

Petition for Rulemaking: Unconventional Gas Well Setbacks

Environmental Quality Board
April 8, 2025





Rulemaking Petition Process

EQB Policy for Processing Petitions codified in [25 Pa. Code Chapter 23](#)

- 1) Petition submitted to DEP
- 2) DEP reviews petition to confirm it meets all criteria for further review
 - a) Petition is complete (all required information provided)
 - b) Petition requests an action that can be taken by the EQB
 - c) Requested action does not conflict with federal law
- 3) DEP notifies petitioner if petition may be submitted to EQB



Rulemaking Petition Process

- 4) Petition presented to EQB by DEP and petitioner, with DEP recommendation
- 5) EQB votes on whether to accept the petition for further study by DEP; EQB may refuse to accept petition if:
 - a) Issue considered in past 2 years as part of a rulemaking
 - b) Requested action currently in litigation
 - c) Requested action not appropriate for rulemaking (policy or regulatory considerations)
 - d) Issue previously considered by EQB - no new/different information provided



Rulemaking Petition Process

- 6) If EQB accepts petition for further study, DEP prepares a report evaluating the petition, including DEP's recommendation on whether the EQB should approve any or all actions requested by petition
- 7) Petitioner may provide written response to the report
- 8) DEP provides recommendation to EQB based on DEP's report and petitioner response; EQB votes on DEP recommendation

Petition Submission

On October 22, 2024, the Clean Air Council and the Environmental Integrity Project (“Petitioners”) submitted a petition for rulemaking to the Environmental Quality Board (“EQB”) requesting amendments to 25 Pa. Code Chapter 78a that would increase setback distances between unconventional gas well operations and buildings, water supplies, or certain environmental features.



Petition Request

The petition calls for the following:

- Increases to the minimum setbacks for new unconventional gas wells, discharge of tophole or precipitation pit water by land application, and disposal of drill cuttings
- Increases to the area requiring demonstrated protection of a water body and notification to a public resource agency
- Establishing minimum setbacks for temporary storage tanks and structures, tanks storing brine or produced fluids, well development impoundments, and centralized impoundments



Petition Request

The new or increased setback distances requested are:

- 3,281 feet from any building
- 5,280 feet from the property boundary of any building serving vulnerable populations (such as schools, daycares, hospitals)
- 3,281 feet from any drinking water supply
- 750 feet from any surface water of the Commonwealth

EQB Petition Criteria

DEP reviewed the petition in accordance with the EQB Petition Policy in 25 Pa. Code Chapter 23 by applying the criteria for further review, as listed in Section 23.2:

- 1) The petition is complete as required by Section 23.1.
- 2) The petition requests an action that can be taken by the EQB.
- 3) The requested action does not conflict with federal law.



Pennsylvania
Department of
Environmental Protection

Notification

The Department notified the petitioners on November 22, 2024, that the petition met the requirements for acceptability as defined in the EQB's Petition Policy in Section 23.2.



Pennsylvania
Department of
Environmental Protection

Recommendation

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

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



Questions?

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The Department of Environmental Protection's mission is to protect Pennsylvania's air, land and water resources and to provide for the health and safety of its residents and visitors, consistent with the rights and duties established under the Environmental Rights Amendment (Article 1, Section 27 of the Pennsylvania Constitution).