

September 11, 2019

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Docket No. L-2019-3010267
NOPR: 52 Pa. Code Chapter 59
Comments of The County Of Chester

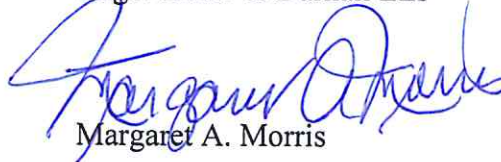
Dear Secretary Chiavetta:

Attached for filing, is The County of Chester's Comments to the Advance Notice of Proposed Rulemaking Order Regarding Hazardous Liquid Public Utility Safety Standards at 52 Pa. Code Chapter 59

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/lam
Enclosures

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Advance Notice of Proposed Rulemaking Regarding :
Hazardous Liquid Public Utility : Docket No. L-2019-3010267
Safety Standards at 52 Pa. Code Chapter 59 :

**THE COUNTY OF CHESTER'S COMMENTS TO
THE ADVANCE NOTICE OF PROPOSED RULEMAKING ORDER**

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Table of Contents

I. Introduction	1
II. General Comments	2
III. Subject Areas	2
A. Construction.....	4
1. Pipeline Material and Specification.....	2
2. Cover Over Buried Pipelines.....	2
3. Underground Clearances	3
4. Valves	3
B. Operation and Maintenance.....	4
1. Pipeline Conversion	4
2. Construction Compliance	4
3. Pressure Testing and Maximum Operating Pressure.....	4
4. Line Markers.....	4
5. Inspections of Pipeline Right-of-Ways.....	5
6. Emergency Flow Restricting Devices.....	5
7. Leak Detection.....	7
8. Corrosion Control and Cathodic Protection	5
C. Additional Subject Areas for Public Comment.....	5
1. Utility interactions with local government officials	5
2. Requiring periodic public awareness meetings with municipal officials and the public.....	6
3. Pennsylvania Specific enhancements to public utility’s public awareness programs pursuant to 49 CFR § 195.440 and API Recommended Practice 1162.....	7
4. Pennsylvania Specific enhancement for operator qualification.	9
5. Enhancing transparency while protecting confidential infrastructure security information ..	10
6. Regulation of construction techniques such as horizontal directional drilling.....	10

7. Accident and Incident reporting criteria, notification criteria for reporting incidents or unusual events to local emergency officials 10

8. Advance notification and/or Commission preapproval of major construction activities. 11

9. Odorant utilization..... 11

10. Geophysical testing and baselining..... 11

11. Protection of public and private water wells and supplies 11

12. Land agents and eminent domain 12

13. Background investigation of employees and contractors 12

14. Integration of new regulations and existing facilities..... 12

IV Conclusion 12

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I. INTRODUCTION

On June 13, 2019, the Pennsylvania Public Utility Commission (Commission) entered an Advanced Notice of Proposed Rulemaking Order (ANOPR) seeking comments from interested persons regarding the amendment and enhancement of Chapter 59 of its Regulations¹ to enable the Commission to more comprehensively regulate public utilities which transport petroleum products and other hazardous liquids in intrastate commerce. The County of Chester (Chester County) hereby provides its comments to address the delineated subject areas. Chester County appreciates the opportunity to provide its thoughts on the safety and public awareness issues that impact its citizens.

Chester County supports revisions to more comprehensively regulate the design, siting, construction, operations and maintenance of public utilities transporting petroleum products and other hazardous liquids under the jurisdiction of the Commission, contained in 52 Pa. Code Chapter 59, and applauds the Commission’s efforts. Transmission pipelines are a significant concern in Chester County as Hazardous Liquids pipelines are located in 29 of our 73 municipalities. If natural gas transmission lines are included, 60 municipalities, or 82 percent of the county’s municipalities, are potentially impacted by natural gas or natural gas liquids transmission pipelines. The operators located within Chester County currently include: Colonial Pipeline, Laurel Pipeline Company/Buckeye Partners, TE Products Pipeline Company/Enterprise Products Partners, Sunoco Pipeline/Energy Transfer.

¹ 52 Pa. Code § 59.1 *et seq.*

II. GENERAL COMMENTS

- Chester County recommends that the Commission require routing and siting of pipelines at a specific minimum distance from residences, schools, health care facilities, and other facilities that treat, care for, or provide housing for higher risk members of the community.
- The ANOPR includes reference to the Commission's participation and responsibilities under Federal pipeline safety regulations at 49 CFR Part 195 including adopted revisions. Chester County notes that several revisions of PHMSA regulations are pending adoption including four in the Final Rule stage and should be reviewed as part of any proposed rule for consistency.²
- Chester County notes that numerous mandates contained in the "Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016" (PIPES 2016) have yet to be proposed / incorporated into Federal regulation and suggests it may be appropriate to review PIPES 2016 for topics for potential inclusion in the ANOPR.
- Chapter 59 does not expressly mandate penalties for Hazardous Liquid public utilities that fail to meet its requirements. Chester County strongly supports a provision for assessing penalties and mandatory remediation that are clear and reflective of the type of noncompliance. Any proposed penalty for non-compliance should reflect the significant threat to persons and property as well as the environment.

III. SUBJECT AREAS

A. Construction

1. Pipeline Material and Specification

- The Commission should consider adding a specific requirement for pipeline coatings for new steel pipe as stringent as FERC requirements for natural gas pipelines, including provisions to protect the coating during fabrication, installation, and backfilling.

2. Cover Over Buried Pipelines

- The Commission should consider increasing the depth of cover requirements below streams and other waterways subject to scour. The depth of cover should be based on a hydraulic evaluation including a sediment transport study.
- The Commission should consider requiring specific and timely remedy when required depth of cover over existing pipelines is no longer met due to scour, dredging, farm practices, surficial erosion, grading, etc. Sufficient penalties should be assessed if timely remediation is not completed to allow the Commission to contract the work in order to protect the public and environment.

² See <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/legislative-mandates/16626/pipes-2016-web-chart-7-2-2019.pdf>.

- The Commission should consider additional depth of cover requirements in areas of development to decrease the likelihood of accidental disturbance; also consider in-trench marking with tape or other distinctive permanent marking to indicate a pipeline is below.
- The Commission should consider requiring bedding material and pipeline cover for the first 12” of fill overtop of new pipelines to be sifted material free from stones that could damage pipeline coating during backfilling and compaction.

3. Underground Clearances

- Clearance between pipe and underground structures indicates that any pipe installed underground must have a minimum of 12-inches of clearance between the outside of the pipe and the extremity of any other structure, with the exception of drainage tiles. However, where clearance is “impracticable” the clearance can be reduced pending adequate corrosion control. This section should be more prescriptive.
- The Commission should consider clarifying clearance requirements between adjacent pipelines. Section 195.250 specifies clearance between a pipeline and any other underground structure without defining what constitutes a “structure.”
- Chester County recommends that the Commission establish safe minimum depths for pipelines carrying highly volatile liquids under high pressures. We note that the Federal minimum depth is listed as 3-feet for the installation of petroleum pipelines, but question if this is deep enough to avoid third party interactions as well as to ensure the location is below the freeze/thaw depth for Chester County.
- Current regulations require pipelines to be buried at a depth of 48-inches below surface elevation for inland bodies of water that are at least 100-feet wide, but depths of only 30-inches in areas defined as rural and 36-inches in areas defined as industrial, commercial, and residential (49 CFR § 195.248). The vast majority of water crossings in Chester County would not require the additional depth under current regulations, yet many of these streams are highly susceptible to scour and erosion events. Anticipated increases in extreme precipitation events will likely continue to exacerbate channel instability and, as a result, could have a growing impact on shallowly buried pipelines. We request that the Commission consider increasing the required amount of cover for all perennial stream crossings to reduce the likelihood of pipe exposure and damage from erosion events.

4. Valves

- Chester County believes it would be of value for the pipeline siting and construction process to be more prescriptive. There is a significant level of mistrust in the current process followed by operators. Standardization of valve locations for safety and minimization of damage would be of benefit to residents’ understanding of the necessity of valves being located at certain intervals for safety purposes, their relationship to High Consequence Areas

(HCAs), or other specific factors, rather than basing the location where one could be negotiated or agreed upon. A standardized process would generally be better accepted by residents and landowners.

B. Operation and Maintenance

1. Pipeline Conversion

- The Commission should consider specifically addressing Pipes installed in Conduits, as required when certain direct bore applications are used. Chester County recommends requiring bedding or other material within the conduit before pipe is inserted to protect coatings and surface from damage during pulling. Chester County also recommends requiring interstitial space be filled with flowable fill or similar material to prevent conduit from creating voids in backfill at either end.
- Chester County requests that the Commission considers limiting the use or re-use of bare steel and other vintage pipe materials in areas with saturated soil or rock layers and/or areas susceptible to karst feature formation due to the increased potential of pipe corrosion.

2. Construction Compliance

- During construction or replacement of pipelines, Chester County requests a requirement for the installation of noticeable and durable grid (example: orange construction fencing) over new pipeline segments as early warning systems to potential future excavators be installed to alert them that they are digging close to a pipeline right-of-way. This should also include sites that utilize HDD as a method of installation.

3. Pressure Testing and Maximum Operating Pressure

- The Commission should consider adding a requirement that all in-field pipeline welds for pipelines over a certain diameter and/or certified for a certain pressure be x-rayed and inspected by a third-party certified welder and meet standard criteria to ensure a sound quality weld prior to installation.

4. Line Markers

- Chester County requests that the Commission clarify spacing requirements for line identification markers, such as requiring markers at set maximum distance intervals. Requiring line markers on either side of water crossings and at valve locations could expedite the process of locating lines in the event of a leak or spill, which would help reduce negative impacts on public safety, water quality, and other resources.
- The Commission should consider requiring line markers even where “the local government maintains current substructure records.” Coordination and information sharing with operators is not always easy and this potentially places a burden of maintaining adequate records for the municipality on utilities within their geography that they do not control.

5. Inspections of Pipeline Right-of-Ways (ROW)

- The Commission should consider adding online reporting of ROW inspections to a public database. Data should include dates of inspection, methodology, reportable observations, and any corrective action plans recommended and completed.
- The Commission should consider more stringent enforcement of proper and effective ROW inspection regimes. Section 195.412 mandates inspection of the surface conditions on or adjacent to each pipeline ROW at intervals not exceeding three weeks. Methods of inspection include walking, driving, flying or other appropriate means of traversing the ROW. Our observation of vegetative growth on many ROWs indicates that they are not being inspected by driving or walking every three weeks (or even seasonally), and it seems unlikely that they are being flown. If this schedule is included by regulation, it must be enforced.

6. Emergency Flow Restricting Devices

- Chester County requests that the Commission consider requiring valve installations on each side of water crossings on any state-designated exceptional value (EV) or high quality (HQ) stream, as well as water bodies that are used as a public water supply to reduce the impact of any pollution event.

7. Leak Detection

- The Commission should consider adding additional inspection and controls to repurposed pipelines to assure public safety in the event of a leak or other failure.
- Continue the development and utilization of new technologies to continually improve leak and anomaly detection capabilities before a pipe failure happens.

8. Corrosion Control and Cathodic Protection

- The Commission should consider adding specific requirements addressing pipelines not designed to current standards to protect public safety and the environment. For example, pipelines that cannot be inspected for corrosion and other issues using in-line inspection tools (smart pigs) should have more stringent and frequent inspection protocols.

C. Additional Subject Areas for Public Comment

1. Utility interactions with local government officials, including but not limited to such topics as emergency planning and emergency response coordination, periodic drills with utility/municipal coordination.

- Chester County recommends that the notification process used by the nuclear power generators be replicated for Hazardous Liquid utilities. Based on its experience with the Limerick Nuclear Plant, Chester County strongly urges the Commission to adopt a process whereby County officials are notified, in

advance, of any activity, such as simulations, testing, routine maintenance, etc.

- Chester County requests that to the extent the Commission (or its enforcement bureau) conducts an investigation into any action/operation etc. by a Hazardous Liquid utilities within its county's boundary, it be given notice of the investigation, informed as to the nature of the investigation and apprised of the final determination and given the opportunity to receive a copy of any report.
- Chester County requests that the Commission require operators to provide easy to access public information, including but not limited to:
 - a. Mapping of transmission pipelines as interstate or intrastate, including definitions and supporting information for such determinations and classifications. While some counties have gone through the exercise of accessing the National Pipeline Mapping System and extracting that information, this is not easily done and requires updating, is not easily accessed by members of the public, and is information that can be easily provided by operators for public access.
 - b. Provision of regular/updated mapping of HCAs and the assessment method used, to ensure integrity for each pipeline segment in designated HCAs and the frequency at which these assessments are made and updated. Providing this information on an annual or biannual basis would be extremely useful for municipalities and landowners who are considering developing their land. Having this information could help in future siting (or not siting) of community centers, medical facilities, schools, large residential developments and other types of land use. At a minimum, it would help stakeholders to make a more informed decision, given that municipalities have no control over the siting of pipelines as currently constituted.

2. Requiring periodic public awareness meetings with municipal officials and the public.

- Chester County requests that the Commission require designated state or county officials, such as the State Fire Commissioner or the County Emergency Manager, to maintain a comprehensive database of pipeline information and that pipeline operators be required to provide this information to emergency responders including:
 - a. Maps of all transmission lines listing material moved, pipeline diameter, mainline valve locations and maximum operating pressures (MOP), and maximum allowable operating pressure (MAOP).
 - b. Information about the location of any anomalies that merit pressure reduction in the pipeline and the presence of "immediate", "60-day" or "180-day" repair conditions for liquid pipelines or "immediate" or "one-year" repair conditions for gas pipelines.

3. Pennsylvania specific enhancements to public utility's public awareness programs pursuant to 49 CFR § 195.440 and API Recommended Practice 1162.

- While Chester County understands the “Risk Assessment” in the pipeline regulatory context does not equate to the probability or consequence of a pipeline rupture or failure, but rather the process of identifying *possible* threats of failure for each segment of pipeline (especially those in HCAs), we request that the the Commission ensure integrity management risk assessment regulations apply the appropriate assessment method to evaluate each threat, and require the remediating of discovered anomalies in a timely manner to avoid pipeline failure.
- Further, we request that Commission regulations require:
 - a. Operators to properly identify threats that can cause failure for each pipeline segment in HCAs;
 - b. Use of guidelines to discuss and explain the strengths and weaknesses of each assessment approach that would be applied to each pipeline segment to assist in proper selection and use;
 - c. Use of appropriate assessment methods (smart pigs, hydrotesting, direct assessment or other technology) to evaluate and address threats in a timely manner;
 - d. Periodic hydrotesting above the federal strength test requirement of 1.25X Maximum Operating Pressure for certain cracking threats and incorporate spike hydrotest protocols; and
 - e. Location-specific analysis for potential abnormal loading threats such as landslides or sinkholes that can result in pipeline rupture.
- Landowner notification in a highly populated area, such as Chester County, is a key part of emergency planning efforts. We request that the Commission consider requiring strategies for timely notification to landowners and residents, should an incident occur, or be suspected of occurring.
- We request that the Commission consider requiring strategies for notifying and coordinating with landowners and residents with private water supplies or wells, in the event that a leak, spill or other impact to groundwater is detected. Further, evaluations that incorporate groundwater dispersion rates, flow paths and public and private well locations, as well as the provision of alternative water supplies in the event of a spill or leak should be required as part of these strategies.
- Because Chester County is home to hundreds of miles of hazardous liquids pipelines and natural gas pipelines, information and knowledge on the products in the pipes is extremely important not only for residents and municipal officials, but for the emergency service providers who respond to 911 calls and to the scene. We ask that the Commission require pipeline operators to provide the following information that would be accessible to emergency service providers:
 - Potential impact radius for each product
 - Consequence analysis
 - Worst case scenario or discharge for each product
 - Potential impacts to public health
 - Potential impacts to environment

- Potential impacts to structures and infrastructure in the area
- Operating pressures
- Products being flowed
- Maps of high consequence areas
- Pipeline product chemical and physical properties, etc.
- Estimated number of barrels per day flowing through each line, the size of pipelines, a description of pipe thickness and material, whether batching used in the line, description of depth of line, the age of line
- Pipeline crossover locations within same right-of-way, including the operator names and contact information
- Odorization system locations and whether the product has odorant
- Tank farm locations and specifics – tank type / volumes / resources in emergency – ex. foam
- Corrosion control procedures – method / frequency of testing
- List of Personal Protective Equipment (PPE) and Spill supplies located in Chester County (or all counties) so that the county emergency service agency knows what resources they have access to and what gaps may exist for proper planning and response.
- Plume modeling software available or in use by operator
- Location of valve stations, including if they are manually operated or remotely or automatically operated, the distance between valves, the estimated volumes of product in lines if leak is between valves
- Pumping Station and Compressor Station locations
- Pressure Relief Valve locations
- Location of other operator critical infrastructure
- Communications protocols for emergencies and non-emergencies
- Emergency and Incident criteria
- Thresholds for notification to Emergency Services
- Estimated time to have an emergency responder on site from the Operator
- Integrity Management or Hazard Mitigation measures in place
- Distance from the right-of-way that public education materials are provided to residents and what is source of this address list
- What types of emergency responder training are provided by the pipeline operators and the frequency at which these trainings are offered
- Availability of Operator representatives to be available to come to the County EOC, and the associated request process
- Integrity Management Program review – Additional Actions for High Consequence Areas / Inspection Schedules / etc.
- GIS shapefiles available for CAD system to provide to county and local emergency service providers

- Frequency of information being updated in NPMS and last date of submission
- History of any PHMSA reported events for lines located in Chester County – incidents / ruptures / breaches / leaks
- Supervisory Control and Data Acquisition (SCADA) Location / Emergency & Non-emergency Numbers / and confirmation what is being monitored – Pressures / Temperature / Flow / Other
- Notification process to the County and to Emergency Services for the following: Testing or Blow Downs / Flaring / Product Changes / Reverse Flow direction changes / Pressure Changes / Product conversions
- Outreach Program Contact Information for Emergency Services Responders
- Rights-of-Way – Continue to require up-to-date contact information for the Community

4. Pennsylvania specific enhancements for operator qualification.

- For Hazardous Liquids pipelines, we support the Commission requiring operators to:
 - a. Work with other operators, partners, and agencies in the industry to provide consistent and useful information to property owners within proximity (1/2 mile) of a pipeline about how to detect a pipeline leak, who to call, how to respond, and what to expect from the operator or emergency responders in these situations. We recognize that federal regulations require mailings but we also recognize that there is an urgent need for enhanced communication (like that required for nuclear facilities in the Event of Potential Public Interest guidelines).
 - b. Submit specific details explaining mainline valve placement and any related remote supervisory control and data acquisition (SCADA) operation in HCAs.
 - c. Use pipeline rupture detection and mandate immediate pipeline shutdown and mainline valve closure without exceptions for unconfirmed alarms.
 - d. Use release detection that utilizes changes in the rate of flow as evidence of rupture instead of changes in pressure.
 - e. Undergo proper surge analysis for each mainline valve installation, subject to review by regulators, such as the Commission and PHMSA.
- Chester County supports the strengthening of the regulations in an effort to ensure prudent pipeline operation and maintenance. These additional regulations would include, but not be limited to:
 - a. Developing regulatory approval procedures for changes in process, product or equipment.
 - b. Requiring timely reporting of all overpressure events over 110% of MOP/MAOP to regulators (PHMSA, the Commission, and county and local emergency management agencies) so that proper mitigation can be ensured to prevent reoccurrence.

- c. Defining critical safety approaches that would require the use of at least two independent safety equipment methodologies (such as over pressure protection and remote-operated emergency pipeline shutdown and isolation systems).
- d. Regarding the installation of new pipelines, requiring all welds to be radiologically inspected and the resulting records kept for the life of the pipeline and provided to the Commission and county and local emergency management agencies for record.
- e. Setting maximum limits for MOP/MAOP in HCAs with periodic hydrotesting to ensure pipes are meeting their strength test requirements.

5. Enhancing transparency while protecting confidential infrastructure security information.

- National Pipeline Mapping System information currently does not require a public contact for non-mapping questions. Including this contact information would be helpful to those seeking non-emergency landowner information.
- The National Registry of Pipeline and LNG Operators must notify PHMSA of changes to the entity who is responsible for managing or administering the safety program required under this Part regarding the acquisition or divestiture of 50 or more miles of pipeline or facility subject to this Part. Chester County recommends that state agencies as well as affected county and municipal government agencies also be notified to maintain accurate records.

6. Regulation of construction techniques such as horizontal directional drilling.

- The Commission should consider establishing minimum isolation distances, both vertical and horizontal, from all private and public wells to reduce impacts to water supplies, with increased isolation distances for areas of carbonate/karst geology. In 2017, pipeline construction activity resulted in cloudy tap water and dry wells for some Chester County residents, and isolation distances from these water supplies might have avoided this result. Similar isolation distances for septic and community on-lot wastewater disposal systems should also be explored.

7. Accident and incident reporting criteria, notification criteria for reporting incidents or unusual events to local emergency officials.

- Chester County requests that notice requirements and accident reporting occur in the event of any property damage, not just that which exceeds \$50,000. We also request that operators be required to report sooner than a 30-day window, so that other agencies who may need to be involved can be involved as soon as reasonably possible, especially considering that safety-related condition reports are due within five business days.
- Chester County requests the Commission evaluate whether the one-call (811) system is effective in preventing pipeline damage, especially damage that later could result in pipeline failure, by:

- a. Requiring reporting and monitoring of excavation damage to all pipelines in PA by the pipeline operator, pipeline contractor and excavator.
- b. Requiring pipeline operators to maintain clear and obvious rights-of-way. Regular maintenance of these areas would reduce the likelihood of third party interactions with pipelines.
- c. Identifying and holding accountable repeat one-call offenders as consistent with the Underground Utility Line Protection Law.
- We request that the Commission require operators to notify county and municipal officials any time there is a pipeline leak, failure, or potential leak or failure.
- We request and support the availability of sufficient funding and opportunities for training sessions and that educational materials about pipeline incidents be routinely provided for emergency responders.

8. Advance notification and/or Commission preapproval of major construction activities.

- Chester County requests that the utility be required to notify all municipalities, townships and counties of anticipated, scheduled or commenced work done in Chester County.

9. Odorant utilization.

- Chester County strongly recommends that odorant be a required additive to enhance detection and notification to public.

10. Geophysical testing and baselining.

- Portions of Chester County are comprised of areas of carbonate geology. This can result in the formation of voids and soil subsidence around existing pipes, which weakens pipes through greater exposure to moisture and saturated subsurface conditions and reduced soil support. While not all areas of carbonate geology develop these characteristics, pipeline corridors located in these areas that were previously not used in service under Part 195 that are being considered for conversion to service subject to part 195 should be inspected for the presence of sinkholes, depressions, or other evidence of existing or potential subsidence and similar karst features. Inspection of the interior of lines located in carbonate geology should assess the presence of unexpected sags or bends that may indicate the formation of voids adjacent to the pipe. Increased porosity within areas of carbonate geology can increase diffusion rates of any leaked material throughout aquifers, so close scrutiny of pipe condition is imperative to protecting water quality and public safety.

11. Protection of public and private water wells and supplies.

- Chester County requests the Commission consider requiring pre- and post-installation testing of all private and public well water within 500' of pipeline construction activity (i.e. depth to water, water quality parameters relevant to chemical used for drilling, etc.).

12. Land agents and eminent domain (see 52 Pa. Code § 57.91).

- Pipeline Location should be more prescriptive than indicating that the right-of-way must be selected to avoid, as far as practicable, areas containing private dwellings, industrial buildings, and places of public assembly.

13. Background investigations of employees and contractors.

- Chester County requests that the Commission require a criminal background check for any employee or contractor working within the County.

14. Integration of new regulations on existing facilities.

- Chester County recommends the Commission provide funding for appropriate staffing levels for its Bureau of Investigation and Enforcement to continue to conduct inspections and enforce pipeline safety regulations.

IV. CONCLUSION

The County of Chester thanks the Commission for the opportunity to file comments on these important issues and believes the Commission has taken an important step in the right direction in enhancing the regulations set forth in Chapter 59. The County of Chester is confident that the Commission can and will establish appropriate standards for public utilities transporting petroleum products and other hazardous liquids in intrastate commerce to ensure the safety of the general public. The County of Chester looks forward to working cooperatively with the Commission and interested stakeholders to achieve this common goal.

Respectfully submitted,



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Date: September 11, 2019

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