

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

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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.

Shapiro Administration Launches Online Resource to Streamline Access to and Provide Information About State Grant Opportunities

On October 30, 2024, the Shapiro administration announced that Secretary for Administration Neil Weaver and the Commonwealth Office of Digital Experience (CODE PA) had launched a new tool to assist stakeholders in learning more about and applying for grants under the more than 300 state grant programs. [Press Release](#), Pa. Office of Admin., “Shapiro Administration Launches New One-Stop Grant Search Tool to Streamline Pennsylvanians’ Access to Government Funding Opportunities” (Oct. 30, 2024). According to the administration, the “Discover State Grants” website is intended to be a comprehensive resource that allows prospective applicants to sort and filter information specific to their needs and will provide links and important information about each grant program to assist in the application process. *Id.*

The administration said it is working to increase participation in grant programs and “level the playing field for state and federal dollars to benefit communities, small businesses, schools, non-profits, and many others across Pennsylvania.” *Id.* The website lists numerous grant categories that cover a wide swathe of subcategories, including grants specifically related to the oil and gas industry. For example, grants recently or currently offered under the energy category include the Methane Emissions Reduction Program General Assistance Grant (for operators of 11 or more wells), Methane Emissions Reduction Program Small Operator Assistance Grant (for operators of 10 or fewer wells), and Orphan Oil and Gas Well Plugging Grant Program (for qualified well pluggers). Other categories include Environmental and Water, Law, Justice, and Legal Services, and Transportation. See Commw. of Pa., “Discover State Grants,” [here](#).

Per the Press Release, CODE PA will continue to work on improving the Electronic Single Application, “a shared platform that manages the application and administration processes for grants by multiple state agencies,” and technical challenges identified by grant applicants. More information about CODE PA and its ongoing work on Discover State Grants and other initiatives is available [here](#).

PADEP Releases Guidance and Additional Information on Industrial Decarbonization Grant Program

In November 2024, the Pennsylvania Department of Environmental Protection (PADEP) released guidance regarding its Reducing Industrial Sector Emissions in Pennsylvania (RISE PA) program. RISE PA is an industrial decarbonization grant program funded by a \$396-million award through the 2022 Inflation Reduction Act’s Climate Pollution Reduction Grants. The grants seek to fund activities that will reduce greenhouse gas (GHG) emissions from the industrial sector by over 8 million metric tons by 2050. Eligible projects must reduce GHG emissions through industrial electrification, energy efficiency technologies, industrial process technologies, fugitive emission reduction technologies, switching to low-carbon fuels, onsite renewable energy technologies, carbon capture, utilization, and storage technologies, or other technologies to qualify (as determined by RISE PA). PADEP is offering grants for Small-, Medium-, and Large-scale decarbonization projects. The Small-scale award track will only be available to small- and medium-sized manufacturers (500 or fewer employees at the plant site). There is no minimum GHG emissions reduction threshold for Small-scale projects, but the amount of GHG emissions reduction will be considered during the evaluation process. For Medium- and Large-scale grants, applicants must achieve at least a 20% annual facility-wide reduction in GHG emissions per project. Small-scale projects will be eligible for up to \$40 million, Medium-scale projects up to \$100 million, and Large-scale projects up to \$220 million. PADEP plans to begin accepting applications in early 2025, with application review and selection anticipated to begin in the middle of the year.

The future of the program, however, is now uncertain. On the first day of his second term in office, President Trump signed Executive Order No. 14,154, “Unleashing American Energy,” 90 Fed. Reg. 8353 (Jan. 20, 2025), which, among many other things, directed federal agencies to pause clean energy and climate-related funding under the Inflation Reduction Act. While the funding for RISE PA had been allocated to Pennsylvania for the program, the funding has not yet been disbursed.

In a Q&A Webinar on January 24, 2025, PADEP addressed the uncertainty. PADEP noted that it has a fully executed grant award agreement in place with the U.S. Environmental Protection Agency, and that the award cannot lawfully be terminated as long as PADEP maintains compliance with the terms and conditions of the award. While PADEP believes that pausing of disbursements required by the executive order does not directly mention the Climate Pollution Grant Program, the agency admits that there is still uncertainty regarding its receipt of the disbursements. Despite the uncertainty, however, PADEP is moving forward with implementing the program.

