

PADEP Presents Update on the OOOOc Rulemaking to the Air Quality Technical Advisory Committee

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On October 10, 2024, the Pennsylvania Department of Environmental Protection (PADEP) presented an update on and summary of OOOOc Rulemaking to the Bureau of Air Quality's Air Quality Technical Advisory Committee (AQTAC). See [PowerPoint Presentation](#), PADEP, "Emissions Guidelines (EGs) for Greenhouse Gas (GHG) Emissions from Existing Crude Oil & Natural Gas Facilities (40 CFR Part 60 Subpart OOOOc)" (Oct. 10, 2024). On March 8, 2024, the U.S. Environmental Protection Agency (EPA) finalized its rule targeting methane emissions from the oil and natural gas sector (the Methane Rule), which established new source performance standards (NSPS) for facilities built, modified, or reconstructed after December 6, 2022 (OOOOb), as well as emissions guidelines (EG) for states to follow in designing and executing state plans for existing sources (OOOOc). See Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review, 89 Fed. Reg. 16,820 (Mar. 8, 2024) (to be codified at 40 C.F.R. pt. 60). The Methane Rule applies to oil and gas facilities involved in production and processing (including equipment and processes at well sites, storage tank batteries, gathering and boosting compressor stations, and natural gas processing plants) and natural gas transmission and storage (including compressor stations and storage tank batteries). The Rule requires frequent monitoring and repair of methane leaks at well sites, centralized production facilities, and compressor stations using established inspection technologies or, at an operator's selection, novel advanced detection technologies. OOOOb applies to affected facilities that begin construction, reconstruction, or modification after December 6, 2022, while OOOOc (as implemented by state programs) will apply to sources existing as of that same date. The main differences between OOOOb and OOOOc are the timeframe for compliance and the additional requirements for new wells, particularly relating to flaring and well completions.

Under 25 Pa. Code § 122.3, Pennsylvania will incorporate OOOOc by reference and adopt a State Plan based on the Model Rule. PADEP has until March 8, 2026, to submit the State Plan to EPA. The State Plan must document meaningful engagement, which includes input from PADEP advisory bodies, environmental justice communities, stakeholder outreach and discussion, and public hearings. After the State Plan is submitted, EPA has 60 days to determine completeness and then has one year to approve or disapprove the plan. Under the regulations, EPA has until May 2027 to approve the state plans. The projected compliance deadline for owners and operators will be the first quarter of 2029.

Notably, the Methane Rule has several key subparts. First, it aims to phase out venting and flaring of gas from oil wells because the most significant emissions reductions will come from this directive. The Methane Rule also creates the Super Emitter Program (SEP) for identifying and addressing significant methane leaks from production facilities, including an avenue for qualified third parties to alert EPA of owners and operators exceeding the emissions standards and for EPA to require owners/operators to investigate such alerts. A "super emitter" event is defined as emissions of 100 kg (220.5 pounds) of methane per hour or larger. Further, the Methane Rule is also applicable to storage vessels, as owners and operators of existing tanks or tank batteries will need to evaluate a new applicability trigger under OOOOc. Under the presumptive standard, for existing storage tanks or tank batteries with a potential to emit of 20 tons of methane per year or greater, owners/operators will have to reduce their emissions by 95%.

The Methane Rule also establishes new leak detection and repair (LDAR) requirements based on the type of facility involved, which generally includes well sites, centralized production facilities, and compressor stations where methane is emitted. Additionally, for well closure, fugitive emissions monitoring is required to continue until closure and, once closed, a final optical gas imaging survey must be performed. All pneumatic pump affected facilities in the

oil and gas industry and pneumatic controllers must have zero emissions, and natural gas-driven pumps are prohibited except at facilities with fewer than three natural gas-driven diaphragm pumps in areas where other power sources are inaccessible. There are also new requirements for well liquids unloading, centrifugal compressors, reciprocating compressors, covers and closed vent systems, natural gas processing plant equipment leaks, and sweetening units.

PUC Issues Final Regulations for Petroleum Products and Other Hazardous Liquids in Intrastate Commerce

On September 14, 2024, the Pennsylvania Public Utility Commission (PUC) published its *Rulemaking Regarding Hazardous Liquid Public Utility Safety Standards at 52 Pa. Code Chapter 59* in the *Pennsylvania Bulletin*, the purpose of which is to “establish State public utility safety standards addressing localized concerns for hazardous liquid public utilities constructing, operating, and maintaining pipeline facilities.” 54 Pa. Bull. 5729 (Sept. 14, 2024). The rulemaking specifically applies to public utility *intrastate* hazardous liquid pipelines and facilities. It does not apply to Act 127 of 2011 (the Gas and Hazardous Liquids Pipelines Act), 58 Pa. Stat. §§ 801.101—.1101, pipelines or solely *interstate* hazardous liquid pipelines. The rule primarily establishes new standards for governing hazardous liquid public utilities (HLPUs) and related activities, such as constructing new pipelines; converting, relocating, or replacing existing pipelines; and reporting requirements. It also includes requirements for operations and maintenance, qualifications for pipeline personnel and land agents, and corrosion control standards for all HLPUs. Currently, there are only two certified HLPUs in Pennsylvania. In addition, the PUC made minor revisions to regulations applicable to gas service.

Among other things, the rulemaking includes requirements for conducting geological and environmental impact studies related to pipeline construction and conducting inspections and maintenance of depth of cover for pipes transporting hazardous liquids, construction, and clearance between pipes and underground structures. The rule also prevents constructing, relocating, or converting pipelines under existing buildings and establishes requirements for girth weld testing. More broadly, the rule is intended to improve communications between stakeholders, including the utilities, the public, local government entities, and others. The PUC reasoned the rule is necessary to reduce the frequency and consequences of incidents involving onshore transmission lines by employing prevention methods and early detection of threats to pipelines. As support, the PUC cited 71 hazardous liquid pipeline accidents in Pennsylvania since 2010 that all resulted in releases or spills, and investigations into 243 incidents of reported subsidence since 2017.

The PUC originally adopted and entered the final-form rulemaking order on February 22, 2024, see [Rulemaking Regarding Hazardous Liquid Public Utility Safety Standards at 52 Pa. Code Chapter 59, No. L-2019-3010267](#), but withdrew it prior to review by the Independent Regulatory Review Commission (IRRC). After resubmission, the IRRC approved the revised final-form rulemaking on June 20, 2024. See [Press Release](#), PUC, “PUC Enhancements to Regulations for Hazardous Liquids Pipelines Receive Approval from Independent Regulatory Review Commission” (June 20, 2024). In response to public comments, the PUC removed many requirements from the final rule that were originally included in its proposed rule. Those included design requirements regarding external loads; 40 inches of depth cover in commercial farmland; standards regarding valves for pipelines transporting highly volatile liquids (federal regulations now require rupture mitigating valves or equivalent technology); pressure testing; leak detection and odorization; determination of need for emergency flow restricting devices; additional criteria for cathodic protection; and close interval survey requirements. The docket for the rule, L-2019-3010267, is available [here](#). The final rule is effective on November 13, 2024.

PADEP Begins Accepting Grant Applications for Plugging Orphaned Oil and Gas Wells

On October 9, 2024, the Pennsylvania Department of Environmental Protection (PADEP) began accepting applications for grants to plug abandoned oil and gas wells. See [Press Release](#), PADEP, “Shapiro Administration Launches New Program in Pennsylvania to Plug Orphan Oil and Gas Wells, Creating Jobs and Cutting Methane Emissions in the Commonwealth” (Oct. 2, 2024). PADEP said that this new program is intended to reduce greenhouse gas emissions from orphaned wells that have the potential to leak methane, while also supporting job growth in the energy sector. An orphaned well is defined by section 3202 of the Pennsylvania Oil and Gas Act as “a well abandoned prior to April 18, 1985, that has not been affected or operated by the present owner or operator and from which the present owner, operator or lessee has received no economic benefit other than as a landowner or recipient of a royalty interest from the well.” According to PADEP, Pennsylvania has more than 350,000 orphaned and abandoned wells, which contribute to approximately 8% of the state’s total methane emissions.

The total amount of available funding is \$16.8 million, and applicants can apply to plug up to five wells per application, with subawards based on well depths. A maximum of \$40,000 will be awarded for each well that is 3,000 feet or less, and a maximum of \$70,000 will be awarded for wells greater than 3,000 feet. The grants are available to Qualified Well Pluggers, defined as a “person who demonstrates access to equipment, materials, resources and services to plug wells in accordance with statutory and regulatory requirements.” An applicant may apply to plug additional wells once the last well under its current application is adequately plugged, PADEP issues a plugging certificate, and all terms and conditions of the grant agreement have been satisfied. All wells must be screened for methane prior to the application process, and for wells where methane is detected, emissions must be measured after application approval, but prior to plugging the well.

The funding is part of the \$76.4 million Phase 1 formula grant awarded to Pennsylvania through the Infrastructure Investment and Jobs Act (IIJA). Additionally, per the IIJA, recipients of grant funds must submit environmental information documentation to the U.S. Department of the Interior for approval before beginning work on plugging projects, which contains a project scope and description, Endangered Species Act clearance, and National Historic Preservation Act clearance. More information on the application requirements is available [here](#), and more information about the program is available at the Office of Oil and Gas Management’s website [here](#). PADEP published notice of the program and application period in the *Pennsylvania Bulletin* on October 5, 2024. 54 Pa. Bull. 6343 (Oct. 5, 2024).

PADEP Publishes Final Erosion and Sediment Control General Permit-4

On October 5, 2024, the Pennsylvania Department of Environmental Protection (PADEP) issued a notice publishing the final Erosion and Sediment Control General Permit-4 (ESCGP-4) for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing, or Treatment Operations or Transmission Facilities. 54 Pa. Bull. 6341 (Oct. 5, 2024). In September 2024, PADEP published a Comment Response Document to comments it received during the comment period from June 29, 2024, to July 29, 2024, and incorporated those comments into ESCGP-4. See PADEP, [Comment Response Document](#) (Sept. 2024). In response to comments, PADEP did not eliminate the expedited review process for the ESCGP-4 permit, and noted that there are minimal differences between ESCGP-3 and ESCGP-4.

However, there are several notable changes and additions in ESCGP-4, including (1) where an approved discharge later becomes ineligible for coverage, the permittee must promptly act to restore eligibility and notify PADEP, or apply for an individual erosion and sediment control permit if eligibility cannot be restored; (2) the imposition of a new 60-day deadline to submit the notice of intent (NOI) before the planned date for initiating any new discharge; (3) a weekly inspection requirement after “snowmelt sufficient to cause a discharge” occurs, which must be completed by qualified personnel who meet the enumerated requirements under the permit; (4) that repair or replacement actions be implemented within 24 hours of discovery of an issue, where ESCGP-3 required immediate action; and (5) for any stormwater control measure that is not authorized by PADEP manuals, the permittee must receive PADEP approval and comply with related requirements.

ESCGP-4 became effective on October 5, 2024, and will expire October 5, 2029. Notices of permit approvals will be published in the *Pennsylvania Bulletin*. As of October 11, 2024, any NOI for new projects, renewals, subsequent phases, or modifications must be submitted under ESCGP-4. See PADEP, [ESCGP-4 Transition Plan](#) (Sept. 2024). Further, PADEP is required to act on all NOIs submitted for coverage under ESCGP-3 by January 6, 2025, due to its pending expiration. However, projects that were authorized for coverage under ESCGP-3 prior to this date will have coverage administratively extended under the terms and conditions of ESCGP-3 for the remainder of the time period of the original coverage. That is, if PADEP approves ESCGP-3 coverage, that coverage remains valid through the permit’s approved expiration date, unless PADEP approves a notice of termination or revokes permit coverage in the interim.

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