

Pennsylvania General Permit for Short Duration Processing and Beneficial Use of Oil and Gas Liquid Waste Available for Public Comment

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On January 15, 2022, the Pennsylvania Department of Environmental Protection (PADEP) published draft General Permit WMGR163 (Draft Permit) in the *Pennsylvania Bulletin* for public comment. See 52 Pa. Bull. 419 (Jan. 15, 2022). PADEP created the Draft Permit as a result of the July 9, 2021, passage of Act 70, which amended the Administrative Code of 1929. As proposed, the Draft Permit would authorize 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 Draft Permit covers facilities that process and beneficially reuse oil and gas liquid waste for no longer than 180 consecutive days.

If finalized as proposed, any company interested in using the Draft Permit will have to register its authorized activities with PADEP pursuant to 25 Pa. Code § 287.643. PADEP will be prohibited from requiring an applicant to obtain a determination of applicability from the agency (25 Pa. Code § 287.641(c)) prior to the issuance of the final permit as authorized under 25 Pa. Code § 287.641(d) for the land application of material. Key provisions in the Draft Permit include:

1. Facilities are authorized to process and transfer oil and gas liquid waste for no more than 180 consecutive days during the permit's one-year coverage
2. The permittee may not store more than 1,000,000 gallons of oil and gas liquid waste on-site at any one
3. 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).
4. 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 an exceptional value wetland, dwelling, or property line, subject to certain exceptions).
5. The permittee must develop and make available at the facility a Preparedness, Prevention and Contingency Plan that is consistent with applicable PADEP guidance.

The Draft Permit is available for review and comment through March 15, 2022, and Act 70 requires PADEP to submit the general permit to the Pennsylvania Legislative Reference Bureau by July 1, 2022, for publication in the *Pennsylvania Bulletin*. 71 Pa. Stat. § 510-39.

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