

July 27, 2013

Mr. E. Christopher Abruzzo
Acting Secretary
Pennsylvania Department of Environmental Protection
P. O. Box 8468
Harrisburg, PA 17105-8468

Re: Proposed Revisions to Exemption 38

Dear Acting Secretary Abruzzo:

We the undersigned organizations represent thousands of individuals who are deeply concerned about the potential impact of pollution from oil and natural gas activities on human health and the environment.

We appreciate the efforts the Pennsylvania Department of Environmental Protection (“DEP”) has taken to put stronger rules in place to reduce the risks that oil and natural gas operations pose to communities and the environment. We’ve given Pennsylvania high marks on some of those efforts, and we’ve disagreed strenuously with others. But we believe in giving credit where credit is due – and the DEP certainly deserves credit for a number of improvements in its regulations. The DEP’s Bureau of Air Quality has engaged in two important permit revisions this year aimed at reducing air pollution from oil and gas activities. First, it finalized revisions to the General Permit for Natural Gas Compression and/or Processing Facilities. In doing so DEP demonstrated national leadership by requiring quarterly inspections of equipment leaks at gas processing plants and compressor stations. Second, the DEP is currently considering revisions to Exemption 38 of its Air Quality Permit Exemptions Technical Guidance Document list that, if finalized, could significantly reduce emissions from this large and rapidly growing industry. Importantly, however, more must be done in order to realize the protections promised by the proposed revisions to Exemption 38, in particular regarding compliance monitoring, recordkeeping and reporting.

Air pollution standards for the natural gas and oil industry are a trifecta: they protect human health and the environment, reduce waste of an important domestic energy source, and in some instances may increase revenues by allowing greater recovery of natural gas. However, pollution control requirements are only valuable to the extent operators comply with them.

As experience in other states demonstrates, air quality can be especially at risk in areas with intensive oil and gas development. Worsening air quality (ground-level ozone or “smog”) attributed to concentrated oil and gas development has been linked with an increase in visits to health clinics for respiratory ailments in parts of Wyoming. A number of studies have

demonstrated oil and gas activities contribute to hazardous air pollution which causes cancer and other serious health impacts. Oil and gas activities are one of the largest sources of methane emissions—a potent greenhouse gas.

In Pennsylvania 90 percent of wells are concentrated in ten counties, with just three counties accounting for 50 percent of all wells. Over one quarter of natural gas production occurs in Tioga and Greene counties, both of which received “C” grades by the American Lung Association’s recent report on air quality across the nation. While the ALA did not attribute air quality to specific sources, oil and gas emissions clearly play their part. Bradford and Susquehanna counties account for another one third of production; however, the ALA was unable to assess the air quality in these counties due to a lack of monitoring data at the time of the ALA review.¹

Without proper pollution controls and monitoring, the residents of these rural parts of Pennsylvania may quickly find themselves running to health clinics on smoggy days. And operators may see their costs of doing business go up as they are required to comply with more stringent federal requirements that kick in to restore healthy, clean air to polluted areas.

Given the serious implications for human health and the environment that air pollution associated with unchecked emissions from oil and gas facilities can have, we are pleased that DEP has taken the first steps to requiring better controls on production sources including oil and gas wells and associated equipment. PA DEP recently proposed to narrow the scope of the current Exemption 38 for well sites and associated equipment. While not perfect, the proposed exemption criteria is a marked improvement over the current state of the law whereby nearly all oil and gas wells and associated equipment are exempt from air quality permitting requirements.

The status quo is highly problematic as the permitting process provides a number of important functions. It is one of the first and most important opportunities state air quality engineers have to work with operators and ensure they are aware of and able to meet federal and state requirements before construction begins. It also provides notice to local governments and residents living near planned development and an opportunity to comment. These important oversight and public participation requirements help ensure planned development proceeds responsibly.

Because of the importance of permitting, we support narrowing the scope of Exemption 38 to those facility operators who agree to implement additional control requirements that are beyond what the state and federal EPA currently require, and agree to maintain emissions below specified levels.² However, these additional control measures and emission limitations must be coupled with rigorous compliance mechanisms in order to ensure that facilities claiming the

¹ However, the 2013 ALA report does not account for more recent DEP efforts to assess the ambient air impact of shale gas development, such as the commencement of ozone and NOx monitoring in Bradford County in March of this year. We commend DEP for these efforts.

² EDF, GASP/PennFuture and CAC have submitted detailed comments recommending ways to improve the rigor of these “above and beyond” measures. We believe such improvements, including more frequent inspections for leaks and shorter repair times, continuous ignition devices on flares, and a lower 12-month NOx threshold combined with the enhanced compliance mechanisms described here, would ensure pollution from exempt facilities is kept to a minimum.

category 38 exemption do in fact meet its requirements. Specifically, we suggest DEP require the following:

- Detailed recordkeeping of the inspections for equipment leaks, including the date and time of inspections, identification of components for which leaks were detected and repaired, and justification in the event detected leaks are not repaired. If an IR camera or FLIR is used, operators must retain an infrared image or video of all leaking components before and after repair. All such records must be maintained for five years and must be made available to the DEP upon request;
- At least annually, operators must submit a report to the DEP certifying compliance with the exemption criteria, including the date and duration of each deviation, and the estimated emissions associated with each deviation. Such reports should be signed by a responsible official and must attest to the truth, accuracy and completeness of the report;
- Manufacturer or vendor specifications sheets listing emission rates and destruction/control efficiencies for all emission units and pollution control devices, including stationary engines, combustion devices, flares, vapor recovery devices, catalysts, or any other control device used to demonstrate compliance with the exemption criteria, as well as receipts showing the purchase of such devices.

We would welcome the opportunity to work with the DEP to implement these compliance measures and other improvements to Exemption 38. Minimizing emissions from production facilities including oil and gas wells and associated equipment is critical to protecting human health and the environment and maximizing recovery of an important domestic resource. Given the significant development occurring in Pennsylvania it is imperative DEP put in place effective measures to assure compliance with the revised exemption criteria and ultimately to protect people's health and welfare.

Sincerely,

George Jugovic
PennFuture

Joe Minott
Clean Air Council

Joe Osborne
Group Against Smog and Pollution

John J. Walliser
Pennsylvania Environmental Council

Andrew T. Williams
Environmental Defense Fund, Inc.

cc: Ms. Alisa Harris, Special Deputy Secretary - External Affairs

Mr. Vince Brisini, Deputy Secretary - Waste, Air, Radiation and Remediation

Ms. Joyce E. Epps, Director – Bureau of Air Quality

Mr. Krishnan Ramamurthy – Environmental Program Manager – Bureau of Air Quality