

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Air Quality Control Commission

REGULATION NUMBER 3

**STATIONARY SOURCE PERMITTING AND AIR POLLUTANT EMISSION NOTICE
REQUIREMENTS**

5 CCR 1001-5

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**PART A CONCERNING GENERAL PROVISIONS APPLICABLE TO REPORTING AND
PERMITTING**

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II. Air Pollutant Emission Notice (APEN) Requirements

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II.B.3. APEN Applicability

For the purposes of Air Pollutant Emission Notice applicability, a source will be considered to be an individual emission point, or group of points pursuant to Section II.B.4. of this Part A.

II.B.3.b. Non-criteria Reportable Pollutants

For non-criteria reportable pollutants, Air Pollutant Emission Notices are required for each individual emission point with uncontrolled actual emissions equal to or greater than 250 pounds per year or more of any individual non-criteria reportable pollutant (pollutants are not summed) that exceed the de minimis levels as determined following the procedures set forth in Appendix A.

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II.D. Exemptions from Air Pollutant Emission Notice Requirements

~~II.D.1. Notwithstanding the exemptions contained in Section II.D.1., Air Pollutant Emission Notices must be filed for all emission units specifically identified in the applicability section of any subpart of Part A of Regulation Number 6 (New Source Performance Standards) and/or Regulation Number 8 (Hazardous Air Pollutants), Parts A,C,D, and E. However, Air Pollutant Emission Notices need not be filed for wet screening operations subject to Subpart OOO of the New Source Performance Standards if the exemption in Section II.D.1. is applicable.~~

Stationary sources having emission units that are exempt from the requirement to file an Air Pollutant Emission Notice must nevertheless comply with all requirements that are otherwise applicable specifically to the exempted emission units, including, but not limited to: Title V, Prevention of Significant Deterioration, nonattainment New Source Review, opacity limitations, odor limitations, particulate matter limitations, and volatile organic compounds controls.

An applicant may not omit any information regarding APEN exempt emission units in any permit application if such information is needed to determine the applicability of Title V (Part C of this Regulation Number 3), Prevention of Significant Deterioration (Section VI., Part D of this Regulation Number 3), or nonattainment New Source Review (Section V., Part D of this Regulation Number 3).

The following sources are exempt from the requirement to file Air Pollutant Emission Notices because by themselves, or cumulatively as a category, they are deemed to have a negligible impact on air quality.

II.D.1.b. Individual emission points ~~of non-criteria reportable pollutants~~ having uncontrolled actual emissions of any individual non-criteria reportable pollutant less than the de minimis levels as determined following the procedures set forth in Appendix A 250 pounds per year.

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APPENDIX A

~~Method For Determining~~ De Minimis Levels For Non-Criteria Reportable Pollutants

An Air Pollutant Emission Notice must be filed for each emission point (individual or grouped) that has uncontrolled actual emissions equal to or greater than 250 pounds per year of any non-criteria reportable pollutant listed in Appendix B.

If a non-criteria pollutant is not listed in Appendix B, it does not have to be reported unless it is included in a chemical compound group.

~~The following procedures must be followed in order to determine the appropriate de minimis (minimum) reporting level for each pollutant that is emitted from each emission point at a contiguous site. If you do not wish to use the three-scenario approach at your facility, you may elect to use Scenario 1 for all emission points.~~

Definitions

~~Release Point - the lowest height above ground level from which the pollutants are emitted to the atmosphere.~~

~~Property Boundary - the distance from the base of the release point to the nearest property boundary.~~

Point - an individual emission point or a group of individual emission points reported on one Air Pollutant Emission Notice as provided for in Part A, Section II.B.4.

Methodology

~~To determine the de minimis level for a single pollutant being emitted from a point (single or grouped).~~

STEP 1:

~~Determine which of the three scenarios below applies to the emission point. If different scenarios can be applied to the same emission point, use the highest numbered scenario that applies. In the case of grouped emission points, use the lowest scenario number (for the entire group) that applies to any of the single emission points within the group.~~

Scenario 1: — Release point less than 10 meters or property boundary less than 100 meters;

~~Scenario 2: — Release point equal to or greater than 10 meters, but less than 50 meters, or property boundary equal to or greater than 100 meters, but less than 500 meters; or~~

~~Scenario 3: — Release point equal to or greater than 50 meters, or property boundary equal to or greater than 500 meters.~~

STEP 2:

Use Appendix B to identify which of the three bins (Bin A, B, or C) the chemical is listed under.

If the pollutant is not listed, it does not have to be reported unless it is included in a chemical compound group.

STEP 3:

Use the table below to determine the de minimis level.

All values are in pounds per year.

	Scenario 1	Scenario 2	Scenario 3
Chemical Bin	De Minimis	De Minimis	De Minimis
Bin A	50	125	250
Bin B	500	1250	2500
Bin C	1000	2500	5000

STEP 4:

Repeat the above steps for each pollutant emitted from each emission point (single or grouped). One Air Pollutant Emission Notice must be filed for each emission point that emits one or more chemicals above the de minimis level.

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PART B CONCERNING CONSTRUCTION PERMITS

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II. General Requirements For Construction Permits

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II.A.5. Construction permits are required for hazardous air pollutants if:

II.A.5.a. The source is subject to Colorado Maximum Achievable Control Technology or Generally Available Control Technology; ~~or~~

~~II.A.5.b. The source is subject to Federal National Emission Standards for Hazardous Air Pollutants; or~~

~~II.A.5.c. The source is subject to Federal Maximum Achievable Control Technology or Generally Available Control Technology standards; or~~

~~II.A.5.d. The source is subject to Regulation Number 8, Part E, where the more specific requirements of Regulation Number 8, Part E, take precedence over requirements in this regulation.~~

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II.D. Exemption from Construction Permit Requirements

~~None of the exemptions listed below in Sections II.D.1. through II.D.4. shall apply if a source is subject to Part A of Regulation Number 6 (New Source Performance Standards) and/or Regulation Number 8 (Hazardous Air Pollutants), Parts A, C, D, and E. Permit exemptions taken under this section do not affect the applicability of the any State or Federal regulations that are otherwise applicable to the source.~~

An applicant may not omit any information regarding APEN or permit exempt emission units in any application if such information is needed to determine the applicability of Title V (Part C of this Regulation Number 3), Prevention of Significant Deterioration (Section VI. of Part D of this Regulation Number 3), or Nonattainment New Source Review (Section V. of Part D of this Regulation Number 3).

II.D.1. The following sources are exempt because by themselves, or cumulatively as a category, they are deemed to have a negligible impact on air quality:

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~~II.D.1.i. Crude oil truck loading equipment at exploration and production sites where the loading rate does not exceed 10,000 gallons of crude oil per day averaged on an annual basis. Condensate truck loading equipment at exploration and production sites that splash fill less than 6750 barrels of condensate per year or that submerge fill less than 16308 barrels of condensate per year. Crude oil or condensate loading truck equipment at crude oil production sites where the loading rate does not exceed 10,000 gallons per day averaged over any thirty-day period.~~

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~~II.D.1.n. Exemption Repealed Crude oil storage tanks with a capacity of 40,000 gallons or less.~~

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PART C CONCERNING OPERATING PERMITS

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II.E. Insignificant Activities and Exemptions from Operating Permit Requirements

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The following sources are exempt from the requirement to obtain an operating permit pursuant to this Part C:

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II.E.3.ddd. ~~Exemption Repealed *Crude oil storage tanks with a capacity of 40,000 gallons or less.~~

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PART D CONCERNING MAJOR STATIONARY SOURCE NEW SOURCE REVIEW AND PREVENTION OF SIGNIFICANT DETERIORATION

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XV. Actuals PALs

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XV.F. Contents of the PAL permit.

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XV.F.5. A requirement that, once the PAL expires, the major stationary source is subject to the requirements of Section XV.H.

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I.XX. Adopted February 21, 2014

Regulation Number 3, Parts A, B, C, and Appendix A of Part A – removing requirements for a source subject to a NSPS or NESHAP/MACT incorporated into Regulation Numbers 6, Part A or 8, Parts A, C, D and E to file an APEN and obtain a minor source permit regardless of whether the source’s emissions exceed the reporting or minor source permitting thresholds (“catchall provisions”); simplifying the Part A, Appendix A de minimis determination for non-criteria reportable pollutants; removing the crude oil storage tank exemptions; and correcting other typographical, grammatical, and formatting errors.

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the Colorado Administrative Procedures Act, C.R.S. § 24-4-103, the Colorado Air Pollution Prevention and Control Act, C.R.S. §§ 25-7-110 and 25-7-110.5, and the Air Quality Control Commission’s (“Commission”) Procedural Rules.

Specific Statutory Authority

The Colorado Air Pollution Prevention and Control Act, § 25-7-105(1) directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in Section 25-7-102 and are necessary for the proper implementation and administration of Article 7. C.R.S. § 25-7-105(1)(a)(I) authorizes the Commission to revise Colorado’s State Implementation Plan whenever necessary and appropriate. C.R.S. § 25-7-105(12) authorizes the Commission to promulgate regulations necessary to implement the provisions of the Colorado emission notice, minor source permit, and Title V programs. C.R.S. § 109(3) authorizes the Commission to promulgate emissions control regulations pertaining to the storage and transfer of petroleum products and other VOCs. C.R.S. § 25-7-109.3(3)(c) directs the Commission to exempt classes of minor or insignificant sources of emissions of hazardous air pollutants from the Colorado hazardous air pollutant control and reduction program requirements.

Section 25-7-109.3(5)(c) directs the Commission to establish de minimis emission levels for each hazardous air pollutant beneath which emissions are considered to be of minor significance.

Basis and Purpose

As part of a larger rule revision package, the Commission incorporated the federal Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution found in 40 C.F.R. Part 60, Subpart OOOO (“NSPS OOOO”) in full, as amended, into Regulation Number 6, Part A and made the corresponding revisions to Regulation Number 3 described below. The Commission also revised Regulation Number 7 for consistency with and to complement NSPS OOOO and to include additional emission control measures for oil and gas production operations and equipment. Finally, the Commission revised Regulation Number 7 storage tank control requirements with the intent that industry could utilize such controls when determining whether a storage tank was subject to NSPS OOOO.

These Regulation Number 3 revisions were important to the comprehensive proposal because they reduced the reporting and permitting burdens that would otherwise occur when NSPS OOOO was adopted in full. These Regulation Number 3 revisions apply broadly to all emission sources and are not solely applicable to oil and gas operations.

Catchall Provisions

The Commission removed the catchall provisions in Part A, Sections II.D.1. and Part B, Sections II.A.5. and II.D. so that sources subject to a New Source Performance Standard (“NSPS”), National Emission Standard for Hazardous Air Pollutants (“NESHAP”), or Maximum Achievable Control Technology (“MACT”) incorporated into Regulation Numbers 6 or 8 are not automatically required to file an APEN and obtain a minor source permit, regardless of whether the source’s uncontrolled actual emissions exceeded reporting or permitting thresholds.

These rule changes reduce the administrative reporting and permitting burden for sources and for the Division, both for sources subject to NSPS OOOO and other future NSPS and NESHAP/MACT. For example, NSPS OOOO affected facilities with uncontrolled actual emissions less than the APEN and minor source permit thresholds no longer automatically have to file APENs and obtain minor source permits. This reduced permitting burden will allow the Division to reallocate permitting resources to more complicated sources with the greater impact to Colorado’s air quality, as well as to develop and maintain other guidance and compliance assistance tools. The environmental impacts of this revision were minimal and no emissions increases were anticipated because the revisions did not exempt any source from complying with the requirements of an applicable NSPS, NESHAP, or MACT.

Part A, Appendix A

The Commission revised the Part A, Appendix A method for determining non-criteria reportable pollutant de minimis levels in order to standardize the de minimis reporting threshold and set a 250 pounds per year threshold for all non-criteria reportable pollutants, regardless of the pollutant, height of release point or distance to property boundary. This revised threshold applies statewide. This revision simplified non-criteria reportable pollutant reporting by eliminating the determination of reporting level based on release point, property boundary, and pollutant bin. Prior to revision, these reporting determinations were complicated and confusing, and sources often utilized the most stringent reporting threshold with the applicable Bin category, rather than attempt to follow the methodology. This revision increased regulatory clarity and reduced the administrative reporting burdens on both sources and the Division by simplifying the process. No emissions increases were anticipated as a result of this revision, because this revision was administrative in nature and did not change the applicability of controls or regulations to sources.

Crude Oil Storage Tanks

The Commission removed the crude oil storage tank permitting exemptions in Part B, Section II.D.1.n. and Part C, Section II.E.3.ddd. The emissions from crude oil storage tanks can be significant and permitting exemptions are meant to be limited to emission points with negligible impacts on air quality.

Part B

The Commission corrected an error in Part B, Section II.D.1.i. by removing the last sentence of the crude oil truck loading equipment minor source permitting exemption. In 2006, the Regulation Number 3 APEN exemption inadvertently merged the original exemption language with the 2002 exemption revision so that in 2008, when the Commission removed the APEN exemption to build the emissions inventory and moved the exemption to Part B to maintain the associated permitting exemption, the erroneous language persisted. This revision corrected that error.