

EQB Delays Considering Three Key Rulemaking Petitions at October Meeting

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On September 9, 2025, the Pennsylvania Environmental Quality Board (EQB) elected to defer discussion on three pending rulemaking petitions pertaining to the oil and gas industry until its next meeting.

The first rulemaking petition, submitted by regional environmental groups the Clean Air Council and Environmental Integrity Project (Petitioners) in October 2024, asks the EQB to increase setback distances for new unconventional oil and gas wells. As previously reported in **Vol. 42, No. 2 (2025)** of this *Newsletter*, on April 8, 2025, the EQB tabled this petition for the stated reason of needing more time to review relevant materials. The proposed rulemaking would extend the existing 500-foot setback from buildings and personal-use water wells and 1,000-foot setback from water supply extraction points, both of which are waivable, to the following distances:

- 3,281 feet from any building or drinking water well;
- 5,280 feet from the property boundary of any building serving vulnerable populations, e.g., hospitals, schools, and daycare; and
- 750 feet from any surface water.

Petitioners' proposed rule relies on the 2020 **43rd Statewide Investigating Grand Jury Report**, conducted while current Pennsylvania Governor, Josh Shapiro, was the Attorney General, that investigated impacts on Pennsylvania from the unconventional oil and gas industry as well as the Pennsylvania Department of Environmental Protection's (PADEP) oversight of the industry. That report made eight recommendations, including increasing setbacks between unconventional gas operations and homes from 500 to 2,500 feet and schools and hospitals from 500 to 5,000 feet, arguing existing setbacks. In their proposed rulemaking Petitioners allege the existing setbacks are not protective of human health and the environment.

The second **rulemaking petition**, from Marcellus Shale Coalition (MSC), an Appalachian Basin industry group, pertains to setting attainable bottom well depth during orphan well plugging. The proposed amendments aim to clarify how attainable bottom is determined and how plugging should proceed after such a determination. Specifically, MSC proposes amendments to 25 Pa. Code § 78.1/78a.1, and § 78.91(c)/78a.91(c). The proposed amendment to § 78.1/78a.1 would add the following language:

[a]n operator shall be presumed to have made a reasonable effort to achieve the attainable bottom if the operator has cleaned out the well to at least 200 feet below the coal protective casing (or coal seam if no coal protective casing is present) or surface casing, whichever is deeper, and an additional 100 feet of well bore cannot be cleaned out within one 8-hour work shift.

The proposed amendment to § 78.91(c)/78a.91(c) states that after an operator notifies the Pennsylvania Department of Environmental Protection (Department) inspector that a "reasonable effort" has been made, "[a] cement plug of at least 50 feet will be set at the attainment bottom of the well bore," the depth and efficacy of which will be confirmed after a sufficient time has elapsed, followed by plugging the remaining well bore. MSC asserts the proposed amendments would facilitate a more efficient and effective process for the successful plugging of more orphan and abandoned wells.

The third **rulemaking petition**, also from MSC, pertains to on-site processing of production wastewater. The proposed amendments aim to encourage the efficient reuse of fluids and increase the flexibility of the Department's regulation of on-site fluid processing. Specifically, MSC proposes to amend 25 Pa. Code § 78a.58 as follows:

Onsite pProcessing and Storage

(a) The operator may request approval by the Department to process fluids generated by the development, drilling, stimulation, alteration, operation or plugging of oil or gas wells or mine influenced water at the well site where the fluids were generated or at a the well site where all of the fluid is intended processed or stored to be beneficially used to develop, drill, or stimulate a well at that or other well sites. . . .

MSC contends the amendment will maintain all safeguards while decreasing the need for fresh water, truck traffic, and storage tanks.

EQB canceled its October and November meetings, meaning the earliest it could consider these proposed rulemakings would be at its December 9, 2025, meeting.

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