

Environmental Groups' Petition to Amend Regulations to Increase Setbacks from Oil and Gas Wells Clears Initial Regulatory Requirements

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([Joseph K. Reinhart](#), [Sean M. McGovern](#), [Gina F. Buchman](#) and [Matthew C. Wood](#))

On November 21, 2024, the Pennsylvania Department of Environmental Protection (PADEP) notified the Clean Air Council (CAC) and Environmental Integrity Project (EIP) that the agency had reviewed their rulemaking petition requesting amendments to 25 Pa. Code Chapter 78a and determined that it complies with the petition policy of the Environmental Quality Board (EQB). [Letter from PADEP](#) (Nov. 21, 2024). Specifically, in October 2024, CAC and EIP submitted a rulemaking petition to increase the minimum setback distances from unconventional oil and gas wells to 3,281 feet from any building and drinking water well; 5,280 feet from any building serving vulnerable populations, e.g., schools, daycare centers, and hospitals; and 750 feet from any surface water of the Commonwealth. See [Clean Air Council and Environmental Integrity Project Petition](#) (Oct. 22, 2024) (Petition). Current setback requirements include 500 feet from buildings and 1,000 feet from water supply extraction points.

In their petition, CAC and EIP cite the 2020 43rd Statewide Investigating Grand Jury Report (43rd Grand Jury Report) that concluded, among other things, that the Commonwealth “take action to expand the no-drill zone between fracking and homes from 500 to 2,500 feet and to adopt a more protective no-drill zone of 5,000 feet for schools and hospitals.” Petition at 2 (citing the 43rd Grand Jury Report at 93–94). They also allege that the people living near unconventional oil and gas wells experience negative health consequences, that the wells release dangerous pollution, and the wells contaminate surface and groundwater, and for these reasons, the EQB should increase the minimum setbacks to protect public health and public resources. See *generally id.* Governor Shapiro has subsequently reported implementing other recommendations from the 43rd Grand Jury Report that he oversaw as then-Attorney General. See, e.g., [Press Release](#), PADEP, “Shapiro Administration, DEP Requires All Fracking Companies to Be More Transparent About Chemicals Used in Drilling” (Jan. 26, 2024).

The petition must clear a number of regulatory hurdles prior to any proposed rulemaking to amend the relevant regulations. Initially, EQB will review the petition at its next regularly scheduled meeting, where CAC and EIP will have an opportunity to offer a presentation on why EQB should accept the petition and PADEP will make a recommendation to EQB whether to accept the petition. 25 Pa. Code § 23.4. EQB can refuse to accept the petition for certain reasons, enumerated in 25 Pa. Code § 23.5, but if EQB accepts the petition, notice of acceptance will be published in the *Pennsylvania Bulletin* within 30 days. *Id.* § 23.6. In addition, PADEP has 60 days to prepare a report evaluating the petition, including a recommendation on whether EQB should approve the action requested in the petition; if changing a regulation, PADEP must identify the anticipated date EQB will consider a proposed rulemaking. *Id.* PADEP must send the report to CAC and EIP, who may submit a written response within 30 days, *id.* § 23.7, and the report and any CAC and EIP comments will inform PADEP’s ultimate recommendation, *id.* § 23.8.

If PADEP recommends regulatory amendments, the agency will prepare a proposed rulemaking within six months of sending the report to CAC and EIP; if it does not recommend amendments, PADEP will make a presentation at to EQB at “the first meeting occurring at least 45 days after [PADEP] mailed its report to the petitioner.” *Id.* After cancelling its December 2024 and February 2025 meetings, EQB’s next meeting is set for March 11, 2025. Meeting materials will be posted to PADEP’s website.

Babst | Calland
Attorneys at Law

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