



August 24, 2020

Sean Wenrich
Bureau of Air Quality
Department of Environmental Protection
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101

Re: Proposed Revisions to Technical Guidance Document: Air Quality Permit Exemptions (Document Number: 275-2101-003). Submitted electronically via <https://www.ahs.dep.pa.gov/eComment/>

Dear Mr. Wenrich:

The Marcellus Shale Coalition (MSC), a regional trade association with a national membership, hereby submits the following comments to the Pennsylvania Department of Environmental Protection (PA DEP or Department) regarding PADEP's proposed revisions to the Technical Guidance Document (TGD) for Air Quality Permit Exemptions (Document No. 275-2101-003). The MSC was formed in 2008 and is currently comprised of approximately 125 producing, midstream, transmission and supply chain members who are fully committed to working with local, county, state and federal government officials and regulators to facilitate the development of the natural gas resources in the Marcellus, Utica and related geological formations. Our members represent many of the largest and most active companies in natural gas production, gathering, processing and transmission, in the country, as well as the suppliers and contractors who service the industry.

The MSC agrees that it is prudent for PA DEP to review and update this TGD, and respectively submits the following concerns and comments regarding specific changes for exemptions.

First, it must be noted that neither the proposed policy document nor the corresponding *Pennsylvania Bulletin* notification provides a basis or discussion regarding the proposed changes. The lack of this information greatly limits the ability to provide appropriate comments. Therefore, the MSC requests that PA DEP publish relevant background information regarding the proposed changes and extend the comment period for an additional six (6) weeks.

Second, the ability to use the listed exemptions for oil and gas sources has varied since the implementation of Exemption 38 and the General Permits 5 and 5A. Several listed exemptions are excluded from use by the oil and gas industry. There are several reasons for this, including Best Available Technology (BAT) level controls that are required for sources that would otherwise be considered exempt, specific wording for the exemption, and inconsistent interpretations by PA DEP regional office staff. At best, the ability to use listed exemptions is considered a case-by-case determination in the industry. The MSC therefore requests clarification by PA DEP as to how the listed exemptions interact with facilities and sources

authorized by other exemptions and/or general permits. The MSC also requests the Department work with industry applicants to address regional office consistency issues.

Regarding the exemptions listed, the MSC believes that oil and gas installations should be allowed to utilize all listed exemptions and not be relegated to only using certain exemptions simply due to industrial classification. To clarify, it is illogical for a facility authorized by Exemption 38 or the general permits not to be able to use exemptions which other industries and permitted facilities may freely utilize. This interpretation is also assumed to be carried over to the use of plan approvals for oil and gas facilities.

Currently some PA DEP regional offices do not permit small horsepower engines (i.e. < 100 bhp, including EPA-certified units), such as emergency generators or air compressors, to be used without additional controls (which are often technically infeasible and can create compliance issues with federal obligations), and the MSC is concerned that changes in the listed exemptions have the potential to increase similar regional office inconsistency.

In addition, there is a lack of clarity regarding how exempt sources can be used, or how they should be included in the permitting process. The MSC is concerned changes in the policy may result in additional confusion. Examples of these items include the following:

- Internal combustion engines which may be used on-site for construction or other activities on a temporary basis.
- Engines of less than 100 brake horsepower or engines with less than 6.6 tons of NOX per year. (Exemptions 4 and 6).
- Sources not otherwise listed with minor VOC emissions (Exemption 31).
- Portable electrical generators which may be moved by hand.
- Tanks which may contain low amounts of hazardous air pollutants (Exemption 15).
- Air-conditioning units used for human comfort that use ozone depleting substances.
- Natural gas pressure regulator vents.
- Sources emitting carbon dioxide, or ethane.

In addition, the Request for Determination (RFD) process has become a more integral part of this policy. The MSC believes PA DEP should provide additional guidance on how and when it should be used. The RFD initially was used as a tool to formally request an evaluation for those sources which no specific exemption was available. (25 PA Code 127.14(a)(8)). Currently, it is also often used to document all non-permitted sources at a facility (even those listed in the policy document) or when a notification of a de minimis change is required. This issue will increase with the upcoming change where a charge of \$600 per RFD request will be implemented in 2021.

If the RFD is meant to provide a means for determining other sources of exemption per 25 PA Code 127.14(a)(8), this brings into question why PA DEP is proposing to add the requirement to use the RFD for sources already listed as exempt in the policy document (“Section 127.14(a)(8) exemptions that require the submission of an RFD,” i.e. listed as numbers 45 – 50 in the document). This requirement seems counter to the purpose of the policy document, as it appears

that these are not recognized exemptions and must be formally evaluated and approved by PA DEP on a case by case basis.

This section also requires submitting an RFD for Exemption “46. Source(s) qualifying under § 127.449 as de minimis emission increases.” There is already a regulatory requirement for written notification seven days prior to the increase. The use of an RFD is an additional redundant requirement (and cost) to this section and should be removed. For de minimis evaluations, a permit is already in place and annual operating fees should cover these routine costs.

Several source activities were removed from the list of Trivial Activities; however, it appears that these sources were not moved to any of the other listings within the guidance. It would be counter-intuitive to conclude that an activity could move from being trivial to one requiring a plan approval or an RFD. The Department should clarify how these trivial activities will be handled.

The MSC respectfully provides the following comments and input regarding specific exemptions:

Section 127.14(a) Exemptions that do not require the submission of an RFD form

Exemption 3. Combustion units with a rated capacity of less than 10 million BTUs per hour of heat input

These units at oil and gas sites will utilize pipeline quality gas that is supplied from on-site or nearby operations. It is not always practical that the natural gas is supplied directly by a public utility, nor is it important to the performance of the units. The MSC requests that the phrase “fueled by natural gas supplied by a public utility” be changed to read “fueled by pipeline quality natural gas.”

Section 127.14(a)(8) Exemptions that do not require the submission of an RFD form

General

In the introductory paragraph of this section, it is noted that “The commencement of construction of sources is exempted from the plan approval requirements provided following exemption criteria are met.” [Note: the MSC suggests that the word “the” be inserted prior to “following” in that sentence]. MSC requests that PA DEP provide guidance as to how these sources are then to be administrated in conjunction with other exemptions, specifically Exemption 38, or Operating Permits/General Permits.

Temporary Engines.

Similar to how it is listed out for oil and gas production facilities explicitly in Exemption 38, the MSC requests confirmation that engines at any production, gathering, processing or transmission facility which meet the federal definition of a nonroad engine (i.e. 40 CFR § 89.2) are exempt

from Plan Approval and Operating Permit requirements. For example, a common engine that would fall into this category would be a temporary electric generator used during a facility's construction, but there are many others. Per the federal definition, these sources may be utilized at a single location for up to 12 consecutive months, or a shorter period of time for an engine located at a seasonal source (on location at least two years and operates three months or more each year). For engines that cannot claim Exemptions 3, 4, or 6 or are not authorized via Request for Determination (RFD), we are requesting that DEP add an exemption in writing for these temporary nonroad engines, which will aid in eliminating confusion and reduce the RFD workload for both operators and the Department.

Exemption 3. Combustion turbines rated at less than 1,000 horsepower

The exemption now requires that "Each newly installed turbine should be of the model year that is within five years of the installation date." The MSC interprets this requirement as a means to lower emissions similar to a new source performance standard. Unless a specific emission related regulation can be referenced, such as NSPS KKKK, it should be removed. The list of exemptions should be to provide a means to reduce permitting burdens for sources of minor significance or de minimis sources, not for attempting to provide new emission requirements.

The MSC also questions the five-year benefits limitation for reducing emissions. Current NSPS emission limitations have been in place for over five years. It appears that the exemption would result in requiring submission of an RFD for these older units or requiring turnover specifically in rental or leased units.

Exemption 4. Internal combustion engines rated at less than 100 brake horsepower

The exemption now requires that "Each newly installed engine should be of the model year that is within five years of the installation date." The MSC interprets this requirement as a means to lower emissions similar to a new source performance standard. Unless a specific emission related regulation can be referenced, such as a federal diesel engine Tier requirement, it should be removed. The list of exemptions should be to provide a means to reduce permitting burdens for sources of minor significance or de minimis sources, not for attempting to provide new emission requirements.

The MSC also questions the five-year benefits limitation for reducing emissions. Current NSPS emission limitations have been in place for over five years. It appears that the exemption would result in requiring submission of an RFD for these older units or requiring turnover specifically in rental or leased units.

Exemption 6. Internal combustion engines regardless of size

The requirement to determine NO_x emissions "prior to air cleaning devices" will eliminate the use of rich burn natural gas engines. It should be noted that rich burns also make up the majority of small (< 100 bhp) engines in oil and gas applications. These engines utilize non-selective catalytic reduction (NSCR or "three-way" catalysts) to reduce NO_x as well as VOC, CO and

HCHO. It may also eliminate some diesel engines which use selective catalytic reduction (SCR) to reduce NO_x. MSC recommends removing this phrase.

The exemption now requires that “Each newly installed engine should be of the model year that is within five years of the installation date.” The MSC interprets this requirement as a means to lower emissions similar to a new source performance standard. Unless a specific emission related regulation can be referenced, such as a federal diesel engine Tier requirement, it should be removed. The list of exemptions should be to provide a means to reduce permitting burdens for sources of minor significance or de minimis sources, not for attempting to provide new emission requirements.

MSC also questions the five-year benefits limitation for reducing emissions. Current NSPS emission limitations have been in place for over five years. It appears that the exemption would result in requiring submission of an RFD for these older units or requiring turnover specifically in rental or leased units.

The exemption has added the language “The emission criteria do not include emissions from sources which are approved by the Department in plan approvals or the general plan approvals/general operating permits at the facility.” Under this requirement, PA DEP has required BAT controls listed in the general permits for small engines less than 100 bhp and emergency generators which typically run less than 100 hours per year. In addition, it has eliminated the use of NSPS JJJJ engines less than 100 bhp. PA DEP should note that these units should be listed as sources of minor significance in operating permits and general permits if they are meeting the federal new source performance standards.

Exemption 15. Storage vessels for volatile organic compounds

The exemption includes the requirement that they do “not contain hazardous air pollutant (HAPs)”. This requirement is overly broad and should be amended or removed. Many organic liquids contain trace amounts (i.e. insignificant quantities) of hazardous air pollutants but have de minimis HAP emissions. This requirement should be removed or modified to quantify an allowable level of HAPs. MSC recommends consistency with HAP emissions thresholds in other exemptions and note that HAP emissions may not exceed 1,000 lbs/year of a single HAP or one TPY of a combination of HAPs.

Exemptions 25 and 45. Research and Development Activities

Without explanation, PA DEP has reduced the emission thresholds by at least half to utilize Exemption 25 or an RFD is required per Exemption 45. Absent compelling rational, this Exemption should remain unchanged.

Exemption 30. Degreasing Operations

The requirement of “at a facility” was added. PA DEP should clarify how this may impact mobile or temporary maintenance operations that include degreasing operations.



Exemption 31. VOC Sources

MSC requests clarification on the language change from “not addressed elsewhere in this exemption listing modified or newly added” to “from a project”. What is the definition of a project? For example, PA DEP regional office interpretations of the exemption previously have limited the 2.7 TPY VOC to individual sources, simultaneous facility additions or modifications, as well as site-wide PTE.

Also, the MSC requests clarification on why emissions calculations are now required, in addition to the 15-day prior notice that was previously in this exemption item. Why are calculations required for a “project” with less than 2.7 TPY VOC, but not for other sources in the exemption list which also might generate a similar amount of VOC?

Exemption 35. Sources Emitting Inert Gases Only

Carbon Dioxide (CO₂) was removed. PA DEP should provide guidance as to how this change impacts the permitting process.

Exemptions 36 and 46. Source(s) qualifying under § 127.449 as de minimis emission increases.

The MSC questions if an RFD is consistent with the requirement in § 127.449 of providing written notice. In addition, no fee requirement is noted in § 127.449 and it is assumed that funding will come from the annual operating fee charged at these facilities. In summary, the requirement to submit an RFD is contrary to the terms of §127.14(b) and should be removed.

Exemption 39. Combustion units with a rated capacity of less than 10 million BTUs per hour of heat input

These units at oil and gas sites will utilize pipeline quality gas that is supplied from on-site or nearby operations. It is not always practical that the natural gas is supplied directly by a public utility, nor is it important to the performance of the units. The MSC requests that the phrase “fueled by natural gas supplied by a public utility” be changed to read “fueled by pipeline quality natural gas.”

Section 127.14(a) (8) exemptions that require the submission of an RFD form

Exemption 49¹. Remediation of gasoline or fuel oil contaminated soil, groundwater or surface water

The MSC expresses concern that the requirement for the RFD may result in extended delays which may result in additional migration of contaminants or need to store contaminated soil for extended periods. The emission levels of one TPY of VOC or HAPs should allow remediation to move forward without an RFD. The MSC recommends removing the requirement for an RFD approval. Its removal could be supplemented by additional technology requirements or by allowing assumed approval if the RFD process is longer than seven calendar days.

¹ Also Exemption 43 from the previous section of the TGD.

Physical Changes Qualifying for Exemption Under Section 127.14a9 Exemptions

Exemption 16. [Reserved]

The MSC notes there was no previous exemption #16.

Exemption 17 Turbine Core Replacements

The MSC does not agree that the proposed conditional terms for turbine core replacements are appropriate to be identified as a physical change qualifying for exemption as it is currently written. 1) A manufacturer's warranty-based turbine core replacement after specific time intervals of combustor operation or unplanned repairs would not meet the definition of modification or reconstruction, would not result in an emissions increase, but would satisfy the definition of routine maintenance, repair, and replacement (RMRR). Therefore, it should not require an additional exemption. 2) The proposed language implies an undefined future emissions reduction without consideration of technical or financial feasibility, therefore exceeding BAT. 3) It is a permit condition and is practically verbatim to the current permit condition found in General Permit 5.

PA DEP has not provided the basis or need for including the permit language in the policy document. This document is for sources that will be installed following publication of the exemption. Such a sources (i.e., turbines) would be considered a new source, and proposed permit conditions should be placed in the plan approval and operating permit after discussion and comment by PA DEP, the permittee, and the public.

The MSC does understand PA DEP's intention to add clarity for existing turbines and recommends modifying the exemption to be consistent with the definitions of RMRR and modification. Therefore, recommended language would consist of 1) notification of PA DEP of a Core Replacement, 2) require no emission increases or conflicts with existing permit conditions, and 3) verification of the emissions through testing.

The MSC offers the following proposed language for consideration:

Turbine core replacement is allowed for a turbine, provided the following conditions are met:

- a) The owner or operator shall provide seven (7) days written notification to the Department prior to a planned turbine core replacement, or within seven (7) days after an unplanned replacement is commenced.
- b) After a core replacement, the turbine shall meet all existing permit emission limitations, conditions, and requirements.
- c) After a core replacement, the permittee shall perform NO_x, CO, and NMNEHC emissions testing for the respective turbine within one-hundred twenty (180) days of completing the replacement. Stack testing shall be performed in accordance 25 Pa. Code Title 25, Chapter 139.

Exemption Criteria for Operating Permits



The MSC is requesting clarification over the statement “The exemption criteria for operating permits are not applicable to facilities which have sources that require plan approvals or should have required plan approvals. The Department may exempt a facility from operating permit requirements on a case-by-case basis as appropriate.”

Historically, exemptions or RFDs could be used for facilities with existing operating permits subject to the terms and conditions of the facility operating permit. These sources were then included in the operating permit at time of modification or renewal. The MSC requests confirmation that this is correct.

Trivial Activities

Activity #2. Air Conditioning Units with no applicable requirements under Title VI of the CAA.

The MSC is concerned that all units that use ozone depleting substances may be considered under Title VI and that this requirement may conflict with section 127.14 (a)(2), and also understands that the Title VI/Ozone Depleting Substances program is still overseen by USEPA and is not integrated into the Pennsylvania permitting process. The MSC recommends removal of this activity or modify it to simply read “Air-conditioning units used for human comfort.”

Activity #19. Portable generators that can be moved by hand. [REMOVED]

This trivial activity was removed and could insinuate that these units are no longer exempt from the permitting process. MSC requests that this activity not be removed.

Activity #30. Non-VOC emitting vents from CEMS and other analyzers.

The addition of “Non-VOC emitting” as a qualifier for this exclusion is of concern to online analyzers within the oil and gas gathering systems. The MSC requests rationale as to why VOC emitting vents from CEMS and other analyzers are no longer considered a trivial activity, and clarification specifically with regard to when would a permit or RFD be required, and how are they to be included in a facility permit application.

Activity #31. Natural gas pressure regulator vents. [REMOVED]

The removal of activity #31 is of concern to the oil and gas industry. With its removal the MSC is uncertain how pressure safety relief valves or other vents are to be included in the permitting process. Additional guidance is requested from PA DEP.

Activity #40. Sources emitting inert gases only. [REMOVED]

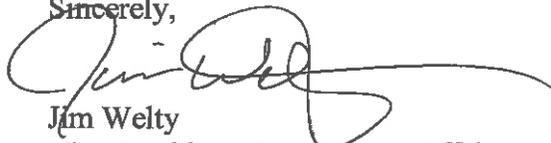
The removal of carbon dioxide; or the organic aliphatic hydrocarbon gases and ethane emissions from activity #40 raises questions on how these types of sources should be handled. This includes 1) ethane is not considered a VOC and control is not required, and 2) there is no clear permitting guidance for carbon dioxide for these types of sources. MSC requests clarification.



The MSC remains committed to working with the Department to ensure a reasonable and predictable permitting and compliance process is in place that meets the needs of both the industry and the Department, while ensuring protection of the Commonwealth's air resources.

Thank you for your consideration of these comments. Please do not hesitate to contact me if you have any questions or desire additional clarification.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Welty", with a long horizontal flourish extending to the right.

Jim Welty
Vice President, Government Affairs