



# The PIOGA press

The monthly newsletter of the Pennsylvania Independent Oil & Gas Association

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## Chapter 78/78a rulemaking moves on to EQB

### Conventional Oil and Gas Advisory Committee and Oil and Gas Technical Advisory Board meetings on December 22

The Pennsylvania Department of Environmental Protection announced in the December 19 *Pennsylvania Bulletin* additional meetings of the Conventional Oil and Gas Advisory Committee (COGAC) and the Oil and Gas Technical Advisory Board (TAB) on December 22. The purpose of these meetings, which were held as conference calls, were for the two advisory groups to consider comments to be submitted to the Environmental Quality Board regarding the final rulemaking amending 25 Pa. Code Chapter 78 (for conventional wells) and Chapter 78a (for unconventional wells) pertaining to environmental protection performance standards at oil and gas well sites.

The COGAC conference call, which started at 10 a.m. lasted approximately a half an hour, included a discussion of COGAC's final report concerning the department's proposed amendments to 25 Pa. Code Chapter 78. The report, which was provided to the department the previous week, was prepared pursuant to an October 27 resolution by TAB. That resolution held that comments or reports on Chapter 78 developed by COGAC would be incorporated into TAB's written report that it would present to the Environmental Quality Board (EQB), in accordance with Section 3226(d) of the 2012 Oil and Gas Act.

On the call, COGAC provided an overview of its report, which was drafted following COGAC member consultation with experts, industry associations, and close review of notes and minutes from previous COGAC and TAB meetings regarding the Chapter 78 rulemaking. COGAC's report reiterates its position from its October 29 resolution, which held that the proposed Chapter 78 rulemaking should not be advanced to the EQB (November PIOGA Press, page 16). Neither the department representatives nor the general public participating on the call had any comments on COGAC's final report. Following the discussion, COGAC's members unanimously approved the report for inclusion in the regulatory package provided to the EQB by the department.

Following the COGAC conference call, TAB's conference call began at 1 p.m. and lasted approximately 45 minutes. On the call, TAB stated that it would prepare and submit a written report to the EQB per Section 3226(d) of the 2012 Oil and Gas Act. As part of this effort, TAB agreed to accept and consider comments from the non-voting members of TAB and the public at large regarding the department's revisions to Chapter 78 and

78a for a limited time. TAB agreed that chair Bryan McConnell would prepare and finalize the report, including COGAC's final report in whole, by January 6. The department indicated on both the COGAC and TAB conference calls that January 6 was the department's targeted date to submit the Chapter 78 and 78a final rulemaking package to the EQB.

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### DEP submits final rulemaking amending 25 Pa. Code Chapter 78 and 78a to EQB on January 6

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On January 6, the department submitted its final Chapter 78 and Chapter 78a rulemaking package to the EQB. The rulemaking package, which will be considered by the EQB at its February 3 meeting, is available in its entirety on the EQB's website. During the press conference announcing the release of the documents, Secretary Quigley stated that the amendments are intended to improve protection of water resources, add public resources considerations, protect public health and safety, address landowner concerns, and enhance transparency and improve data management. Along with the proposed final text for the amendments, the department also provided several supporting documents, including a fact sheet, an executive summary, a draft order for the *Pennsylvania Bulletin*, a comment and response document, a compilation of one-page summaries of comments received from industry associations and environmental advocacy organizations, a regulatory analysis form that includes cost estimates for the proposed rulemaking, and reports from both COGAC and TAB. In total, the regulatory package is more than 2,500 pages.

If approved by the Environmental Quality Board in February, the final rulemaking would then be delivered to the Independent Regulatory Review Commission, a five-member panel responsible for providing independent oversight and review of state agency regulations, and the standing Senate and House Environmental Resources and Energy committees for their review and approval. The department anticipates that this step will occur in early spring 2016. Once approved by the IRRC and the standing committees, the final rulemaking will be reviewed by the attorney general. After approval by the attorney general, the final rulemaking will proceed to publication in the

*Pennsylvania Bulletin* and the regulation will take effect. The department anticipates that this will occur in early summer 2016.

*If you would like additional information about the final Chapter 78 and 78a rulemaking, contact Sean M. McGovern (412-394-5439 or [smcgovern@babstcalland.com](mailto:smcgovern@babstcalland.com)), Jean M. Mosites (412-394-6468 or [jmosites@babstcalland.com](mailto:jmosites@babstcalland.com)), or Kevin J. Garber (412-394-5404 or [kgarber@babstcalland.com](mailto:kgarber@babstcalland.com)).*