

**Philadelphia**  
135 South 19th Street  
Suite 300  
Philadelphia, PA 19103  
215-567-4004  
Fax 215-567-5791  
E-Mail [members@cleanair.org](mailto:members@cleanair.org)  
[www.cleanair.org](http://www.cleanair.org)

**Harrisburg**  
107 N. Front St.  
Suite 113  
Harrisburg, PA 17101  
717-230-8806  
Fax 717-230-8808

**Wilmington**  
Community Service Building  
100 W. 10th St.  
Suite 106  
Wilmington, DE 19801  
302-691-0112

October 31, 2011

**BY ELECTRONIC AND FIRST CLASS MAIL**

Shawn M. Garvin  
Regional Administrator  
USEPA REGION 3  
1650 Arch Street  
Mail Code: 3RA00  
Philadelphia, Pennsylvania 19103-2029  
[garvin.shawn@epa.gov](mailto:garvin.shawn@epa.gov)

**Re: Pennsylvania Department of Environmental Protection's, "Guidance for Performing Single Stationary Source Determinations for Oil and Gas Industries"**

---

Administrator Garvin:

Clean Air Council writes to express its concerns regarding the "Guidance for Performing Single Stationary Source Determinations for Oil and Gas Industries" ("Guidance"), that the Pennsylvania Department of Environmental Protection ("PA DEP") released on October 12, 2011, which is effective immediately, and requests that the Environmental Protection Agency ("EPA") intervene in the implementation of Guidance which fails to comport with the Clean Air Act ("CAA"), the Pennsylvania State Implementation Plan ("SIP"), Pennsylvania's Title V permitting program and longstanding EPA practice.

Clean Air Council is a non-profit environmental organization headquartered at 135 S. 19th St., Suite 300, Philadelphia PA 19103. The Council has members throughout Pennsylvania. For more than 40 years, the Council has fought to improve the air quality across Pennsylvania. The Council's mission is to protect everyone's right to breathe clean air.

Oil and gas operations, including exploration, production and processing operations, consist of many pieces of equipment and activities that release air pollutants known to be harmful to public health and welfare. Pennsylvania is in the midst of a natural gas boom due to exploration and production of the Marcellus Shale. In 2008 PA DEP issued 195 permits to drill wells in the Marcellus Shale, between January and August of this year PA DEP issued 1,840. Each well is connected to miles of pipeline and associated compressor stations, processing plants and other industrial equipment, all of which emit air pollution. The impact on air quality includes emissions of volatile organic compounds, nitrogen oxide, particulates and hazardous air

pollutants. VOCs and nitrogen oxides mix with air and sunlight to produce ground-level ozone, which causes a variety of respiratory problems. While the emission of hazardous air pollutants is linked to elevated levels of cancer and neurological health issues.

When determining whether a source is major or minor and should be permitted as such, PA DEP must aggregate all sources that meet the “common sense notion of a plant” and are under common control, part of the same industrial grouping and are contiguous or adjacent. Because of the very nature of natural gas operations, which can cover many miles, single source determinations are complex but crucial. An accurate source determination is an absolute prerequisite to an adequate demonstration that PA DEP is in compliance with New Source Review (“NSR”), Prevention of Significant Deterioration (“PSD”) and the Title V Permit program.

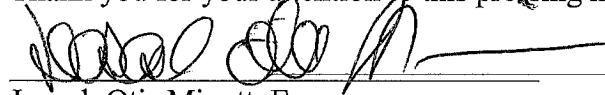
The Guidance, which PA DEP released on October 12, 2011, flouts the CAA, EPA guidance, the Pennsylvania SIP and the Pennsylvania Title V permitting program. The Guidance accepts wholesale the natural gas industry’s mistaken interpretation of “common sense notion of a plant” as well as “adjacency.” The CAA requires a case-by-case interpretation of “common sense notion of a plant,” however with three sentences the Guidance discontinues PA DEP staff from aggregating any oil and gas sources that are separated by more than a quarter of a mile. PA DEP goes on to explain that “properties located a quarter mile or less apart are considered contiguous or adjacent properties for PSD.” In the 1980 Preamble, EPA explicitly states that they were “unable to say precisely at this point how far apart activities must be in order to be treated separately. The Agency can answer that question only through case-by-case determination.” This quarter mile rule blatantly ignores the Federal Register definition of a source.

Further, PA DEP misconstrues the definition of “adjacency” in the context of single source determinations. PA DEP defines adjacency as only a proximity requirement. This contention fails to comport with the dictionary definition of adjacent and is inconsistent with longstanding EPA practice.

The EPA is currently defending the CAA and its longstanding practice with respect to single source determinations in the oil and gas context against nearly identical attacks in *Summit Petroleum Corp. v. EPA*, yet with respect to the PA DEP Guidance EPA has indicated that they “may file comments.” This response is wholly inadequate. The Administrator has authority under the CAA to issue findings that PA DEP is failing to implement its SIP, failing to adequately administer its Title V permitting program, and apply sanctions against the Commonwealth of Pennsylvania over these deficiencies. A mere consideration to file comments is entirely insufficient to uphold the purpose of the Clean Air Act and puts local shale communities and downwind communities at risk.

PA DEP has made it clear that it is not interested in complying with the Clean Air Act or protecting its citizens from the massive influx of Marcellus Shale operations and air pollution. Further, PA DEP has made clear that it does not intend to follow longstanding EPA practice in making single source determinations. The EPA, and Region III in particular, must step in to protect the citizens of Pennsylvania from excess air pollution.

Thank you for your attention to this pressing matter,

A handwritten signature in black ink, appearing to read "Joseph Otis Minott", written over a horizontal line.

Joseph Otis Minott, Esq.  
Executive Director