



Oil and Gas Management

Petition for Rulemaking: Unconventional Gas Well Bonding

Environmental Quality Board Meeting
November 16, 2021

Tom Wolf, Governor

Patrick McDonnell, Secretary

Petition Submission

On September 27, 2021, the Sierra Club, Clean Air Council, Earthworks, Mountain Watershed Association, PennFuture, and Protect Penn-Trafford (“Petitioners”) submitted an amended petition for rulemaking to the Environmental Quality Board (EQB) requesting full-cost bonding for all new and active unconventional gas wells.

EQB Petition Criteria

- DEP reviewed the petition in accordance with the EQB Petition Policy in 25 Pa. Code Chapter 23 and determined the petition meets the conditions for further review:
 - The petition is complete as required by Section 23.1.
 - The petition requests an action that can be taken by the EQB.
 - The requested action does not conflict with federal law.

History of Current Bonding Requirements

Prior to 2012, unconventional gas well operators were required to provide bonds to DEP for all new unconventional gas wells as required by **Act 223 of 1984**, as amended:

- Bond amounts were set at \$2,500 per well. Collateral or surety bonds allowed.
- Bonds required for all new and existing wells, and “conditioned that the operator shall faithfully perform all of the drilling, water supply replacement, restoration and plugging requirements of this act.”
- Rather than file individual bonds for each well, an owner or operator could file a blanket bond covering all its wells in Pennsylvania in the amount of \$25,000.
- The EQB was granted discretionary authority to amend bond amounts “every two years to reflect the projected costs to the Commonwealth of performing well plugging.”

History of Current Bonding Requirements

Section 3225 of Act 13 of 2012 updated the bonding requirements applicable to unconventional gas wells:

- Basic per well bond amount was based on the total length of the wellbore.
- “Laddered” approach.
- Blanket bonds allowed on each “step” of the ladder.
- EQB retained discretionary authority to amend bond amounts “every two years to reflect the projected costs to the Commonwealth of performing well plugging.”

Summary of Current Bonding Requirements

- Wells with total well bore lengths less than 6,000 feet:
 - Up to 50 wells - \$4,000/well; blanket bond of \$35,000
 - 51-150 wells - \$35,000 plus \$4,000/well; blanket bond of \$60,000
 - 151-250 wells - \$60,000 plus \$4,000/well; blanket bond of \$100,000
 - 250+ wells - \$100,000 plus \$4,000/well; blanket bond of \$250,000
- Wells with total well bore lengths greater than 6,000 feet:
 - Up to 25 wells - \$10,000/well; blanket bond of \$140,000
 - 26-50 wells - \$140,000 plus \$10,000/well; blanket bond of \$290,000
 - 51-150 wells - \$290,000 plus \$10,000/well; blanket bond of \$430,000
 - 150+ wells - \$430,000 plus \$10,000/well; blanket bond of \$600,000

Petition Request

- Amend 25 Pa. Code § 78a.302 (relating to requirement to file a bond):
 - Increase bond amounts for unconventional gas wells to \$83,000 for each new unconventional gas well or active unconventional gas well.
 - Set blanket bonds to the sum of total per-well bond amounts.
 - Establish an ongoing obligation for DEP to submit a report to the EQB evaluating whether the EQB should adjust bond amounts further.
 - The first report would be due by January 2, 2025, and include a recommendation on whether the EQB should adjust the bond amounts. If the recommendation is to adjust bond amounts, DEP will develop a proposed rulemaking for EQB consideration within six months. Future reports would be due every two years.

Notification

The Department notified the petitioners on October 8, 2021, that the petition met the requirements for acceptability as defined in the EQB's Petition Policy.

Next Steps

- If the EQB accepts the petition for further study, a notice of acceptance would be published in the *Pennsylvania Bulletin* within 30 days.
- DEP would prepare a report evaluating the petition within 60 days.
 - If the report cannot be completed within the 60-day period, at the next EQB meeting the Department would state how much additional time is necessary to complete the report.

Next Steps

- The Department's report would include a recommendation on whether the EQB should approve the action requested in the petition.
 - If the recommendation is to amend a regulation, the report would also specify the anticipated date that the EQB would consider a proposed rulemaking.

Recommendation

The Department recommends that the EQB accept this petition for further study.

**The recommendation does not infer the promulgation of a rulemaking.*



pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION



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