

PADEP Releases Regulatory Update, Including for Rules Applicable to Conventional Oil and Gas Operations

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On July 22, 2023, the Pennsylvania Department of Environmental Protection (PADEP) published its semi-annual Regulatory Update, which summarizes the current status of regulations under development or consideration (and includes recently completed regulations). See 53 Pa. Bull. 3905 (July 22, 2023). The Regulatory Update highlighted agency progress on two proposed rulemakings to amend 25 Pa. Code ch. 78, the regulations governing conventional oil and gas well operations, that have been in development since 2020.

The first proposed rulemaking, “Environmental Protection Performance Standards for Conventional Oil and Gas Operators” (#7-539), proposes to amend 25 Pa. Code ch. 78 to update the environmental protection performance standards for surface activities at conventional oil and gas well sites. Among other things, it would amend the chapter 78 regulations to update well reporting requirements and protection and replacement of public or private water supply regulations to align them with Act 13 of 2012 (which amended Pennsylvania’s Oil and Gas Act, 58 Pa. Cons. Stat. §§ 2301–3504). The proposed rule would also amend bonding requirements to align with Act 57 of 1997 (which amended the Administrative Code of 1929) and amends the regulations regarding well inactive status designations. See Proposed Chapter 78 Annex A Rulemaking (Aug. 19, 2021). This proposed rulemaking was most recently presented at the December 16, 2021, Pennsylvania Grade Crude Development Advisory Council (CDAC) meeting and the proposed date of promulgation is Q4 2023. See 53 Pa. Bull. 3905 (July 22, 2023).

The second proposed rulemaking, “Waste Management and Related Issues at Conventional Oil and Gas Well Sites” (#7-540), addressed the proper management of waste at conventional oil and gas well sites. This rulemaking would amend chapter 78 to require operators to establish an area of review prior to initiating operations to identify any wells within certain distances of the planned operations, would require operators to develop preparedness, prevention, and contingency plans, and addresses proper handling, storage, processing, and disposal of waste generated by conventional oil and gas operations. See Proposed Chapter 78 Annex A Rulemaking (Aug. 19, 2021). This proposed rulemaking was most recently presented at the February 16, 2023, CDAC meeting and the proposed date of promulgation is the first quarter of 2024.

As noted, PADEP’s Regulatory Update also highlighted completed regulations. Those included “Control of Emissions from Conventional Oil and Natural Gas Sources” (#7-580), a rulemaking to amend 25 Pa. Code ch. 129 to establish emissions limitations and reasonably available control technology requirements for volatile organic compounds and other pollutants applicable to existing conventional oil and natural gas operations. Pennsylvania’s Independent Regulatory Review Commission (IRRC) approved this rule on April 20, 2023. See IRRC, Approval Order, Regulation No. 7-580 (Apr. 20, 2023).

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