

Pennsylvania Drafting Updates to Conventional Oil and Gas Regulations

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Pennsylvania – Oil & Gas

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The Pennsylvania Department of Environmental Protection (PADEP) is proceeding with two updates amending 25 Pa. Code ch. 78 (conventional oil and gas well regulations). See DEP Regulatory Update (Apr. 23, 2022). The final chapter 78 rulemaking approved by the Environmental Quality Board (EQB) and Independent Regulatory Review Commission (IRRC) in 2016 was used as the basis for the proposed updates. See Meeting Minutes, Oil & Gas Technical Advisory Board (TAB) (Sept. 17, 2020).

The first draft update, “Environmental Protection Performance Standards for Conventional Oil and Gas Operators” (#7-539), proposes updates to well reporting requirements and protection and replacement of public or private water supply regulations to reflect Act 13 of 2012, bonding requirements to reflect Act 57 of 1997, and updates to assessment and inactive status designation regulations to reflect current PADEP practice. Other surface and non-surface activity updates address permit issuance, underground injection well permitting, impoundments and borrow pits, erosion and sedimentation and site restoration requirements, and mechanical integrity testing and reporting. See TAB Meeting (Jan. 14, 2022); Proposed Chapter 78 Annex A Rulemaking (Aug. 19, 2021). This update was most recently presented to the Pennsylvania Grade Crude Development Advisory Council (CDAC) on December 16, 2021, and TAB on May 5, 2021.

The second update, “Waste Management and Related Issues at Conventional Oil and Gas Well Sites” (#7-540), addresses proper handling, storage, processing, and disposal of drill cuttings and waste water generated by conventional oil and gas operations. Area of review requirements pertaining to preparedness, prevention, and contingency plans, along with reporting and remediation of spills and releases at conventional oil and gas well sites, would be significantly updated by this proposed update. This update was last presented to CDAC on August 19, 2021, and to TAB on September 9, 2021. Of note, the practice of spreading brine for dust suppression and deicing roadways, on which PADEP’s Office of Oil and Gas Management imposed a moratorium in 2018 (but is authorized under PADEP’s Waste Management Program in certain situations), is not addressed in this update. See Proposed Chapter 78 Annex A Rulemaking (Aug. 19, 2021); Meeting Minutes, TAB (Sept. 9, 2021). PADEP, however, is currently reviewing a Penn State study on the environmental impact of spreading brine on roadways and advised TAB that the report will be released no later than August 2022, and indicated to TAB that the findings of the Penn State study will likely have a broad impact on the practice of brine spreading on roadways. TAB Meeting (Apr. 25, 2022). PADEP’s review of the study coincides with the Pennsylvania Office of the Attorney General’s apparent investigation of alleged illegal disposal, under the residual waste regulations, of brine produced from conventional oil and gas operations on roadways. See Meeting Comments, CDAC (Apr. 21, 2022).

PADEP advised TAB on April 25, 2022, that it will present the first draft update to the EQB for consideration and public comment during the second quarter of 2022. PADEP anticipates presenting the second update to EQB for consideration and public comment the following quarter. See 52 Pa. Bull. 1930 (Mar. 26, 2022).

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