

**FINAL-FORM RULEMAKING  
ENVIRONMENTAL  
QUALITY BOARD  
[ 25 PA. CODE CHS. 210 AND 211]  
Handling and Use of Explosives**

The Environmental Quality Board (EQB) amends Chapters 210 and 211 (relating to blasters' licenses; and storage, handling and use of explosives) to read as set forth in Annex A. These amendments update the regulations based on current industry best practices and include blasting requirements related to seismic exploration.

This final-form rulemaking was adopted by the Board at its meeting of \_\_\_\_\_.

*A. Effective Date*

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

*B. Contact Persons*

For further information, contact Thomas Callaghan, PG, Director, Bureau of Mining Programs, Rachel Carson State Office Building, 5th Floor, 400 Market Street, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-5015; or Joseph Iole, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. This final-form rulemaking is available on the Department of Environmental Protection's (Department) web site at [www.dep.state.pa.us](http://www.dep.state.pa.us) (select "Public Participation," then "Environmental Quality Board (EQB)").

*C. Statutory Authority*

This final-form rulemaking is promulgated under the authority of sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20), sections 7 and 11 of the act of July 1, 1937 (P. L. 2681, No. 537) (73 P. S. §§ 157 and 161), sections 3 and 4 of the act of July 10, 1957 (P. L. 685, No. 362) (73 P. S. §§ 166 and 167), Reorganization Plan No. 8 of 1981 (71 P. S. § 751-35) (transferring powers and duties conferred under the 1937 and 1957 explosives acts from the Department of Labor and Industry to the Department of Environmental Resources), section 2(f) of the act of May 18, 1937 (P. L. 654, No. 174) (43 P. S. § 25-2(f)), Reorganization Plan No. 2 of 1975 (71 P. S. § 751-22) (transferring powers and duties conferred under the 1937 workplace safety law regarding pits, quarries, and the like, from the Department of Labor and Industry to the Department of Environmental Resources), section 4.2 of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.4b) and section 11(e) of the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. § 3311(e)).

#### *D. Background and Purpose*

The final-form rulemaking amends existing regulations to address the use of explosives for seismic exploration, which is fundamentally different than most other uses of explosives. For example, with seismic exploration, it is often necessary for explosive charges to remain in the ground for extended periods of time. This final-form rulemaking specifies the security measures needed to protect the public safety under these circumstances. While permits are currently required for this activity, a supplement to the Department's blasting activity permit application form is necessary because detailed information is needed for site security and regulatory compliance. The Department developed an interim seismic supplement to address safety issues at seismic exploration sites which provides the applicant an opportunity to provide this detailed information. The specifications for this additional information are included in this final-form rulemaking. The final-form rulemaking codifies these requirements, providing certainty to the regulated community regarding the regulatory framework for seismic exploration.

The final-form rulemaking also updates explosives use requirements to reflect current practices and eliminates outdated requirements. The updated requirements will result in more consistency between the requirements for construction blasting and blasting for mining operations.

#### *Advisory board collaboration and outreach*

The Department reviewed the final rulemaking with the Mining and Reclamation Advisory Board (MRAB) on July 21, 2016 and with the Mining Aggregate Advisory Board (MAAB) on November 2, 2016. Each advisory board recommended that the rulemaking move forward for EQB consideration.

In addition to advisory committee engagement, the Department conducted outreach through the trade groups for these industry sectors and with the Pennsylvania chapters of the International Society of Explosives Engineers. As a result of this outreach, no concerns were presented during the public comment period by seismic operators or construction contractors.

#### *E. Summary of Changes to the Proposed Rulemaking*

##### *Chapter 210. Blasters' licenses*

##### *§ 210.11. Definitions*

The final-form rulemaking does not include the proposed addition of definitions of “employee possessor,” “explosive materials,” and “responsible person.” Based on comments, the proposed definitions of “employee possessor” and “responsible person” may not cover all persons who are eligible for a blaster’s license. Also, “explosives” is added in the final-form rulemaking based upon comments that the proposed definition of “explosives materials” was inconsistent with the Federal requirements.

§ 210.13. *General*

Subsection (b) is revised to require present rather than past compliance with Federal requirements to obtain a blaster's license. This change was made based on comments which pointed out that the proposed requirement could be interpreted as a permanent bar for anyone who ever had a violation. Because the Federal requirements referenced in this section include a background check requirement, the final-form rulemaking does not include the proposed separate articulation of that requirement.

*Chapter 211. Storage, handling and use of explosives*

*Subchapter A. General provisions*

§ 211.101. *Definitions*

The final-form rulemaking adds a definition for "at-the-hole communication" based on comments to clarify the nature of the communication required.

The final-form rulemaking has removed the proposed phrase "the potential for" (with regard to personal injury and damage to property) from the definition of "blast area" because the phrase is unnecessary.

A clarifying sentence is added to the new definition of "cube root scaled distance ( $D_s^{1/3}$ )" to clarify that the cube root scaled distance is used to estimate airblast levels.

The final-form rulemaking does not include the addition of definitions of "employee possessor," "explosive materials," and "responsible person." Based on comments, not all persons who are eligible for a blaster's license may be included as either an employee possessor or responsible person. Also, a definition of "explosives" is added in the final-form rulemaking based upon comments pointing out that the proposed definition of "explosive materials" was inconsistent with the Federal requirements.

The amended definition of "flyrock" does not include material that travels onto property neither owned nor leased by the permittee or its customer, as proposed. The proposed language created a problem for construction blasting because property is rarely owned or leased by the permittee or its customer on construction projects. This revision results in the renumbering of the remaining area identified in the definition of "flyrock."

A definition for "FMCSA inspection" is added to clarify that certain vehicle inspections by the Federal Motor Carrier Safety Administration can be used in Subchapter E (relating to transportation of explosives).

The final-form rulemaking does not include the proposed definition of "nuisance". Commentators noted that the use of this term was ambiguous and could be subject to misinterpretation.

Definitions of the acronyms “MSHA” and “OSHA” were added as these acronyms are used in the regulation.

The final-form rulemaking renames the existing defined term “scaled distance” to be “square root scaled distance.” The definition is also modified to clarify that square root scaled distance is used to estimate ground vibration.

The final-form rulemaking does not include the proposed definitions of “unauthorized detonation of explosives,” “unauthorized handling and use of explosives” and “unauthorized storage of explosives.” based on comments that these definitions could result in unintended consequences for new employees of blasting contractors.

#### *§ 211.103. Enforcement*

The final-form rulemaking does not include proposed paragraph (d)(4) that established a permit and license block for any person who did not meet the requirements to be authorized as an employee possessor or responsible person by Federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The terms “employee possessor” and “responsible person” are used in Federal requirements that differ from the terms included in the final-form rulemaking. In addition, not everyone who uses or handles explosives is included as either an employee possessor or responsible person.

#### *Subchapter B. Storage and classification of explosives*

##### *§ 211.117. Daily summary of magazine transactions*

The final-form rulemaking adds a reference to an additional Federal requirement (27 CFR 555.127) that was inadvertently omitted in the proposed rulemaking.

#### *Subchapter C. Permits*

##### *§ 211.121. General requirements*

Based on comments, the final-form rulemaking clarifies existing subsection (e) by revising the language relating to compliance to be in the present tense. In addition, the new subsection (f) is clarified to require compliance by the “the blasting contractor” rather than the “all subcontractors” consistent with other sections of the final-form rulemaking.

##### *§ 211.124. Blasting activity permits*

Paragraphs (a)(3) is clarified that the application for a blasting activity permit must include the ATF license or permit number of the applicant or the “blasting contractor” rather than the “contract blaster” to be consistent with § 211.121(f).

Paragraph (a)(9) clarifies that an application for a blasting activity permit must include the minimum “square root” scaled distance unless the permit is for demolition blasting operations,

which require use of the cube root scaled distance. Scaled distance is an important planning tool to limit the adverse effects of blasting. Cube root scaled distance is used to plan for the effects of air blast which is the most common impact of demolition blasting.

The final-form rulemaking deletes existing paragraph (a)(17), which was proposed to be renumbered as paragraph (a)(20). This paragraph required an applicant to provide proof that residents within 200 feet of the blasting site were informed of the proposed blasting operation. The proposed rulemaking recommended increasing the distance to 300 feet, or another distance established in the permit. Based upon comments, Department determined that the notification requirement is less effective than other regulatory requirements in ensuring public safety. The existing requirement to clear and secure the blast area is more effective than providing notice prior to application. The requirement to clear and secure the site requires blasters to notify people in the vicinity of the blast as determined by blast design. For instance, if a blaster can only clear and secure a small area, the blast must be designed accordingly.

#### *Subchapter D. Records of disposition of explosives*

##### *§ 211.133. Blast reports*

Paragraph (a)(9), which was originally paragraph (a)(7), is revised based on comments to clarify the information an applicant must include on the sketch that accompanies the blast record.

Paragraph (a)(19), which was originally paragraph (a)(16), is revised to clarify that the “square root” scaled distance must be included in the blast report, except when demolition blasting occurs. In that case, the blast report must include the cube root scaled distance.

Paragraph (a)(26) is revised to require a blast report to include a drill log which shows the condition of all holes that were drilled for a blast, whether they were loaded or not. Based on comments, the Department determined that limiting the drill log to other bore holes in the blast site “related to the blasting activity” was not appropriate. The condition of all drilled holes is necessary as it provides information regarding the condition and extent of the rock being blasted. This information is important for both the blaster and the Department to evaluate why a blast performed the way it did.

#### *Subchapter E. Transportation of explosives*

##### *§ 211.141. General requirements*

Paragraph (13) is revised to clarify that blasting activity permittees must only load explosives onto on-road vehicles that have passed the State safety inspection or certification “or FMCSA inspection”, which is an inspection required by the Federal Motor Carrier Safety Administration. Based on comments, an option of using Federal inspection specifications has been added, which particularly offers the regulated community the option of using out-of-state vehicles.

### *Subchapter F. Blasting activities*

#### *§ 211.151. Prevention of damage or injury*

Proposed subsection (b) requiring blasting to be conducted in a manner that prevents a nuisance has not been included in the final-form rulemaking. Based on comments, use of the term “nuisance” created ambiguity and would be subject to varied interpretations. The other requirements in this section adequately protect injury to others or damage to property of others, so proposed subsection (b) is not necessary.

Subsections (e) and (f) have been revised to rely on “particle velocity” rather than “peak particle velocity”, as proposed, because the modifier “peak” is not necessary.

#### *§ 211.152. Control of noxious gases, including carbon monoxide and oxides of nitrogen*

The heading of this section has been revised to refer to the control of gases, rather than the control of “noxious” gases. Likewise, subsections (a) and (b) have been revised to refer to gases generated by the blast, rather than the generation of “toxic gases.” Commentators objected to the use of the modifiers “noxious” and “toxic” because any gas generated by the blast that affects the health or safety of an individual is prohibited.

#### *§ 211.154. Preparing the blast*

Paragraph (o) relating to the posting of signs has been revised to ensure consistency with Federal requirements, specifically 29 CFR 1926.905(p) (relating to loading of explosives or blasting agents; for construction blasting), 30 CFR 77.1303(g) (relating to explosives, handling and use; for blasting at surface coal mines and surface areas of underground coal mines) or 30 CFR 56.6306(a) (relating to loading, blasting and security; for blasting at metal and nonmetal mines), as applicable. Commentators pointed out potential conflicts with Federal regulatory requirements for activities under the jurisdiction of the Mine Safety and Health Administration (MSHA) or the Occupational Health and Safety Administration (OSHA).

### *Subchapter G. Requirements for monitoring*

#### *§ 211.171. General provisions for monitoring*

Subsection (a) has been revised to include a reference to square root scaled distance to provide consistency throughout the regulation.

### *Subchapter J. Civil penalties*

Subchapter J has been removed in the final-form rulemaking. Civil penalties for non-mining explosives violations will be addressed in a future rulemaking package.

## *F. Summary of Comments and Responses on the Proposed Rulemaking*

Comments were received from seven public commentators and the Independent Regulatory Review Commission (IRRC).

Several commentators suggested that additional references to the Federal regulations were appropriate in order to provide clarity and consistency. For example, with respect to sign requirements, MSHA has regulations for mine sites and OSHA has regulations for construction blasting. The final-form rulemaking includes references to these requirements in § 211.154(o). The Department initially proposed to add these requirements as a new subsection under § 211.155, but the final-form rulemaking moves these requirements to § 211.154 to make clear that a blaster must comply with them prior to loading a blast, which is consistent with Federal requirements. A reference to ATF regulations was also added in § 211.117. The definition of the term “explosives” in § 211.101 has been revised to include the elements of the ATF definition of “explosives” and items on the ATF “list of explosive materials.” The definition of “blast area” in the final-form rulemaking was not revised to include a reference to the MSHA requirements because they are limited to on-site effects of blasting, while the Commonwealth statutes also address public safety, which requires consideration of off-site effects as well.

A revision to the definition of “mine opening blasting” in § 210.11 was suggested, but not made at this time as additional review is necessary. The suggestion to delete § 210.17(a) in its entirety was made, but this section has been retained as it explains the scope of blaster’s licenses issued by the Department. A commentator suggested removing § 211.115 since this is covered by Federal regulations. Retention of this section is necessary, however, to provide the Department with the authority to implement the existing explosives storage security measures.

Several commentators indicated that the fee increases were excessive. The existing fees have been in place for many years and do not reflect current administrative and enforcement costs. However, after careful consideration, the Department has removed the proposed fee schedule revisions. The Department will further evaluate the fee schedule and will address fees separately in a subsequent rulemaking.

A commentator took exception to the addition of the phrase “the potential for” in the definition of “blast area” in § 211.101 stating that it is inconsistent with Federal requirements and ambiguous. This phrase is not included in the final-form rulemaking. A commentator stated that the addition of the area of “property neither owned nor leased by the permittee or its customer,” to the definition of flyrock in § 211.101 created a conflict of property rights, without providing any additional protection. After further review, this portion of the definition of flyrock has been deleted in the final-form rulemaking.

A commentator requested clarification of the difference between the terms “blaster” and “blaster-in-charge” in §§ 211.121 and 211.124. While blaster is a generic term, blaster-in-charge is used exclusively in relation to the detonation of a blast and the associated record keeping. This distinction is necessary. Multiple licensed blasters may be involved with a blast, but each blast has only one blaster-in-charge in order to assure accountability.

A commentator stated that the use of the term scaled distance was unclear because of the introduction of the definition of “cube root scaled distance” in § 211.101. The final-form rulemaking has been revised to include the distinction between square root scaled distance and cube root scaled distance in each instance where scaled distance is used. The existing term “scaled distance” has been replaced with “square root scaled distance” and clarifying statements have been added to both definitions.

A commentator suggested the removal of the definitions for “unauthorized detonation of explosives”, “unauthorized handling and use of explosives” and “unauthorized storage of explosives” stating that they were unreasonable and impossible to enforce. After further consideration and review, these terms and references to them have been deleted from the final-form rulemaking.

A commentator requested clarification of the applicability of the permit and license block in § 211.121. This section has been clarified by using the present tense.

A commentator objected to the four-hour availability for access to explosives storage magazines at subsection 211.115 (j). Since the rulemaking allows for an alternative time frame, this subsection was not revised.

A commentator objected to the addition of § 211.116 (relating to decommissioning magazines), asserting that it is not necessary due to similar Federal requirements. The Department’s inspectors provide confirmation that magazines have been emptied as part of the Commonwealth’s explosives storage magazine licensing responsibility. For this reason, the section was kept in the final-form rulemaking.

Commentators requested clarifications about permitting requirements under § 211.124 (relating to blasting activity permits). More specifically, questions were raised about electronic submissions, dealing with multiple blasts under one permit application, specifying the types of explosives, fee payments, addresses and mapping. Specific clarifications are noted as follows. Electronic signatures are acceptable under existing electronic commerce requirements. Blasting permits routinely are designed for multiple blasts. The requirement to provide the specific types of explosives to be used is intended to capture enough detail for planning, but does not require identification of brand names. While the Department has removed the proposed revisions to the fee schedule, the Department will continue to collect existing fees consistent with currently accepted methods of payment. Addresses and mapping need to provide sufficient information in order to locate blasts and structures that may be affected by blasting.

A commentator stated that the proposed notification of residents within 300 feet of the blast site to be included as part of a permit application does not provide any benefit and is arbitrary because the 300-foot distance does not consider the scale of each blasting project. After further consideration, the notification requirement was deleted from the final-form rulemaking because the notification requirement is less effective than other regulatory requirements in ensuring public safety. The existing requirement to clear and secure the blast area is more effective than providing notice prior to application. The requirement to clear and secure the site requires

blasters to notify people in the vicinity of the blast as determined by blast design. For instance, if a blaster can only clear and secure a small area, the blast must be designed accordingly.

A commentator stated that a blaster's license for law enforcement is no different than other uses of explosives. With the addition of the law enforcement category in § 210.17(a), the Department will be able to tailor the required certification class and exam to the law enforcement category.

Several comments were received about the blast record requirements specified in § 211.133. These are related to electronic signatures, the description of the ground in the area of the blasting, the amount of explosives in each hole, addresses, and drill logs. The final-form rulemaking does not address electronic signatures because they are allowed under existing electronic commerce requirements. Clarity has been added to the description of the ground by providing examples. The reporting of the amount of explosives in each hole is necessary to meet the general requirement of having enough information to reconstruct the blast. For bulk products with variable densities, a density range will meet the requirements under paragraph (a)(14). The new requirement provides specific direction on how to comply. Addresses are needed to confirm locations. The drill logs are also necessary to meet the general requirement of having enough information to reconstruct the blast.

A commentator suggested that a definition should be added to clarify that at-the-hole communication with the driller is an effective way for the blaster-in-charge to determine the condition of the material to be blasted. A definition for "at-the-hole communication" has been added in § 211.101.

A commentator noted that out-of-state vehicles are not subject to the Commonwealth's inspection requirements. In response, the final-form rulemaking includes a definition of "FMCSA inspection" in § 211.101 and a reference to the Federal vehicle inspection requirement in § 211.141.

Several commentators suggested that the term nuisance is ambiguous and subject to varied interpretations. Therefore, this term has not been included in the final-form rulemaking.

A commentator suggested that provisions be made for alternative peak particle velocity limits. The final form rulemaking provides for alternative particle velocity levels in § 211.151(e).

Several commentators objected to the terms "noxious" and "toxic" in § 211.152 in relation to the gases produced by a blast. After further review, the final-form rulemaking was revised to eliminate these words, as the language included in this section prohibits the generation of any gas by a blast that affects the health or safety of an individual.

Several commentators noted potential conflicts with Federal regulatory requirements for activities under the jurisdiction of MSHA or OSHA. The final-form rulemaking includes references to the Federal requirements, when appropriate, to avoid any conflicts.

A commentator suggested that a reference be added to manufacturer specifications for deploying seismographs to monitor a blast. A reference to International Society of Explosives Engineers

standards is included in § 211.171(e), as proposed, and is sufficient to account for manufacturer specifications.

A commentator questioned the authority of the Board to establish a civil penalty program, when it is not explicitly authorized by the explosives statutes. The Board has rulemaking authority under Section 1920-A of the Administrative Code of 1929 (71 P. S. § 510-20) to adopt rules and regulations for the proper performance of work by the Department, including authority to adopt rules and regulations authorized under sections 7 and 11 of the act of July 1, 1937 (P. L. 2681, No. 537) (73 P. S. §§ 157 and 161) and sections 3 and 4 of the act of July 10, 1957 (P. L. 685, No. 362) (73 P.S. §§ 166 and 167) (collectively, the Explosives Acts). The statutory provisions authorize regulations necessary to effectuate the provisions of the acts that are not inconsistent with law. Upon further review, the Board, however, has determined that it would be more appropriate to implement a civil penalty program for non-mining blasting violations separately through a future rulemaking.

Several commentators provided feedback about specific requirements in the proposed civil penalty system. A commentator observed that the concept of “interference with a person’s right to the comfortable enjoyment of life or property” is subjective and cannot be consistently enforced. Commentators requested clarification about how civil penalty will be assessed under proposed § 211.204, and specifically how the cost to the Commonwealth will be determined under proposed § 211.204(b)(4), which is also an element of the existing civil penalty program for mining violations. These comments will be taken into account in the development of a separate future regulation to address civil penalties for non-mining explosives violations.

#### *G. Benefits, Costs and Compliance*

This final-form rulemaking updates the existing regulatory framework regarding blasting and explosives. The amendments will increase the cost of compliance, but provide more certainty to the regulated community with regard to operational requirements. The benefit to the public from improved public safety and documentation of blasting activities will outweigh the costs of compliance.

#### *Benefits*

This final-form rulemaking will improve public safety, provide consistency and clarity to the regulated community. All of the citizens of the Commonwealth will benefit through the enhancement of public safety.

The final-form rulemaking addresses blasting activities related to seismic exploration. While permits are currently required for this activity, a supplement to the Department's blasting activity permit application form is necessary because detailed information is needed for site security and regulatory compliance. This seismic supplement form provides the applicant an opportunity to provide the detailed information. For example, it is often necessary for explosive charges to remain in the ground for extended periods of time—this rule specifies the security measures needed to protect the public safety under these circumstances. The rulemaking will codify

requirements, increasing public safety and providing certainty to the regulated community regarding the regulatory framework for seismic exploration.

The final-form rulemaking also updates explosives use requirements to reflect current practices, eliminates outdated requirements and provides a more effective enforcement mechanism. For example, current regulations require permits to purchase explosives and permits to sell explosives to provide tracking for explosives transactions. The Federal ATF has a robust system to do the same. The state requirement is outdated and no longer needed since it is duplicative of the ATF's tracking. The updated requirements will result in more consistency between the requirements for construction blasting and blasting for mining operations.

#### *Compliance costs*

The proposed rulemaking was expected to result in increased costs, specifically due to new or increased fees. However, after careful consideration, the Department has removed the proposed fee schedule revisions to re-evaluate the fees and addressed necessary changes separately in a subsequent rulemaking.

The additional improvements and clarifications in the final-form rulemaking are not expected to significantly increase costs and should in some instances provide a cost savings to the regulated community. Removing the state permitting requirement for the sale and purchase of explosives, as well as requirements to track those transactions, will result in a cost savings for the regulated community. Any additional compliance costs that may result from site-specific factors that raise public safety concerns are highly variable and difficult to predict.

#### *Compliance Assistance Plan*

Compliance with the final-form rulemaking is expected to be seamless since many of the more stringent requirements are in place through permitting or are incremental changes to the existing requirements. Compliance assistance for this final-form rulemaking will be provided through routine interaction with trade groups and individual applicants.

#### *Paperwork requirements*

This final-form rulemaking requires additional information as part of a permit application for blasting related to seismic exploration. The additional requirements are more focused and clarify the current requirements. Other existing forms may need updating to reflect citation changes, but this change does not increase paperwork requirements on the regulated community. The final-form rulemaking also requires that the regulated community make certain Federally-required records available for Department inspection – this requirement does not add any additional paperwork on the regulated community that is not otherwise required by federal law.

#### *H. Pollution Prevention*

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state

environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This final-form rulemaking has minimal impact on pollution prevention since it is focused on public safety.

#### *I. Sunset Review*

The Board is not establishing a sunset date for these regulations, since they are needed for the Department to carry out its statutory authority. The Department will continue to closely monitor these regulations for their effectiveness and recommend updates to the Board as necessary.

#### *J. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 17, 2016, the Department submitted a copy of this proposed rulemaking, published at 46 Pa.B. 996 (February 27, 2016), to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees, for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final rulemaking, the Department has considered all comments from IRRC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on \_\_\_\_\_, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on \_\_\_\_\_, and approved the final-form rulemaking.

#### *K. Findings of the Board*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments were considered.

(3) These regulations do not enlarge the purpose of the proposal published at 46 Pa.B. 996 (February 27, 2016).

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

*L. Order of the Board*

The Board, acting under the authorizing statutes, orders that:

- (1) The regulations of the Department, 25 Pa. Code Chapters 210 and 211, are amended by adding §§ 211.116, 211.17, 211.191—211.194, and amending §§ 210.11, 210.13, 210.16, 210.17, 210. 19, 211.101—211.103, 211.112, 211.15, 211.121—211.125, 211.131—211.133, 211.141, 211.151, 211.152, 211.154, 211.155, 211.158, 211.171, 211.172, 211.182 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.
- (2) The Chairman of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.
- (3) The Chairman shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act (71 P.S. §§ 745.1—745.14).
- (4) The Chairman of the Board shall certify this order and Annex A, as approved for legality and form, and deposit them with the Legislative Reference Bureau, as required by law.
- (5) This order shall take effect immediately.

Patrick McDonnell,  
Chairperson