

**GOVERNOR'S OFFICE**  
**Certification of Need for Emergency Regulation**

WHEREAS, the General Assembly has created the Environmental Quality Board in this Commonwealth; and

WHEREAS, the power and duty of the Environmental Quality Board under Pennsylvania's Air Pollution Control Act shall be to adopt rules and regulations to implement the provisions of the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401—7671q) that shall be consistent with the requirements of the CAA and the regulations adopted thereunder (35 P.S. § 4005(a)(8)); and

WHEREAS, section 110(a) of the CAA (42 U.S.C.A. § 7410(a)) requires that states demonstrate compliance with the CAA by adopting and submitting to the U.S. Environmental Protection Agency (EPA) a state implementation plan (SIP) for implementation, maintenance and enforcement of the National Ambient Air Quality Standards; and

WHEREAS, Pennsylvania was and is required to submit a revised SIP showing that it has developed and implemented a program establishing Reasonably Available Control Technology requirements for sources identified by the EPA in the 2016 Oil and Gas Industry Control Techniques Guidelines requiring oil and natural gas industry equipment and processes to reduce volatile organic compound (VOC) emissions; and

WHEREAS, section 179 of the CAA (42 U.S.C.A. § 7509) requires a state to submit a SIP and approvable SIP revisions to comply with all aspects of the CAA by certain dates or else face sanctions; and

WHEREAS, section 179 of the CAA (42 U.S.C.A. § 7509) requires the EPA to impose two types of sanctions if Pennsylvania fails to submit an approvable SIP by its deadlines: "2:1 offsets" on new or modified sources of emissions, and withholding of certain Federal highway funds; and

WHEREAS, Federal highway sanctions will apply if a SIP is not completed by December 16, 2022; and

WHEREAS, the Environmental Quality Board proposed a rulemaking (#7-544) to meet Pennsylvania's SIP requirements by requiring oil and natural gas sources to develop and implement an emission reduction program; and

WHEREAS, rulemaking #7-544 provided a public comment period of 66 days; and

WHEREAS, although this rulemaking would meet EPA's SIP requirements, the Pennsylvania House Environmental Resources & Energy Committee disapproved the proposed rulemaking on purported technical grounds that it violated Pennsylvania's Act 52 of 2016, which requires that rulemakings concerning conventional oil and gas wells be undertaken separately and independently of rulemakings involving unconventional wells or other subjects; and

WHEREAS, the Environmental Quality Board separated the rulemaking into two rulemakings – one for conventional sources and one for unconventional sources – that impose the same requirements as the original rulemaking; and

WHEREAS, only one of those rulemakings could be submitted to the Independent Regulatory Review Commission (IRRC) on final-form as a continuation of the rulemaking process for #7-544; and

WHEREAS, the Environmental Quality Board submitted the rulemaking regarding unconventional sources to IRRC on final-form under regulation #7-544; and

WHEREAS, the Environmental Quality Board created a separate rulemaking (Regulation #7-579) to address conventional sources, which it adopted on October 12, 2022; and

WHEREAS, on November 14, 2022, the Pennsylvania House Environmental Resources & Energy Committee notified IRRC of the Committee’s disapproval of Regulation #7-579 triggering the 14-calendar day legislative review period under section 7(d) of the Regulatory Review Act, 71 P.S. § 745.7(d); and

WHEREAS, due to the Pennsylvania House Environmental Resources & Energy Committee’s disapproval the rulemaking process for the conventional rulemaking (Regulation #7-579) cannot be completed by December 16, 2022, in time to prevent an emergency which would create conditions causing the need for supplemental or deficiency appropriations of at least \$1,000,000; and

WHEREAS, a provision of the Regulatory Review Act, 71 P.S. § 745.6(d), prohibits IRRC from issuing an order barring an agency from promulgating a final-form or final-omitted regulation if the Governor certifies that the final-form or final-omitted regulation is required to meet an emergency which includes conditions which may threaten the public health, safety or welfare; cause a budget deficit; or create the need for supplemental or deficiency appropriations of greater than \$1,000,000; and

WHEREAS, if the Governor so certifies, the final-form or final-omitted regulation may take effect immediately upon notice or the date of publication under 71 P.S. § 745.6(d); and

WHEREAS, an immediate amendment to the regulations is necessary to prevent an emergency because the absence of a completed regulation and corresponding complete SIP is a condition that will risk sanctions that will affect approximately 800 Million dollars in Federal highway funds and grants and will create the need for supplemental or deficiency appropriations greater than \$1,000,000 to direct state funding to previously Federalized projects so as to carry out planned projects that have been selected to meet the needs of the motoring public; and

WHEREAS, the Environmental Quality Board adopted a separate rulemaking on **DATE** identical to Regulation #7-579 (Regulation #7-580) that the Governor may certify under 71 P.S. § 745.6(d) to ensure completion of the regulation by December 16, 2022.

NOW THEREFORE, I do hereby certify that the regulatory amendment (Regulation #7-580) to add conventional sources to the Department's regulations in Title 25 (25 Pa. Code §§ 129.131—129.140) to adopt reasonably available control technology (RACT) requirements and RACT emission limitations for oil and natural gas sources of volatile organic compound (VOC) emissions as required under the Clean Air Act (CAA), following this certification as Annex A, is required to meet the emergency conditions enumerated in the recitals above and to avoid an emergency as described therein.

FURTHER, I hereby authorize the Chairperson of the Environmental Quality Board of the Department of Environmental Protection to publish this amendment in the *Pennsylvania Bulletin* as an Emergency Certified Final-Omitted Rulemaking consistent with the provisions of Section 6(d) of the Regulatory Review Act, *as amended*, 71 P.S. § 745.6(d).

GIVEN under my hand and the Seal of the Governor, at the City of Harrisburg, on this \_\_\_\_ day of \_\_\_\_\_ in the year of our Lord two thousand and twenty two, and of the Commonwealth the two hundred and forty seventh.

TOM WOLF  
Governor