineated by the upper and lower flammability limits.

PHMSA—Pipeline and Hazardous Materials Safety Administration—the administration within the U.S. Department of Transportation responsible for the safe transportation of energy and other hazardous materials.

Pipe or line pipe—a tube that may be used or is used for the transportation of a hazardous liquid.

Pipeline—all parts of a pipeline facility through which a hazardous liquid moves in transportation, including, but not limited to, line pipe, valves and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.

Pipeline facility—new and existing pipe, rights-of-way, and any equipment, facility, or building used in the transportation of hazardous liquids.

Pipeline Safety Section—the section of the Safety Division within the Commission's Bureau of Investigation and Enforcement responsible for pipeline safety.

Public officials—elected local, city, county or state officials, and their staff, having land use and street or road jurisdiction along the pipeline route.

TT—Trenchless technology—a type of subsurface construction work that requires few trenches or no trenches which includes any trenchless construction methodology, including without limitation, horizontal direction drilling, guided auger bore, cradle bore,

conventional auger bore, jack bore/hammer bore, guided bores, and proprietary trenchless technology.

§ 59.133. General.

- (a) Minimum safety standards. The minimum safety standards for all hazardous liquid public utilities in this Commonwealth shall be those issued under the pipeline safety laws as found in 49 U.S.C.A. §§ 60101—60503 and as implemented at 49 CFR Parts 195 and 199, including all subsequent amendments thereto, unless otherwise specified herein. Future Federal amendments to 49 CFR Part 195 and 199, as amended or modified by the Federal government, shall have the effect of amending or modifying the Commission's regulations with regard to the minimum safety standards for hazardous liquid public utilities. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification may not take effect. If future Federal amendments to 49 CFR Part 195 and 199 have the effect of making a Federal PHMSA safety requirement more stringent than a like requirement under §§ 59.131-59.143, the more stringent Federal safety standard shall control.
- (b) Enforcement. A hazardous liquid public utility shall be subject to inspections by the Pipeline Safety Section as may be necessary to assure compliance with the minimum safety standards in subsection (a) and the safety standards in §§ 59.134-59.143. The facilities, books and records of a hazardous liquid public utility must be made accessible to the Pipeline Safety Section for the inspections upon request. A hazardous liquid public utility shall provide to the Pipeline Safety Section the reports, supplemental data and information as the Pipeline Safety Section may request in the administration and enforcement of §§ 59.134-59.143.
- (c) Records. A hazardous liquid public utility shall keep adequate records to demonstrate compliance with the minimum safety standards in subsection (a) and the safety standards in §§ 59.134-59.143. The records must be made accessible to the Pipeline Safety Section upon request.
- (d) Pipeline conversion.
- (1) A hazardous liquid public utility converting a pipeline from service not previously covered by this part must notify the Pipeline Safety Section no

later than 60 days before the conversion occurs. This paragraph shall apply to pipelines already designed for bi-directional flow.

- (2) In addition to the requirements set forth in 49 CFR 195.5 (relating to conversion to service subject to this part), a hazardous liquid public utility engaged in conversion, flow reversal or commodity change of pipelines subject to 49 CFR 195.5, shall adhere to *Pipeline Safety: Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service*, PHMSA Advisory Bulletin ADB-2014-04, Docket No. 2014-0040; 79 FR 56121-56122, and any updates thereto.

§ 59.134. Accident reporting.

- (a) Scope. This section establishes requirements for a hazardous liquid public utility reporting an accident.
- (b) Failure analysis reports. Following an accident that causes any of the results identified in 49 CFR 195.50 (relating to reporting accidents), a hazardous liquid public utility shall provide to the Pipeline Safety Section an unredacted failure analysis report based on laboratory testing within 120 days of an accident or within 10 days of the report completion, whichever comes first. The failure analysis must be conducted by a Pipeline Safety Section-approved independent third-party laboratory. If the report cannot be completed in the allotted time, the hazardous liquid public utility shall provide a status update to the Pipeline Safety Section every 14 days.
- (c) Root cause analysis reports. Following an accident that causes any of the results identified in 49 CFR 195.50, a hazardous liquid public utility shall provide to the Pipeline Safety Section a root cause analysis report within 120 days of the accident or within 10 days of report completion, whichever comes first. The root cause analysis must be conducted by a Pipeline Safety Section-approved independent third-party consultant. If the report cannot be completed in the allotted time, the hazardous liquid utility shall provide a status update to the Pipeline Safety Section every 14 days.
- (d) Process for obtaining approval of a third-party laboratory and consultant. This subsection establishes the process through which a hazardous liquid public utility obtains approval of a third-party laboratory and third-party consultant to conduct the analyses required by subparagraphs (b) and (c), respectively.

- (1) Upon receipt of an accident notification from the Pipeline Safety Section, a hazardous liquid public utility shall submit a recommendation to the Pipeline Safety Section regarding the third-party laboratory that will conduct the failure analysis and the third-party consultant that will conduct the root cause analysis with 20 days.
- (2) The Pipeline Safety Section will review the hazardous liquid public utility's recommendation and make a determination as to whether the third-party laboratory or third-party consultant:
 - (i) Are not affiliated with the hazardous liquid public utility.
 - (ii) Have not conducted work on behalf of the hazardous liquid public utility in the past five years that would potentially create a conflict of interest.
 - (iii) Are capable of performing the failure analysis and root cause analysis, respectively, using required equipment and industry best practices.
- (3) The Pipeline Safety Section will approve or disapprove the recommendation within 14 days of a hazardous liquid public utility's submission. If the recommendation is not approved or disapproved within 14 days, the hazardous liquid public utility's recommendation is presumed approved. If disapproved, the Pipeline Safety Section will describe in detail the reasons for disapproval. The Pipeline Safety Section will serve its determination on the hazardous liquid public utility.
- (4) The hazardous liquid public utility may respond to the disapproval within 5 days. The Pipeline Safety Section will approve or disapprove the recommendation within 14 days of the hazardous liquid public utility's response to the disapproval. The Pipeline Safety Section will serve its determination on the hazardous liquid public utility.
- (5) The hazardous liquid public utility may appeal the determination of the Pipeline Safety Section in accordance with § 5.44 (relating to petitions for reconsideration from actions of the staff). An appeal will not stay the requirements of subsection (d).

(e) Immediate notice of certain accidents. In addition to the requirement that a hazardous liquid public utility report accident information to the National Response Center under 49 CFR 195.52 (relating to immediate notice of certain accidents), at the earliest practicable moment following discovery of a release of the hazardous liquid transported resulting in an event described in 49 CFR 195.50, but no later than one hour after confirmed discovery, the hazardous liquid public utility shall report the accident to the Pipeline Safety Section and to emergency responders, providing the information listed in 49 CFR 195.52(b).

§ 59.135. Construction, operation and maintenance, and other reports.

(a) Scope. This section establishes requirements for a hazardous liquid public utility reporting construction, operation and maintenance, and other activities.

(b) Timeframe for notice. A hazardous liquid public utility shall notify the Pipeline Safety Section of the following:

- (1) Proposed major construction, major reconstruction, or major maintenance involving an expenditure in excess of \$300,000 or 10% of the cost of the pipe in service, whichever is less, 45 days prior to commencement.
- (2) Maintenance, verification digs, and assessments involving an expenditure in excess of \$50,000, and the unearthing of suspected leaks, dents, pipe ovality features, cracks, gouges or corrosion anomalies, or other suspected metal losses 10 days prior to commencement.
- (3) Any excavation damages, washouts, or unplanned replacements of any pipeline section or cut out immediately.
- (4) Any variation to the hazardous liquid public utility's established construction methodologies 30 days prior to commencement.
- (5) The introduction of a hazardous liquid 30 days prior to the introduction. This notice shall also be given to public officials.

(c) Content of notice generally. Notice provided to the Pipeline Safety Section under subsection (b)(1)-(3) must include the following information:

- (1) The hazardous liquid public utility's name.

- (2) Pipeline route.
- (3) Length of the pipeline.
- (4) The counties and municipalities traversed.
- (5) Estimated start and completion dates.
- (6) Pipeline identification information.
- (7) Any change in flow direction.
- (8) Commodity or product.

(d) Information to be provided upon request generally. Upon request, a hazardous liquid public utility shall provide the following information to the Pipeline Safety Section with its notice under subsection (b)(1)-(3):

- (1) Project information.
 - (i) A description of the work to be completed.
 - (ii) The location of the project, including counties, municipalities, and cross streets.
 - (iii) Contact information.
- (2) Pipe Specifications.
 - (i) Nominal outside diameter, D (inches).
 - (ii) Nominal wall thickness, t (inches).
 - (iii) Type and grade of pipe.
 - (iv) Manufacturers of steel and pipe.
 - (v) Longitudinal joint type.
 - (vi) Specified minimum yield strength, SMYS (psi).

- (vii) Nominal ultimate strength (psi).
 - (viii) Fracture toughness (minimum Charpy Energy in ft. lbs. at 20 degrees F for buried pipe and -20 degrees F for exposed pipe).
 - (ix) Mill test pressure (psi).
 - (x) A statement indicating whether pipe is new or used.
 - (xi) If used pipe is employed, a description of the inspection and reconditioning procedures utilized.
 - (xii) The physical and chemical specifications of pipe verified by outside laboratories.
- (3) *Operating Pressure and Stress.*
- (i) Maximum operating pressure, P (psi).
 - (ii) Calculated pipe stress (hoop stress) = $PD/2t$ (psi).
 - (iv) Ratio of pipe stress to SMYS (percent).
- (4) *Welding.*
- (i) Percentage of welds to be radiographed, by location.
 - (ii) The method for certifying the radiographic technician.
- (5) *Railroad, Road, and Water Crossings.*
- (i) The location of each pipe at a lake, river, stream, or creek crossing, and a description of special construction precautions to be followed.
 - (ii) Encroachments to railroads or roads, by location, and a description of special construction precautions to be followed.
 - (iii) The location of each pipe at a railroad and road crossing and a statement indicating whether each pipe is cased or uncased and

whether heavier wall carrier pipe is used. If a pipe is uncased, the notification must provide the reason.

(6) Valves.

- (i) Number and spacing of manual sectionalizing valves.
- (ii) The type, make, and location of any automatic valves.

(7) Minimum Cover and Clearance.

- (i) The location, nature of the problem, cover, and clearance, if the minimum prescribed cover and clearance cannot be maintained.
- (ii) Special precautions to be observed.

(8) Piping.

- (i) The type of field coating.
- (ii) The type of coating test.
- (iii) The type of cathodic protection system.

(9) Pressure and leakage tests.

- (i) Test pressure.
- (ii) Test medium.
- (iii) Test duration.
- (iv) The Length of the test section(s).

(10) Pipeline rights-of-way.

- (i) A statement indicating whether the necessary right-of-way has been maintained from each party having an interest in the right-of-way.

- (ii) A statement indicating whether formal approval and all necessary permits have been obtained from appropriate agencies.
- (e) Information to be provided upon request for assessments and verification digs involving an expenditure in excess of \$50,000 and the unearthing of suspected anomalies. Upon request, a hazardous liquid public utility shall provide the following information to the Pipeline Safety Section with their notice under subsection (b)(2) only as it pertains to assessments and verification digs involving an expenditure in excess of \$50,000, and the unearthing of the suspected anomalies identified in subsection (b)(2):
 - (1) Identification information for the pipeline to be assessed.
 - (2) The location range of the area to be assessed.
 - (3) A description of the assessment.
 - (4) Discovery method.
 - (5) The type and specification of any as-called and as-found anomaly, and the location of the anomaly with latitude and longitude coordinates.
 - (6) The estimated assessment start and completion dates and dig dates.

§ 59.136. Design requirements.

- (a) Scope. This section establishes requirements for hazardous liquid public utilities constructing new pipelines, and converting, relocating, replacing, or otherwise changing existing pipelines.
- (b) External loads. In addition to the external loads named in 49 CFR 195.110(a) (relating to external loads), a hazardous liquid public utility designing a pipeline shall account for anticipated external loads from landslides, sinkholes, subsidence, and other geotechnical hazards.

§ 59.137. Construction.

- (a) Scope. This section establishes requirements for hazardous liquid public utilities constructing new pipelines, and converting, relocating, replacing, or otherwise changing existing pipelines.

- (b) Pipeline location. In addition to the requirements of 49 CFR 195.210 (relating to pipeline location), no pipeline may be located under private dwellings, industrial buildings, and places of public assembly, including as follows and like locations: a location of assembly for civic, educational, religious, social or recreational purposes; a location provided by a common carrier for passengers awaiting transportation, or a location where persons are housed for medical or charitable care, or held for public, civic or correctional purposes.
- (c) Welding: Miter joints. Miter joints of any deflection are not permitted.
- (d) Welds: Nondestructive testing. A hazardous liquid public utility shall nondestructively test all girth welds. Nondestructive testing must be performed under 49 CFR 195.234(b) (relating to welds: nondestructive testing).
- (e) Cover over buried pipeline. In addition to the requirements of 49 CFR 195.248 (relating to cover over buried pipeline):
- (1) All pipe under active commercial farms that have been cultivated two or more of the past five years, as identified by the farmland owner or farmland operator, must be buried so that it is below the level of cultivation with at least 40 inches of cover. A hazardous liquid public utility shall verify and maintain the depth of cover for active commercial farms at least every three years.
 - (2) A hazardous liquid public utility shall specify the intervals at which to verify and maintain the depth over cover for all pipe.
- (f) Clearance between pipe and underground structures. A hazardous liquid public utility shall maintain a minimum of 12 inches of clearance between the outside of the pipe and the extremity of any other underground structure, including structures owned by the hazardous liquid public utility and foreign structures.
- (g) Valves for pipelines transporting HVLs.
- (1) A hazardous liquid public utility shall install EFRDs on a main line with lateral spacing not to exceed five miles.
 - (2) In addition to the requirements of 49 CFR 195.260 (relating to valves: location), a hazardous liquid public utility shall install valves based on a

pipeline's proximity to schools, churches, hospitals, daycares, nursing facilities, commercial facilities, industrial facilities, sport complexes and public parks within the outer most area of the LFL.

(3) A hazardous liquid public utility shall develop and maintain a risk-based plan to address valve spacing.

(h) Vehicle barriers. A hazardous liquid public utility shall install vehicle barriers at an above-ground valve station adjacent to a roadway. The vehicle barriers must be designed and constructed to protect the above-ground valve station from the largest types of vehicles.

§ 59.138. Horizontal directional drilling and trenchless technology, or direct buried methodologies.

(a) Scope. This section establishes requirements for hazardous liquid public utilities using HDD, TT, or direct buried methodologies for constructing new pipelines, and converting, relocating, replacing, or otherwise changing existing pipelines (the foregoing terms individually or in the aggregate shall constitute the term "construction" for purposes of this section), or in the operation and maintenance ("O&M") of pipelines.

(b) Notification. A hazardous liquid public utility shall notify the Pipeline Safety Section and the affected public at least 30 days prior to commencement of drilling, and again 24 hours prior to the commencement of HDD, TT, or direct buried construction or O&M activities.

(c) Geological and environmental impacts. For a pipeline with a bore diameter eight inches or greater, a bore depth greater than 10 feet, or pipeline length greater than 250 feet, a hazardous liquid public utility using HDD or TT methodology shall:

(1) Consider geological and environmental impacts and comply with all Pennsylvania Department of Environmental Protection Trenchless Technology Technical Guidance and subsequent updates thereto.

(2) Conduct a geotechnical evaluation of subsurface conditions along a pipeline facility at a minimum of every 250 feet using seismic, gravitational and electrical resistivity techniques with results of high resolution.

- (3) Conduct geological sampling at the locations where suspected anomalous conditions are identified through geophysics and conduct post-construction geophysics within 30 days of pipeline installation using the techniques in paragraph (2).
- (4) Maintain the integrity of affected pipeline facilities and take actions to mitigate risk including:

 - (i) Beginning mitigation of all adverse impacts as soon as practicable, but no later than 30 days after the identification of the impact if anomalous conditions are found.
 - (ii) Performing pipeline shut in or pressure reductions.
 - (iii) Following 49 CFR Part 195.55 (relating to reporting safety-related conditions) and applicable state laws and regulations.
- (5) Provide the Pipeline Safety Section with the following upon request:

 - (i) HDD design plans reviewed and sealed by a licensed Pennsylvania professional engineer and professional geologist, including:

 - (A) The exact location and a general area map.
 - (B) A description of the project, including the pipeline identification information, size and grade.
 - (C) The total project cost.
 - (D) The estimated start and completion date.
 - (ii) Proof of required notifications.
 - (iii) Geotechnical sampling, at a minimum, every 500 feet.
 - (iv) Geotechnical report.
- (d) Protection of water wells and supplies. For HDD or TT construction or O&M activities near a private water supply source, a public water supply source, or both, such as a well or a reservoir, a hazardous liquid public utility shall:

- (1) Comply with relevant regulations of the Pennsylvania Department of Environmental Protection, including but not limited to 25 Pa. Code § 78a.68a (relating to horizontal directional drilling for oil and gas pipelines), 25 Pa. Code Chapter 102 (relating to erosion and sediment control), 25 Pa. Code Chapter 105 (relating to dam safety and waterway management), and 25 Pa. Code Chapter 109 (relating to safe drinking water), and comply with Pennsylvania Department of Environmental Protection Trenchless Technology Technical Guidance and subsequent updates thereto.
 - (2) Identify public and private water supply wells within 1/2 mile of HDD or TT construction or O&M activities, surface water intakes within one mile downstream, and water supplies deemed at potential risk due to geological structures.
 - (3) Identify public and private water supply owners within 1,000 feet of HDD or TT construction or O&M activities.
 - (4) Notify owners of a water supply identified in paragraph (3) prior to HDD or TT construction or O&M activities and provide them with an opportunity to have their water supplies tested before, during and after HDD or TT construction or O&M activities.
- (e) *Adverse impacts to water wells and supplies.* In the event that a hazardous liquid public utility's HDD, TT, or direct buried construction or O&M activities cause adverse impacts to a private water supply source, a public water supply source, or both, the hazardous liquid public utility shall:
- (1) Comply with all relevant regulations of the Pennsylvania Department of Environmental Protection, including but not limited to 25 Pa. Code § 78a.68a, 25 Pa. Code Chapter 102, 25 Pa. Code Chapter 105, and 25 Pa. Code Chapter 109, and comply with all Pennsylvania Department of Environmental Protection Trenchless Technology Technical Guidance and subsequent updates thereto.
 - (2) Notify the Pipeline Safety Section, Pennsylvania Department of Environmental Protection and affected water supply owners immediately, but not to exceed 24 hours.

- (3) Supply affected private or public water supply owners with alternative clean water sources immediately, but not to exceed 24 hours.
- (4) Implement corrective action under Pennsylvania Department of Environmental Protection regulations that addresses the impacts caused by the HDD, TT, or direct buried construction or O&M activities, including restoration or water supply replacement.
- (f) Records. A hazardous liquid public utility shall maintain records documenting compliance with the requirement of this section. The records must be made accessible to the Pipeline Safety Section upon request. A hazardous liquid public utility shall retain the records for the life of the pipeline.

§ 59.139. Pressure testing.

- (a) Scope. This section establishes requirements for a hazardous liquid public utility conducting pressure testing.
- (b) Hydrostatic testing and reassessment generally.
 - (1) Pipelines installed before 1970, must be hydrostatically tested under 49 CFR 195.304 (relating to test pressure) every 10 years and must be assessed using appropriate in-line inspection tools at least every two years. In-line inspection tools must be chosen to detect system-specific threats. A hazardous liquid public utility shall use alternating in-line inspection technologies meeting industry best practices, such as deformation, magnetic-flux leakage, ultrasonic testing and electromagnetic acoustic transducer, to monitor pipeline-specific threats.
 - (2) Pipelines installed after 1970, must be hydrostatically tested under 49 CFR 195.304 at least every three years.
 - (3) A pipeline that has been placed back in service after a leak has been repaired must be reassessed using in-line inspection at least every year until six years pass without another leak.
- (c) Hydrostatic testing in HCAs. A new pipeline, a converted, relocated, replaced, or otherwise changed existing pipeline, or a reactivated segment of pipeline must be hydrostatically tested and reassessed using in-line inspection under subsection (b) to substantiate the current or proposed maximum operating pressure. A pipeline,

or segment thereof, for which the maximum operating pressure is to be increased must be hydrostatically tested under subsection (b).

- (d) Notification. At least five business days prior to starting a test, a hazardous liquid public utility shall notify the Pipeline Safety Section of the scheduled testing. In order to maintain continuity of service during emergencies, shorter notice is permissible. A hazardous liquid public utility shall also notify the public officials wherein the test is to be conducted.
- (e) Records. A hazardous liquid public utility shall maintain records documenting compliance with the requirement of this section. The records must be made accessible to the Pipeline Safety Section upon request. A hazardous liquid public utility shall retain the records for the life of the pipeline.

§ 59.140. Operation and maintenance.

- (a) Scope. This section establishes requirements for a hazardous liquid public utility operating and maintaining a pipeline.
- (b) Emergency procedures manual and activities. A hazardous liquid public utility shall establish and maintain liaison with emergency responders and shall consult with them in developing and updating an emergency procedures manual addressing the following:
- (1) Reasonable and practicable steps to inform emergency responders of the practices and procedures to be followed to provide them with relevant information, including information regarding the product in the pipeline and the associated risk, consistent with the hazardous liquid public utility's emergency procedures manual.
 - (2) The development of a continuing education program for emergency responders and the affected public to inform them of the location of the pipeline, potential emergency situations involving the pipeline and the safety procedures to be followed in the event of an emergency.
 - (3) Table-top drills to be conducted twice a year and a response drill conducted annually by the hazardous liquid public utility to simulate a pipeline emergency. The table-top drills and response drills must be conducted on different pipelines and products and in each geographic area where the hazardous liquid public utility's pipelines are located.

(c) Liaison activities with emergency responders. A hazardous liquid public utility shall communicate and conduct liaison activities at least twice a year with emergency responders. The liaison activities are those required by 49 CFR 195.402(c)(12) (relating to procedural manual for operations, maintenance, and emergencies). Liaison activities must be conducted in person, except as provided by paragraph (2).

(1) Meetings in person. When a hazardous liquid public utility makes contact with the emergency responders and schedules a meeting in person, no further attempts to make contact under this paragraph are required. If a scheduled meeting does not take place, the hazardous liquid public utility shall make an effort to reschedule the meeting in person using at least one of the methods in this paragraph before arranging liaison activities under paragraph (2).

(i) Mailing a written request for a meeting in person to the emergency responders by certified mail, return receipt requested.

(ii) Making at least one telephone call, facsimile transmission or e-mail message transmission to the emergency responders to request a meeting in person.

(2) Alternative methods. A hazardous liquid public utility may conduct required liaison activities by the following alternative methods only if the hazardous liquid public utility has completed at least one of the steps in paragraph (1) to conduct a community liaison meeting in person with the emergency responders. If a hazardous liquid public utility cannot arrange a meeting in person after complying with paragraph (1), the hazardous liquid public utility shall conduct liaison activities by:

(i) Holding a telephone conference with the emergency responders.

(ii) Delivering the liaison information required to be conveyed by certified mail, return receipt requested.

(3) Hazard assessment zone analysis. A hazardous liquid public utility shall conduct an annual hazard assessment zone analysis and present its findings to emergency responders that have executed a nondisclosure agreement within 60 days of completion of the analysis.

(4) Records of liaison activities with emergency responders. A hazardous liquid public utility shall maintain records documenting compliance with this subsection. Records must be retained for seven years from the date of the event commemorated by the record.

(d) Liaison activities with school administrators when a school building or facility is located within 1,000 feet, or within the LFL, of a pipeline or pipeline facility, whichever is greater. A hazardous liquid public utility shall comply with this section when a school building containing classrooms or any other school facility where students congregate is located within 1,000 feet, or within the LFL, of a pipeline or pipeline facility.

(1) Maintaining records. For a school building containing classrooms or school facility where students congregate located within 1,000 feet, or within the LFL, of a pipeline or pipeline facility, whichever is greater, a hazardous liquid public utility shall maintain and, upon request, provide the Pipeline Safety Section, with the following information:

(i) The name of the school and the contact information for the school administrators.

(ii) The street address of the school building or facility.

(iii) Pipeline identification information.

(2) Furnishing records. A hazardous liquid public utility shall, upon written request from a school administrator with a school building or facility where students congregate within 1,000 feet, or within the LFL, of a pipeline or pipeline facility, whichever is greater, provide in writing the following parts of a pipeline emergency response plan that are relevant to the school:

(i) A description of the pipeline or pipeline facilities.

(ii) A list of any product transported in the segment of the pipeline.

(iii) Emergency contact information.

(iv) Information regarding the Commonwealth's One Call system.

- (v) Information regarding how to recognize, report and respond to a product release.
- (3) School administrator meetings. A hazardous liquid public utility subject to paragraph (2) or shall appear at a regularly scheduled meeting of school administrators, upon request by the school administration, to explain the items listed in subparagraph (1).
- (4) Records. A hazardous liquid public utility shall retain records documenting compliance with this subsection for seven years from the date of the event that is commemorated by the record.
- (e) Public awareness communication requirements beyond API RP 1162. The requirements of this subsection apply to the affected public, emergency responders and public officials within the LFL of a pipeline.

 - (1) Baseline messages. A hazardous liquid public utility shall provide baseline messages, as prescribed in Table 2-1 of API RP 1162:

 - (i) To the affected public at least twice a year, with additional frequency and supplemental efforts as determined by specifics of the pipeline segment or environment under Section 6 of API RP 1162.
 - (ii) To emergency responders at least twice a year, with additional frequency and supplemental efforts as determined by specifics of the pipeline segment or environment under Section 6 of API RP 1162.
 - (iii) To public officials annually with additional frequency and supplemental efforts as determined by specifics of the pipeline segment or environment under Section 6 of API RP 1162.
 - (2) Meetings. A hazardous liquid public utility shall:

 - (i) Hold at least one open house or group meeting annually whereby the affected public can receive information or an overview as part of the hazardous liquid public utility's Supplemental Activities for the Affected Public, as prescribed in Table 2-1 of API RP 1162.
 - (ii) Meet with emergency responders once per quarter to discuss emergency response as part of the hazardous liquid public utility's

Baseline Activities for Emergency Officials, as prescribed in Table 2-1 of API RP 1162.

- (iii) Meet with public officials annually, upon request.
- (3) Updates. A hazardous liquid public utility shall evaluate its written continuing public education program annually. An update to a program must be provided to the Pipeline Safety Section for review for compliance with 49 CFR 195.440.
- (f) Line markers. In addition to the requirements set forth in 49 CFR 195.410 (relating to line markers) a hazardous liquid public utility shall place line markers for buried and above-ground pipelines as follows:

 - (1) Along a pipeline's right-of-way in such a manner that two line markers, one in each direction, are visible at any point while standing at ground level at the pipeline, except in a heavily developed urban areas where the placement of the markers is impractical. In a heavily developed urban environment, the hazardous liquid public utility shall use low-profile markers.
 - (2) At either side of a water crossing.
 - (3) At all above-ground pipeline appurtenances.
- (g) Inspection of pipeline rights-of-way. In addition to the requirements of 49 CFR 195.412 (relating to inspection of rights-of-way and crossings under navigable waters), a hazardous liquid public utility shall inspect pipeline facilities in non-HCAs using ground patrol at least twice a year, not to exceed every 6 1/2 months, and in HCAs using ground patrol at least four times a year, not to exceed every 3 1/2 months. The ground patrol shall include inspection along the right-of-way to ascertain surface conditions on or adjacent to the right-of-way. The ground patrol path must not exceed lateral distance of 25 feet from the center of the right-of-way.
- (h) Leak detection and odorization. In addition to the requirements of 49 CFR 195.444 (relating to CPM leak detection), a leak detection system must be designed as a robust, Real Time Transient Model, under API RP 1130, capable of identifying small leaks. A CPM system must be designed with high sensitivity to commodity releases. Implementation must be prioritized as set forth in

subparagraphs (1)-(4). If these requirements cannot be met within five years, a hazardous liquid public utility shall odorize all HVL pipelines.

(1) Pre-1970 HVL pipelines.

(2) Post-1970 HVL pipelines

(3) Pre-1970 pipelines.

(4) Post-1970 pipelines.

(i) EFRDs in HCAs. In addition to the requirements of 49 C.F.R. § 195.452, a hazardous liquid public utility shall determine the need for remote controlled EFRDs in consultation with public officials in all HCAs. The need for emergency flow restriction devices in HCAs must be based on limiting the LFL to 660 feet on either side of a pipeline.

§ 59.141. Qualification of pipeline personnel.

(a) Scope. This section establishes requirements for a hazardous liquid public utility to qualify an individual that performs covered tasks, as defined in § 59.132 (relating to definitions) to include construction tasks, on a pipeline facility.

(b) Qualification program. In addition to the provisions of a written qualification program as required in 49 CFR 195.505 (relating to qualification program), a qualification program must include:

(1) The adoption of the provisions for a written qualification program, as required in 49 CFR 195.505, for construction tasks.

(2) A process that trains an individual qualified, as defined in 49 CFR 195.503 (relating to definitions), to identify and react to facility specific abnormal operating conditions.

(3) Requalification intervals for each covered task. A hazardous liquid public utility shall requalify an individual for each covered task at intervals not exceeding those required by the hazardous liquid public utility's qualification program. Requalification must include training and evaluation for a hazardous liquid public utility employee or contractor

using the same company procedures and equipment required for initial qualification.

- (c) Records. In addition to the provisions of recordkeeping as required by 49 CFR 195.507 (relating to recordkeeping), a hazardous liquid public utility shall maintain qualification records as required in 49 CFR 195.507 for construction tasks. A hazardous liquid public utility shall provide qualification records of an individual performing covered tasks, as described in 49 CFR 195.507, to the Pipeline Safety Section upon request.

§ 59.142. Land Agents

A land agent employed or contracted by a hazardous liquid public utility must hold a valid Pennsylvania professional license in one of the following fields: attorney, real estate salesperson, real estate broker, professional engineer, professional land surveyor or professional geologist. A land agent's Pennsylvania professional license must be in good standing during the performance of the land agent work or services on behalf of the hazardous liquid public utility.

§ 59.143. Corrosion control.

- (a) Scope. This section establishes requirements for hazardous liquid public utilities protecting pipelines against corrosion.
- (b) Procedures. A hazardous liquid public utility shall have written procedures for the design, installation, operation, and maintenance of cathodic protection systems. The procedures must be specific and written for each cathodic protection test, survey, and inspection and must be carried out by, or under the direction of, a person qualified in pipeline corrosion control methods. A hazardous liquid public utility shall determine and document the average and the worst-case corrosion rate experienced for each pipeline segment.
- (c) Criteria for cathodic protection. Each cathodic protection system must provide a level of cathodic protection over the entire pipeline that complies with at least one of the following:
- (1) A negative (cathodic) potential of at least 850mV with voltage drops removed from all current sources in the pipe to soil measurement. This potential is measured with respect to a saturated copper/copper sulfate reference electrode contacting the electrolyte.

- (2) A negative polarized potential of at least 850mV relative to a saturated copper/copper sulfate reference electrode.
- (3) A minimum of 100mV of cathodic polarization between the structure surface and a stable reference electrode contacting the electrolyte. The formation or decay of polarization to satisfy this criterion and the length of time with current sources off must be based upon measured soil resistivities. The length of time must not allow exposure of an area of the pipeline and other foreign pipelines to the detrimental effects of corrosion.
- (d) Adequacy of cathodic protection. A hazardous liquid public utility shall test a cathodically-protected pipeline at the corrosion test station to determine the adequacy of cathodic protection as follows:
- (1) Each pipeline must be tested at least once each calendar year, with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of subsection (c). Each impressed current ground bed must be tested as part of this monitoring.
- (2) Each pipeline transporting HVLs must be tested at least twice each calendar year, but with intervals not exceeding seven and 1/2 months, to determine whether the cathodic protection meets the requirements of subsection (c). Each impressed current ground bed must be tested as part of this monitoring.
- (3) Each cathodic protection rectifier must be inspected once each calendar month but with intervals not exceeding 37 days, to ensure that it is operating properly. Remote monitoring devices are permissible to accomplish monitoring; however, physical inspection of the facilities must occur at least six times per calendar year, in alternating calendar months, to verify the integrity of the impressed current system.
- (4) Each reverse current switch, each diode, and each interference bond whose failure could jeopardize structure protection on a pipeline transporting HVLs must be electrically checked for proper performance 12 times each calendar year, with intervals not exceeding 37 days.
- (5) A hazardous liquid public utility shall initiate actions to start remedial measures within 14 days upon discovery to correct any deficiencies

indicated by the monitoring. At no point shall the completion of the remedial measures exceed the next scheduled inspection.

(e) Close Interval Surveys. A hazardous liquid public utility shall conduct close internal surveys, including paved surfaces, every three years not to exceed 39 months. A hazardous liquid public utility shall use close interval potential surveys or close interval depolarization surveys. The method used shall determine the adequacy of cathodic protection over the entire pipeline. A hazardous liquid public utility shall comply with NACE International Standard Practice 0207-2007, Performing Close-Interval Potential Surveys and DC Surface Potential Gradient Surveys on Buried or Submerged Metallic Pipelines (March 10, 2007).

(f) Interference currents.

(1) A hazardous liquid public utility shall have a written continuing program to minimize the detrimental effects of stray currents from foreign pipelines, railways, mining operations or other direct current sources. The program must include provisions for adequately documenting actions and activities for mitigating interference currents.

(2) Each impressed current system shall be designed and installed to minimize detrimental effects to foreign pipelines and other underground metallic structures.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

January 25, 2022

Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg Pa 17101

Re: PA PUC Docket No. L-2020-3010267; Fiscal Note No. 57-335
Notice of Proposed Rulemaking (NOPR) to Provide Hazardous Liquid Public Utility
Safety Standards; 52 Pa. Code Chapter 59

Via email: Steve Hoffman, shoffman@irrc.state.pa.us

Good Day:

Pursuant to Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Pennsylvania Public Utility Commission (PA PUC) is submitting a copy of the captioned Notice of Proposed Rulemaking (NOPR) and supporting documents to the Majority and Minority Chairs of the Senate Committee on Consumer Protection and Professional Licensure, the Majority and Minority Chairs of the House Consumer Affairs Committee for review, the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and the Independent Regulatory Review Commission.

The PA PUC entered this NOPR on July 15, 2021, at PA PUC Docket No. L-2020-3017284.¹ The proposed rulemaking would amend and enhance Chapter 59 of Title 52 of the Pennsylvania Code (relating to gas service) to comprehensively regulate the design, construction, operations, and maintenance of public utilities transporting petroleum products and other hazardous liquids under the jurisdiction of the PA PUC. The Office of the Attorney General and the Governor's Budget Office have signed off on the NOPR.

The PA PUC appreciates the opportunity to deliver these materials electronically.

Very truly yours,

/s/ Renardo L. Hicks

Renardo L. Hicks
Chief Counsel

¹ The proposed rulemaking was subsequently revised by Errata Order entered on August 18, 2021, to correct the numbering of the sections in the Order entered on July 15, 2021, and the Annex. The operative entered date of the proposed rulemaking remains July 15, 2021.

Enclosures:

Order (Preamble)
Annex A
Regulatory Analysis Form
Fiscal Note
Face Sheet
Executive Summary

Transmittals with enclosures also to:

The Honorable Lisa Boscola
The Honorable Jim Marshall
The Honorable Robert Matzie
The Honorable Robert Tomlinson
Pennsylvania Bulletin/Legislative Reference Bureau

cc: Renardo L. Hicks, PA PUC Chief Counsel
Kriss Brown, PA PUC, Deputy Chief Counsel
Hayley Dunn, PA PUC Assistant Counsel
Melanie El Atieh, PA PUC Assistant Counsel
Colin Scott, PA PUC Assistant Counsel
Erin Tate, PA PUC Assistant Counsel
Adam Young, PA PUC Assistant Counsel
June Perry, PA PUC Director Legislative Affairs
Louise Fink Smith, PA PUC Assistant Counsel
Karen Thorne, PA PUC Regulatory Review Assistant

Stephen Hoffman

From: Blauch, Tammy <tblauch@pasen.gov>
Sent: Tuesday, January 25, 2022 2:40 PM
To: Thorne, Karen
Subject: RE: Hazardous Liquid Public Utility Safety Standards, 52 Pa. Code Chapter 59 (Sections 59.33-59.131-143); PUC Docket No. L-2019-3010267; Fiscal No. 57-33

Thank you. We have received your email.

Tammy Blauch

Executive Secretary
Office of Senator Robert M. Tomlinson
Room 286 Main Capitol Building
Harrisburg, PA 17120
(717)-787-5072
Fax: (717)772-2991
tblauch@pasen.gov

RECEIVED

JAN 25 2022

**Independent Regulatory
Review Commission**

From: Thorne, Karen <kathorne@pa.gov>
Sent: Tuesday, January 25, 2022 2:21 PM
To: Blauch, Tammy <tblauch@pasen.gov>
Cc: Hicks, Renardo <rehicks@pa.gov>; Brown, Kriss <kribrown@pa.gov>; Dunn, Hayley <haydunn@pa.gov>; El Atieh, Melanie <melatieh@pa.gov>; Scott, Colin <colinscott@pa.gov>; Tate, Erin <etate@pa.gov>; Young, Adam <adyoung@pa.gov>; Perry, June <JUPERRY@pa.gov>; Fink Smith, Louise <finksmith@pa.gov>
Subject: Hazardous Liquid Public Utility Safety Standards, 52 Pa. Code Chapter 59 (Sections 59.33-59.131-143); PUC Docket No. L-2019-3010267; Fiscal No. 57-33

Ⓢ CAUTION : External Email Ⓢ

Ms. Blauch on behalf of The Honorable Robert Tomlinson:

Attached is a zip file packet for the Notice of Proposed Rulemaking to Provide Hazardous Liquid Public Utility Safety Standards; 52 Pa. Code Chapter 59, for review by the Senate Committee on Consumer Protection and Professional Licensure. The Pennsylvania Public Utility Commission (PA PUC) entered this proposed rulemaking on July 15, 2021, at PA PUC Docket No. L-2020-3010267. The Fiscal Note Number is: 57-335. The cover letter for the delivery is attached above and pasted below.

Please let us know if you have any questions.

Please let us know that your office has received this transmittal as we must provide proof of delivery to IRRC.

Thank you,

Karen Thorne, RRA
PA PUC Law Bureau
kathorne@pa.gov
Ph: 717-772-4597

January 25, 2022

The Honorable Robert Tomlinson
Majority Chair, Senate Committee on Consumer Protection and Professional Licensure
286 Main Capitol, Senate Box 203006
Harrisburg, PA 17120-3018

Re: PA PUC Docket No. L-2020-3010267; Fiscal Note No. 57-335
Notice of Proposed Rulemaking (NOPR) to Provide Hazardous Liquid Public Utility Safety Standards;
52 Pa. Code Chapter 59

Via email: Tammy Blauch at tblauch@pasen.gov

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The PA PUC appreciates the opportunity to deliver these materials electronically.

Very truly yours,

/s/ Renardo L. Hicks

Renardo L. Hicks
Chief Counsel

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The Honorable Lisa Boscola

The Honorable Jim Marshall
The Honorable Robert Matzie
Pennsylvania Bulletin/Legislative Reference Bureau
Independent Regulatory Review Commission, with delivery receipts from other addressees

cc: Renardo L. Hicks, PA PUC Chief Counsel
Kriss Brown, PA PUC, Deputy Chief Counsel
Hayley Dunn, PA PUC Assistant Counsel
Melanie El Atieh, PA PUC Assistant Counsel
Colin Scott, PA PUC Assistant Counsel
Erin Tate, PA PUC Assistant Counsel
Adam Young, PA PUC Assistant Counsel
June Perry, PA PUC Director Legislative Affairs
Louise Fink Smith, PA PUC Assistant Counsel
Karen Thorne, PA PUC Regulatory Review Assistant

¹¹ The proposed rulemaking was subsequently revised by Errata Order entered on August 18, 2021, to correct the numbering of the sections in the Order entered on July 15, 2021, and the Annex. The operative entered date of the proposed rulemaking remains July 15, 2021.

Stephen Hoffman

From: Livingston, Jerry <Jerry.Livingston@pasenate.com>
Sent: Tuesday, January 25, 2022 2:09 PM
To: Thorne, Karen
Subject: RE: Hazardous Liquid Public Utility Safety Standards, 52 Pa. Code Chapter 59 (Sections 59.33-59.131-143); PUC Docket No. L-2019-3010267; Fiscal No. 57-33

Received thank you.

From: Thorne, Karen <kathorne@pa.gov>
Sent: Tuesday, January 25, 2022 2:04 PM
To: Livingston, Jerry <Jerry.Livingston@pasenate.com>
Cc: Hicks, Renardo <rehicks@pa.gov>; Brown, Kriss <kribrown@pa.gov>; Dunn, Hayley <haydunn@pa.gov>; El Atieh, Melanie <melatieh@pa.gov>; Scott, Colin <colinscott@pa.gov>; Tate, Erin <etate@pa.gov>; Young, Adam <adyoung@pa.gov>; Perry, June <JUPERRY@pa.gov>; Fink Smith, Louise <finksmith@pa.gov>
Subject: Hazardous Liquid Public Utility Safety Standards, 52 Pa. Code Chapter 59 (Sections 59.33-59.131-143); PUC Docket No. L-2019-3010267; Fiscal No. 57-33

■ EXTERNAL EMAIL ■

Mr. Livingston on behalf of The Honorable Lisa Boscola:

Attached is a zip file packet for the Notice of Proposed Rulemaking to Provide Hazardous Liquid Public Utility Safety Standards; 52 Pa. Code Chapter 59, for review by the Senate Committee on Consumer Protection and Professional Licensure. The Pennsylvania Public Utility Commission (PA PUC) entered this proposed rulemaking on July 15, 2021, at PA PUC Docket No. L-2020-3010267. The Fiscal Note Number is: 57-335. The cover letter for the delivery is attached above and pasted below.

Please let us know if you have any questions.

Please let us know that your office has received this transmittal as we must provide proof of delivery to IRRC.

Thank you,

Karen Thorne, RRA
PA PUC Law Bureau
kathorne@pa.gov
Ph: 717-772-4597

RECEIVED

JAN 25 2022

**Independent Regulatory
Review Commission**

January 25, 2022

The Honorable Lisa Boscola
Minority Chair, Senate Committee on Consumer Protection and Professional Licensure
458 Main Capitol, Senate Box 203018
Harrisburg, PA 17120-3018

Re: PA PUC Docket No. L-2020-3010267; Fiscal Note No. 57-335
Notice of Proposed Rulemaking (NOPR) to Provide Hazardous Liquid Public Utility Safety Standards;
52 Pa. Code Chapter 59

Via email: J.J. Livingston at jerry.livingston@pasenate.com

Good Day:

Pursuant to Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Pennsylvania Public Utility Commission (PA PUC) is submitting a copy of the captioned Notice of Proposed Rulemaking (NOPR) and supporting documents to the Majority and Minority Chairs of the Senate Committee on Consumer Protection and Professional Licensure, the Majority and Minority Chairs of the House Consumer Affairs Committee for review, the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and the Independent Regulatory Review Commission.

The PA PUC entered this NOPR on July 15, 2021, at PA PUC Docket No. L-2020-3017284.^[1] The proposed rulemaking would amend and enhance Chapter 59 of Title 52 of the Pennsylvania Code (relating to gas service) to comprehensively regulate the design, construction, operations, and maintenance of public utilities transporting petroleum products and other hazardous liquids under the jurisdiction of the PA PUC. The Office of the Attorney General and the Governor's Budget Office have signed off on the NOPR.

The PA PUC appreciates the opportunity to deliver these materials electronically.

Very truly yours,

/s/ Renardo L. Hicks

Renardo L. Hicks
Chief Counsel

Enclosures:

Order (Preamble)
Annex A
Regulatory Analysis Form
Fiscal Note
Face Sheet
Executive Summary

Transmittals with enclosures also to:

The Honorable Robert Tomlinson
The Honorable Jim Marshall
The Honorable Robert Matzie
Pennsylvania Bulletin/Legislative Reference Bureau
Independent Regulatory Review Commission, with delivery receipts from other addressees

cc: Renardo L. Hicks, PA PUC Chief Counsel
Kriss Brown, PA PUC, Deputy Chief Counsel
Hayley Dunn, PA PUC Assistant Counsel
Melanie El Atieh, PA PUC Assistant Counsel
Colin Scott, PA PUC Assistant Counsel

Erin Tate, PA PUC Assistant Counsel
Adam Young, PA PUC Assistant Counsel
June Perry, PA PUC Director Legislative Affairs
Louise Fink Smith, PA PUC Assistant Counsel
Karen Thorne, PA PUC Regulatory Review Assistant

This message and any attachment may contain privileged or confidential information intended solely for the use of the person to whom it is addressed. If the reader is not the intended recipient then be advised that forwarding, communicating, disseminating, copying or using this message or its attachments is strictly prohibited. If you receive this message in error, please notify the sender immediately and delete the information without saving any copies.

^[1] The proposed rulemaking was subsequently revised by Errata Order entered on August 18, 2021, to correct the numbering of the sections in the Order entered on July 15, 2021, and the Annex. The operative entered date of the proposed rulemaking remains July 15, 2021.

Stephen Hoffman

From: Nancy Lane <Nlane@pahousegop.com>
Sent: Tuesday, January 25, 2022 2:18 PM
To: Thorne, Karen
Subject: RE: Hazardous Liquid Public Utility Safety Standards, 52 Pa. Code Chapter 59 (Sections 59.33-59.131-143); PUC Docket No. L-2019-3010267; Fiscal No. 57-33

Received. Thank you.

Nancy S. Lane
Legislative Administrative Assistant to
Jim Marshall, Majority Chairman
Consumer Affairs Committee
Room 105 Ryan Office Building
Email: nlane@pahousegop.com
Phone (717) 260-6432
Fax: 717-782-2918

RECEIVED

JAN 25 2022

**Independent Regulatory
Review Commission**

From: Thorne, Karen <kathorne@pa.gov>
Sent: Tuesday, January 25, 2022 2:13 PM
To: Nancy Lane <Nlane@pahousegop.com>
Cc: Hicks, Renardo <rehicks@pa.gov>; Brown, Kriss <kribrown@pa.gov>; Dunn, Hayley <haydunn@pa.gov>; El Atieh, Melanie <melatieh@pa.gov>; Scott, Colin <colinscott@pa.gov>; Tate, Erin <etate@pa.gov>; Young, Adam <adyoung@pa.gov>; Perry, June <JUPERRY@pa.gov>; Fink Smith, Louise <finksmith@pa.gov>
Subject: Hazardous Liquid Public Utility Safety Standards, 52 Pa. Code Chapter 59 (Sections 59.33-59.131-143); PUC Docket No. L-2019-3010267; Fiscal No. 57-33

Ms. Lane on behalf of The Honorable Jim Marshall:

Attached is a zip file packet for the Notice of Proposed Rulemaking to Provide Hazardous Liquid Public Utility Safety Standards; 52 Pa. Code Chapter 59, for review by the Senate Committee on Consumer Protection and Professional Licensure. The Pennsylvania Public Utility Commission (PA PUC) entered this proposed rulemaking on July 15, 2021, at PA PUC Docket No. L-2020-3010267. The Fiscal Note Number is: 57-335. The cover letter for the delivery is attached above and pasted below.

Please let us know if you have any questions.

Please let us know that your office has received this transmittal as we must provide proof of delivery to IRRC.

Thank you,

Karen Thorne, RRA
PA PUC Law Bureau

kathorne@pa.gov

Ph: 717-772-4597

January 25, 2022

The Honorable Jim Marshall
Majority Chair, House Committee on Consumer Affairs
105 Ryan Office Building, Senate Box 202014
Harrisburg, PA 17120-3018

Re: PA PUC Docket No. L-2020-3010267; Fiscal Note No. 57-335
Notice of Proposed Rulemaking (NOPR) to Provide Hazardous Liquid Public Utility Safety Standards;
52 Pa. Code Chapter 59

Via email: Nancy Lane at nlane@pahousegop.com

Good Day:

Pursuant to Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Pennsylvania Public Utility Commission (PA PUC) is submitting a copy of the captioned Notice of Proposed Rulemaking (NOPR) and supporting documents to the Majority and Minority Chairs of the Senate Committee on Consumer Protection and Professional Licensure, the Majority and Minority Chairs of the House Consumer Affairs Committee for review, the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and the Independent Regulatory Review Commission.

The PA PUC entered this NOPR on July 15, 2021, at PA PUC Docket No. L-2020-3017284.^[1] The proposed rulemaking would amend and enhance Chapter 59 of Title 52 of the Pennsylvania Code (relating to gas service) to comprehensively regulate the design, construction, operations, and maintenance of public utilities transporting petroleum products and other hazardous liquids under the jurisdiction of the PA PUC. The Office of the Attorney General and the Governor's Budget Office have signed off on the NOPR.

The PA PUC appreciates the opportunity to deliver these materials electronically.

Very truly yours,

/s/ Renardo L. Hicks

Renardo L. Hicks
Chief Counsel

Enclosures:

Order (Preamble)
Annex A
Regulatory Analysis Form
Fiscal Note
Face Sheet

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The Honorable Lisa Boscola
The Honorable Robert Tomlinson
The Honorable Robert Matzie
Pennsylvania Bulletin/Legislative Reference Bureau
Independent Regulatory Review Commission, with delivery receipts from other addressees

cc: Renardo L. Hicks, PA PUC Chief Counsel
Kriss Brown, PA PUC, Deputy Chief Counsel
Hayley Dunn, PA PUC Assistant Counsel
Melanie El Atieh, PA PUC Assistant Counsel
Colin Scott, PA PUC Assistant Counsel
Erin Tate, PA PUC Assistant Counsel
Adam Young, PA PUC Assistant Counsel
June Perry, PA PUC Director Legislative Affairs
Louise Fink Smith, PA PUC Assistant Counsel
Karen Thorne, PA PUC Regulatory Review Assistant

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this information in error, please contact the sender and delete the message and material from all computers.

^[1] The proposed rulemaking was subsequently revised by Errata Order entered on August 18, 2021, to correct the numbering of the sections in the Order entered on July 15, 2021, and the Annex. The operative entered date of the proposed rulemaking remains July 15, 2021.

Stephen Hoffman

From: Fouse, Laurie <LFouse@pahouse.net>
Sent: Tuesday, January 25, 2022 3:54 PM
To: Thorne, Karen
Cc: Hicks, Renardo; Brown, Kriss; Dunn, Hayley; El Atieh, Melanie; Scott, Colin; Tate, Erin; Young, Adam; Perry, June; Fink Smith, Louise
Subject: RE: Hazardous Liquid Public Utility Safety Standards, 52 Pa. Code Chapter 59 (Sections 59.33-59.131-143); PUC Docket No. L-2019-3010267; Fiscal No. 57-33

Thank you very much Karen – I will make sure Rep. Matzie receives this information.

*Enjoy your evening,
Laurie*

Laurie Fouse-Miller

Office of State Representative Robert F. "Rob" Matzie
PA House of Representatives

121 Irvis Office Building
Harrisburg, PA 17120-2016
717-787-4444
FAX: 717-780-4772

lfouse@pahouse.net

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JAN 25 2022

**Independent Regulatory
Review Commission**

From: Thorne, Karen <kathorne@pa.gov>
Sent: Tuesday, January 25, 2022 2:18 PM
To: Fouse, Laurie <LFouse@pahouse.net>
Cc: Hicks, Renardo <rehicks@pa.gov>; Brown, Kriss <kribrown@pa.gov>; Dunn, Hayley <haydunn@pa.gov>; El Atieh, Melanie <melatieh@pa.gov>; Scott, Colin <colinscott@pa.gov>; Tate, Erin <etate@pa.gov>; Young, Adam <adyoung@pa.gov>; Perry, June <JUPERRY@pa.gov>; Fink Smith, Louise <finksmith@pa.gov>
Subject: Hazardous Liquid Public Utility Safety Standards, 52 Pa. Code Chapter 59 (Sections 59.33-59.131-143); PUC Docket No. L-2019-3010267; Fiscal No. 57-33

Ms. Fouse-Miller on behalf of The Honorable Robert Matzie:

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Please let us know if you have any questions.

Please let us know that your office has received this transmittal as we must provide proof of delivery to IRRC.

Thank you,

Karen Thorne, RRA

PA PUC Law Bureau
kathorne@pa.gov
Ph: 717-772-4597

January 25, 2022

The Honorable Robert Matzie
Minority Chair, House Committee on Consumer Affairs
121 Irvis Office Building, Senate Box 202016
Harrisburg, PA 17120-2016

Re: PA PUC Docket No. L-2020-3010267; Fiscal Note No. 57-335
Notice of Proposed Rulemaking (NOPR) to Provide Hazardous Liquid Public Utility Safety Standards;
52 Pa. Code Chapter 59

Via email: Laurie Fouse Miller at lfouse@pahouse.net

Good Day:

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The PA PUC appreciates the opportunity to deliver these materials electronically.

Very truly yours,

/s/ Renardo L. Hicks

Renardo L. Hicks
Chief Counsel

Enclosures:

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Kriss Brown, PA PUC, Deputy Chief Counsel
Hayley Dunn, PA PUC Assistant Counsel
Melanie El Atieh, PA PUC Assistant Counsel
Colin Scott, PA PUC Assistant Counsel
Erin Tate, PA PUC Assistant Counsel
Adam Young, PA PUC Assistant Counsel
June Perry, PA PUC Director Legislative Affairs
Louise Fink Smith, PA PUC Assistant Counsel
Karen Thorne, PA PUC Regulatory Review Assistant

^[1] The proposed rulemaking was subsequently revised by Errata Order entered on August 18, 2021, to correct the numbering of the sections in the Order entered on July 15, 2021, and the Annex. The operative entered date of the proposed rulemaking remains July 15, 2021.

Stephen Hoffman

From: Bulletin <bulletin@palrb.us>
Sent: Tuesday, January 25, 2022 3:08 PM
To: Thorne, Karen; Code&Bulletin; A.J. Mendelsohn
Cc: Hicks, Renardo; Brown, Kriss; Dunn, Hayley; El Atieh, Melanie; Scott, Colin; Tate, Erin; Young, Adam; Perry, June; Fink Smith, Louise; Adeline E. Gaydosh
Subject: [External] Re: Hazardous Liquid Public Utility Safety Standards, 52 Pa. Code Chapter 59 (Sections 59.33-59.131-143); PUC Docket No. L-2019-3010267; Fiscal No. 57-33

***ATTENTION:** This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.*

Hello Karen,

Thank you for sending this proposed rulemaking. It is scheduled for publication in the 2/12 issue of the *Pennsylvania Bulletin*.

Have a wonderful afternoon!
Adeline

Adeline Gaydosh | Legal Assistant
agaydosh@palrb.us | 717.783.3984
Legislative Reference Bureau
Pennsylvania Code & Bulletin Office
647 Main Capitol Building
Harrisburg, PA 17120

RECEIVED

JAN 25 2022

**Independent Regulatory
Review Commission**

From: Thorne, Karen <kathorne@pa.gov>
Sent: Tuesday, January 25, 2022 2:32 PM
To: Bulletin <bulletin@palrb.us>; Code&Bulletin <codeandbulletin@palrb.us>; A.J. Mendelsohn <amendelsohn@palrb.us>
Cc: Hicks, Renardo <rehicks@pa.gov>; Brown, Kriss <kribrown@pa.gov>; Dunn, Hayley <haydunn@pa.gov>; El Atieh, Melanie <melatieh@pa.gov>; Scott, Colin <colinscott@pa.gov>; Tate, Erin <etate@pa.gov>; Young, Adam <adyoung@pa.gov>; Perry, June <JUPERRY@pa.gov>; Fink Smith, Louise <finksmith@pa.gov>
Subject: Hazardous Liquid Public Utility Safety Standards, 52 Pa. Code Chapter 59 (Sections 59.33-59.131-143); PUC Docket No. L-2019-3010267; Fiscal No. 57-33

Ms. Mendelsohn:

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Thank you,

Karen Thorne, RRA
PA PUC Law Bureau
kathorne@pa.gov
Ph: 717-772-4597

January 25, 2022

Amy J. (AJ) Mendelsohn, Director
Pennsylvania Code and Bulletin
Main Capitol Building, Room 647
Harrisburg, PA 17120

Re: PA PUC Docket No. L-2020-3010267; Fiscal Note No. 57-335
Notice of Proposed Rulemaking (NOPR) to Provide Hazardous Liquid Public Utility Safety Standards;
52 Pa. Code Chapter 59

Via email: bulletin@palrb.us; codeandbulletin@palrb.us; amendelsohn@palrb.us

Good Day:

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The PA PUC appreciates the opportunity to deliver these materials electronically.

Very truly yours,

/s/ Renardo L. Hicks

Renardo L. Hicks
Chief Counsel

Enclosures:

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June Perry, PA PUC Director Legislative Affairs
Louise Fink Smith, PA PUC Assistant Counsel
Karen Thorne, PA PUC Regulatory Review Assistant

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