

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.

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