

# In Response to Environmental Groups' Request, PADEP Declines to Issue Order to Shell Plant to Cease Operations

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On February 17, 2023, the Clean Air Council (CAC) and the Environmental Integrity Project (EIP) sent a letter to the Pennsylvania Department of Environmental Protection (PADEP) requesting that the agency issue an order to Shell Chemical Appalachia LLC (Shell) to temporarily halt operations at the Shell Polymers Monaca Plant in Beaver County, Pennsylvania (Plant). See Letter from EIP & CAC to PADEP (Feb. 17, 2023). Specifically, CAC and EIP alleged that people living near the Plant had been exposed to volatile organic compounds (VOCs), nitrogen oxide (NOx), and other pollutants emitted in violation of Shell's plan approval, the federal Clean Air Act, and the Pennsylvania Air Pollution Control Act (APCA). CAC and EIP cited PADEP's February 2023 notice of violation (NOV) documenting the Plant's exceedances of the 12-month rolling total emission limitations for VOCs in November and December 2022 and the 12-month rolling total emission limitations for NOx in December 2022, as well as the agency's December 2022 NOV for the same VOCs emissions violations during September and October 2022. CAC and EIP also highlighted multiple malfunction reports submitted to PADEP by Shell documenting alleged violations of the visible emissions limitations of the Clean Air Act and Shell's plan approval related to emissions from the Plant's flares.

CAC and EIP urged PADEP to immediately act using the authority granted to it under the APCA, arguing that the statute allows the agency to issue orders to facilities to cease operations in violation of the APCA, plan approvals, or permits, citing as precedent a stop construction order PADEP issued in 2018 related to incidents during the construction of the Mariner East 2 pipeline. CAC and EIP requested that PADEP issue a similar order to Shell until the company can demonstrate that the Plant can operate in compliance with applicable laws. Prior to submitting their request to PADEP, CAC and EIP also sent Shell a notice of intent to sue the company under the citizen suit provisions of the Clean Air Act and the APCA to compel the Plant's compliance with applicable requirements. See Notice of Intent to Sue (Feb. 2, 2023).

PADEP responded to CAC and EIP's allegations in a February 28, 2023, letter in which the agency declined to issue an order to Shell, citing ongoing evaluations and inquiries, but said it would consider CAC and EIP's letter in evaluating future enforcement actions. See PADEP Response (Feb. 28, 2023). The agency explained that according to Shell, the Plant is still in the commissioning phase, which started in mid-2022, and Shell has represented that the malfunctions and violations during commissioning will not occur during normal operations. PADEP also noted that it had fined Shell, was considering other penalties, and directed Shell to submit an emission exceedance report and mitigation plan examining the causes of, and identifying measures to prevent, the violations and malfunctions, which Shell did on January 30, 2023. Since then, PADEP requested, and Shell provided, additional technical information regarding the mitigation plan. PADEP has also issued Shell four more NOVs and Shell has submitted another malfunction report. For additional information, see <https://www.dep.pa.gov/About/Regional/SouthwestRegion/Community%20Information/Pages/Shell-Petrochemical-Complex-.aspx>.

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