

EQB Tables Petition for Study to Increase Required Minimum Setbacks from Unconventional Oil and Gas Wells

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On April 8, 2025, the Pennsylvania Environmental Quality Board (EQB) tabled consideration of the Clean Air Council (CAC) and Environmental Integrity Project's (EIP) petition for a rulemaking seeking to amend 25 Pa. Code ch. 78a to increase required minimum setbacks from unconventional oil and gas wells from 500 feet to 3,281 feet. During the meeting, Public Utility Commission (PUC) Commissioner Kathryn Zerfuss moved to table the petition, stating that the members of the EQB need more time to consider materials submitted by industry members and others prior to the meeting, which the EQB approved. Tabling the petition followed a Pennsylvania Department of Environmental Protection (PADEP) presentation recommending that the EQB accept the petition for further study, with the caveat that the recommendation was not an indication of PADEP's substantive position on the petition. See [PowerPoint Presentation](#), PADEP, "Petition for Rulemaking: Unconventional Gas Well Setbacks" (Apr. 8, 2025). CAC and EIP also presented their argument for why the EQB should accept the petition for further study at the meeting, which largely focused on the positions taken in their petition regarding potential adverse health and environmental consequences to people and resources located near unconventional oil and gas wells.

Procedurally, an EQB member would have to motion to un-table the petition to advance the petition for consideration, which could occur at the earliest at EQB's next regularly scheduled meeting, currently set for June 10, 2025. The April meeting featured much debate by the EQB as to the exact timeline of events if the petition is un-tabled and considered during the June meeting. Ultimately, if the petition is considered, the EQB will vote on whether the petition should be further studied by PADEP. The EQB may refuse to accept a petition for further study if it determines that the EQB has considered the issue in the past two years as part of a rulemaking, the requested action is currently in litigation or is not appropriate for rulemaking due to policy or regulatory considerations, or the petition involves an issue previously considered by the EQB and does not contain new or different information to warrant reconsideration. 25 Pa. Code § 23.5. If the EQB accepts the petition, notice of acceptance will be published in the *Pennsylvania Bulletin* within 30 days. *Id.* § 23.6.

Upon publication of the acceptance in the *Pennsylvania Bulletin*, PADEP has 60 days to prepare a report evaluating the petition, but may take additional time if necessary. *Id.* The report includes a recommendation on whether the EQB should approve the action requested in the petition. *Id.* This report must identify the anticipated date the EQB will consider a proposed rulemaking in the report if it contains any regulatory amendments. *Id.* CAC and EIP are entitled to receive the report and make comments that will inform PADEP's ultimate recommendation. *Id.* §§ 23.7–8. Following the report, if PADEP recommends regulatory amendments, it will prepare a proposed rulemaking within six months of sending the report to CAC and EIP. *Id.* § 23.8. If no regulatory amendments are recommended, PADEP will present at the EQB meeting at least 45 days after it mailed its report to CAC and EIP. *Id.*

CAC and EIP filed their petition on October 22, 2024. See [Clean Air Council and Environmental Integrity Project Petition](#) (Oct. 22, 2024) (Petition). To support their arguments, they cite to the 2020 43rd Statewide Investigating Grand Jury Report (43rd Grand Jury Report) published under then-Attorney General Josh Shapiro, now Governor, which concluded in part 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). The petition also alleges that people residing near unconventional oil and gas wells experience negative health consequences, that the wells release dangerous pollution, and that the wells contaminate surface and groundwater, and for these reasons, the EQB should increase

minimum setbacks to protect public health and public resources. *See generally id.* On November 21, 2024, the Pennsylvania Department of Environmental Protection (PADEP) informed CAC and EIP that the petition complied with the EQB petition policy. **Letter from PADEP** (Nov. 21, 2024). Information and materials for the EQB's June meeting will be posted to PADEP's website.

PADEP Issues General Permit for Gaseous Fuel-Fired Spark Ignition Internal Combustion Engines

On April 5, 2025, the Pennsylvania Department of Environmental Protection (PADEP) issued the General Plan Approval and/or General Operating Permit for Gaseous Fuel-Fired Spark Ignition Internal Combustion Engines (BAQ-GPA/GP-16). 55 Pa. Bull. 2680 (Apr. 5, 2025).

A General Permit is a plan approval and operating permit for a specific category of sources that PADEP has determined can be adequately regulated under standardized conditions. Section 6.1(f) of the Air Pollution Control Act (35 Pa. Stat. § 4006.1(f)) and 25 Pa. Code ch. 127, subch. H (relating to general plan approvals and operating permits) authorize PADEP to develop General Permits.

PADEP is also authorized to require new sources to control air pollution through the use of best available technology (BAT) under section 6.6 of the Air Pollution Control Act. In developing General Permits, PADEP establishes BAT for new sources, which can include equipment, devices, methods, or techniques to control air emissions to the maximum degree possible utilizing technologies that are available or may be made available. 25 Pa. Code § 121.1.

GP-16 sets BAT emission limits for certain new gaseous fuel-fired spark ignition internal combustion engines that are more stringent than the applicable New Source Performance Standards for these engines in 40 C.F.R. pt. 60, subpt. JJJJ, and 40 C.F.R. pt. 63, subpt. ZZZZ. GP-16 includes standardized requirements related to BAT and additional terms including recordkeeping and reporting requirements, a compliance certification, source testing requirements, and compliance with applicable New Source Performance Standards. The use of the GP-16 is restricted to facilities that are minor sources.

Prior to the issuance of this General Permit, sources seeking to install and operate spark ignition engines were either required to meet certain exemption criteria or go through the full plan approval process to permit these sources. GP-16 will streamline the permitting process for owners and operators who wish to install spark ignition engines at their facilities in Pennsylvania.

A copy of the General Permit, application instructions, the comment and response document, and technical support document can be found on PADEP's website [here](#).

PADEP Settles with Industry Groups on Control of VOC Emissions from Conventional Oil and Gas Sources

On March 31, 2025, the Pennsylvania Department of Environmental Protection (PADEP) entered a settlement agreement with the Pennsylvania Independent Oil & Gas Association (PIOGA), PA Independent Petroleum Producers (PIPP), and PA Grade Crude Oil Coalition (PGCC) (collectively, Petitioners) pertaining to the Control of VOC Emissions from Conventional Oil and Natural Gas Sources pursuant to 25 Pa. Code ch. 129.

The settlement arises out of a December 5, 2022, petition for review of the emergency-certified final-omitted Control of VOC Emissions from Conventional Oil and Natural Gas Sources by the Petitioners in the Commonwealth Court of Pennsylvania. **PIOGA, PIPP and PGCC Petition** (Dec. 5, 2022) (Petition). Petitioners challenged the rule on the grounds that (1) the regulation did not meet the requirements to be issued as a final omitted rulemaking; and (2) PADEP did not develop the regulation for conventional oil and gas wells separately and independently from those regulations developed for unconventional oil and gas wells, as required by Act 52 of 2016. The rule was adopted by the Environmental Quality Board (EQB) through an emergency certified final-omitted rulemaking approved by the Governor, without notice and comment, which adopted reasonable available control technology standards (RACT) to control volatile organic compound (VOC) and methane emissions from existing and future conventional oil and gas operations and unconventional oil and gas operations, respectively. PADEP contended that the emergency certified final-omitted rulemaking process was appropriate pursuant to the PA Commonwealth Documents Law because notice and comment from the public was unnecessary, impractical, and contrary to the public interest.

In resolution of the petition for review of the rule, the parties agreed to a settlement that stipulates that for the leak detection and repair (LDAR) monitoring threshold, a separate tank battery surface site is not aggregated with the well or wells that supply the tank battery. *See* **PIOGA v. DEP Settlement Agreement FAQ** (Mar. 31, 2025). Further, if

the well that supplies the separate tank battery surface site is subject to LDAR on its own due to the barrel of oil equivalent produced per day, the separate tank battery surface site is not automatically also subject to LDAR. PADEP did not conduct a separate RACT analysis for a conventional oil and gas separate tank battery surface site. LDAR will be required at a separate tank battery site if: (1) the separate tank battery surface site receives more than 15 barrels of oil or the equivalent amount of natural gas per day, and (2) one or more of the wells supplying the separate tank battery surface site produced five or more barrels of oil or the equivalent amount of natural gas per day.

Additionally, the settlement explains how PADEP calculated the 2.7 tons per year trigger for controlling VOC emissions from a storage vessel and states that VOC recovery and control requirements are not impacted by the number of wells connected to a particular tank. The recovery requirement is not impacted by how much methane is emitted from a tank, it instead relates to the collection of VOC emissions. VOC recovery and control requirements are also not impacted by the number of wells connected to a particular tank. The settlement also requires that for 10 years, rulemakings under the Air Pollution Control Act, 35 Pa. Stat. §§ 4001–4106, concerning conventional oil and gas well operations shall be undertaken separately and independently from unconventional wells.

Shapiro Administration Launches Permit Application Tracking Webpage

On January 14, 2025, the Pennsylvania Department of Environmental Protection (PADEP) launched a new webpage to track the progress of permit applications. See Commw. of Pa., “Track Your Permit Application” [here](#) (Permit Tracker). The Permit Tracker allows interested parties to search permits by program area (e.g., oil and gas, by county, permit type, and other details). Applicants can also check the status of a permit application, including which step of the review process the permit is in, the target date for completing that step, and contact information for the permit reviewer.

According to an accompanying press release, PADEP co-developed the Permit Tracker with the Commonwealth Office of Digital Experience (CODE PA) to modernize the permitting process, and in response to requests from the business community. [Press Release](#), PADEP, “Shapiro Administration Launches New Permit Tracker; Businesses Applying for DEP Permits Can Now See Progress in Real-Time” (Jan. 16, 2025). PADEP said that it continues the agency’s “commitment to transparency and improving the user experience for applicants working with us to build a better Pennsylvania.” *Id.* In addition to PADEP’s efforts to reduce its permit application backlogs, the agency said the Shapiro administration has been hiring staff to improve operational efficiency. *Id.*

Implementation of the Permit Tracker follows CODE PA’s October 2024 launch of another website to educate stakeholders about state grant opportunities and assist applicants through the application process. That tool, available [here](#), covers multiple grant categories, including energy and oil and gas. More information about CODE PA’s other efforts can be found on its website [here](#).

PADEP Begins Accepting Grant Applications for Industrial Decarbonization Program

On February 26, 2025, the Pennsylvania Department of Environmental Protection (PADEP) announced it had begun accepting grant applications for the Reducing Industrial Sector Emissions in Pennsylvania (RISE PA) Program. See [Press Release](#), PADEP, “Shapiro Administration Launches RISE PA Initiative to Create Energy Jobs, Cut Costs, Grow Pennsylvania’s Energy & Manufacturing Industries, and Lower Toxic Air Pollution” (Feb. 26, 2025). The RISE PA Program is funded by a \$396-million award under the 2022 Inflation Reduction Act for projects that will reduce carbon emissions from the industrial sector, including from fuel combustion, industrial process emissions, natural gas and oil systems, coal mining, and other electricity usage.

As previously reported in [Vol. 42, No. 1 \(2025\)](#) of this Newsletter, President Trump’s Executive Order No. 14,154, “Unleashing American Energy,” created uncertainty around RISE PA’s future by pausing clean energy and climate-related funding under the Inflation Reduction Act. Exec. Order No. 14,154, § 7, 90 Fed. Reg. 8353 (Jan. 20, 2025). The Shapiro administration, however, sued the federal government and the funds were unfrozen on February 24, 2025.

The RISE PA Program awards are tiered based on project size: up to \$40 million for small-scale projects; up to \$100 million for medium-size projects; and up to \$220 million for large-scale projects. Small-scale awards are administered by the Pennsylvania Technical Assistance Program (PennTAP), while medium- and large-scale awards are administered by PADEP.

The Shapiro administration offered examples of eligible projects, including, “installing energy-efficient heat recovery systems to reduce the energy required to heat or cool an industrial facility, electrifying an industrial plant by swapping out diesel-powered generators with equipment that runs on electricity, and capturing coal mine methane from mining operations.” Press Release, *supra*. The program also includes bonus award opportunities based on taking one or more additional actions and depending on the size of the project. These include a Community Benefits Bonus (for projects in low-income and disadvantaged communities that include a Community Benefits Plan; up to 10% of total project cost), a Fair Labor Bonus (committing to one or more labor-related requirements, based on project size; up to 10% of total project cost), and a GHG Emissions Reduction Bonus (available to medium- and large-scale projects based on the percentage reduction of GHG emissions; up to 10% of total project cost).

The RISE PA website includes step-by-step instructions for applying online, mock project application answers and budgets, and other guidance to assist applicants, as well as a form to submit public feedback about the program. PADEP is currently accepting applications for medium- and large-scale projects, with an application deadline of August 29, 2025, and first award announcements in fall 2025. All projects must be completed by April 1, 2029.

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