

# PADEP General Permit for Short Duration Processing and Beneficial Use of Oil and Gas Liquid Waste Available for Use

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On June 25, 2022, the Pennsylvania Department of Environmental Protection (PADEP) published General Permit WMGR163 (Permit) in the *Pennsylvania Bulletin*, 52 Pa. Bull. 3632 (June 25, 2022). PADEP issued the Permit following a 60-day comment period that closed on March 15, 2022. As issued, the Permit authorizes the short-term processing, transfer, and beneficial use of oil and gas liquid waste to hydraulically fracture or otherwise develop an oil or gas well under the authority of the Solid Waste Management Act, 35 Pa. Stat. §§ 6018.101–.1003, and the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 Pa. Stat. §§ 4000.101–.1904. The Permit covers facilities that process and beneficially reuse oil and gas liquid waste for no more than 180 consecutive days at any one time.

Any company interested in using the Permit must register its authorized activities with PADEP. 25 Pa. Code § 287.643. In addition, PADEP is prohibited from requiring an applicant to obtain a determination of applicability from the agency prior to the issuance of the final permit for the land application of material. See *id.* § 287.641(c), (d). The Permit is applicable to the same oil and gas facilities eligible for coverage under General Permit WMGR123 (“Processing and Beneficial Use of Oil and Gas Liquid Waste”), but with fewer conditions. Key provisions in the Permit include:

1. An authorized facility may process and transfer oil and gas liquid waste for no more than 180 consecutive days during the Permit’s two-year coverage period and a permittee can only operate for a maximum of one year during that period. A permittee’s coverage automatically expires one year from the date waste is first received or processed, or two years from date of permit issuance, whichever is less.
2. Under the Permit, oil and gas liquid waste is not subject to concentration limits or chemical testing in order to be stored in an impoundment (unlike General Permit WMGR123).
3. The applicable facility must meet the siting requirements set forth in the Permit (e.g., it must not be located within a 100-year floodplain or within certain distances of exceptional value wetlands, occupied dwellings, or property lines, subject to certain exceptions).
4. A permittee must develop and make available at the facility a preparedness, prevention, and contingency plan that is consistent with applicable PADEP guidance.

The following key terms and provisions were revised based on public comments:

1. The duration of the Permit’s coverage was extended from one year to two years, with the maximum operational timeframe of one year.
2. The definition of “operate” was revised to clarify that the operational period does not commence prior to oil and gas liquid waste being received or processed at the permitted location.
3. Condition C.1 in the draft version of the Permit, which stipulated no more than 100,000 gallons of oil and liquid waste could be stored on-site, was eliminated.
4. Former Condition C.26 (now Condition C.25) was revised to clarify that permittees are not authorized to store oil and gas liquid waste in impoundments. The condition was also revised to allow permittees to demonstrate they are exempt from emission permits for open-top storage tanks or other emissions sources in accordance with applicable regulations.
5. Condition F.1 was revised to clarify that a renewal request must be submitted at least 180 days in advance of the Permit expiration date and include a certified statement that information contained in the original Permit application has not changed since Permit issuance.

6. Condition F.3 was revised to clarify that a permittee may apply for coverage at a previously covered site, but a new Permit cannot be issued until the permittee successfully completes closure and post-closure activities in accordance with Condition C.4 of the Permit.

The Permit became effective June 25, 2022, and expires June 25, 2032.

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