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**PART B CONCERNING CONSTRUCTION PERMITS****I. ~~Applicability~~**

~~I.A. The provisions of this Part B shall apply statewide. All sources that did not commence construction or operation prior to February 1, 1972, are required to have a construction permit except as specified in Section II.~~

**II. General Requirements For Construction Permits****II.A. General Considerations**

- II.A.1. Except where specifically authorized by the terms of this Regulation Number 3, no person shall commence construction of any stationary source or modification of a stationary source without first obtaining or having a valid construction permit from the Division.
- II.A.2. Any permit that has been issued pursuant to a prior regulation of the Commission, with respect to a project or the operation thereof, shall continue in full force and effect for the purpose for that it was originally issued, unless this current regulation no longer requires such permit, in that case the permit can be rescinded upon request of the owner or operator of the permitted source.
- II.A.3. Any orders or decisions of the Division shall be final upon issuance, according to Section III.F.3. of this Part B.
- II.A.4. Construction permits for criteria pollutants and hazardous air pollutants shall be issued based on the production/process rate requested in the Air Pollutant Emission Notice submitted with the permit application or as requested in the application. The emission rate associated with the requested production/process rate shall be a permit condition. For permits to limit the potential to emit criteria or hazardous air pollutants the Division may modify the production/process rate, hours of operation or other requested permit conditions in order to create state-only or federally and practically enforceable permit conditions; provided, however, that the applicant may decline to accept such modifications and elect instead to forego limits on its potential to emit or pursues any right of appeal or other available alternative. For details regarding permits to limit the potential to emit hazardous air pollutants see Regulation Number 8, Part E, Section IV.
- 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.

II.A.6. Owners or operators of sources that have valid operating permits in accordance with Part C of this regulation may construct or modify such source without obtaining a construction permit prior to construction or modification, provided the construction or modification qualifies for a minor permit modification or for operational flexibility, and the applicable provisions as set forth in Sections X., XI., or XII. of Part C are met. In addition, all applicable requirements that are related to construction permit approval and that are set forth in Sections III.D.1.a. through III.D.1.g. of this Part B remain in effect.

II.A.7. A source that is voluntarily applying for a permit to create state-only or federally enforceable permit conditions, as appropriate, to limit the potential to emit criteria or hazardous air pollutants may request to obtain such limits in a construction permit.

#### II.B. Transfer or Assignment of Ownership

If transfer or assignment of ownership or operation of an air pollution emission source permitted pursuant to this Part B is anticipated, the prospective owner or operator shall apply to the Division on Division supplied administrative permit amendment forms for reissuance of the existing permit. Section III. of Part A of this regulation governs the administrative permit amendment procedures required for transfer or assignment of ownership.

In accordance with the provisions of this section, the permit shall be reissued upon completion of the transfer or assignment if the applicant certifies that no change is contemplated that might constitute a new or modified air pollution source. In no event shall the new owner or operator of a source that was subject to the requirements of these regulations prior to the transfer or assignment be relieved of the obligation to comply with such requirements by reason of a transfer. Such transfers are subject to all applicable permit processing and inspection fees.

If a company is changing its name only, the owner or operator shall apply to the Division, on Division supplied administrative permit amendment forms, for reissuance of the existing permit. Section III. of Part A, governs the administrative permit amendment procedures required for identifying a change in name. If all other procedures and information as stated in the last submitted Air Pollutant Emission Notice(s) remains unchanged, only one Air Pollutant Emission Notice need be submitted for each stationary source, indicating the name change.

No administrative permit amendment for transfer or assignment of ownership of a source shall be complete until a written agreement containing a specific date for transfer of permit, responsibility, coverage and liability between the current and new permittee is received by the Division.

#### II.C. Portable Sources

A permitted portable source (e.g., asphalt plants, crushers, etc.) shall have its permit number permanently and prominently displayed on each major component of equipment that is a part of that portable source.

#### 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 regulations 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).

NOV 2010

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lation 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, are deemed to have a negligible impact on air quality:
- II.D.1.a. Those sources exempted from the filing of Air Pollutant Emission Notices in Section II.D. of Part A, of this regulation.
  - II.D.1.b. Containers, reservoirs, or tanks used exclusively for dipping operations for coating objects with oils, waxes, greases, or natural or synthetic resins containing no organic solvents.
  - II.D.1.c. Stationary Internal Combustion Engines that:
    - II.D.1.c.(i) Power portable drilling rigs; or
    - II.D.1.c.(ii) Are emergency power generators that operate no more than two hundred and fifty hours per year; or
    - II.D.1.c.(iii) Have uncontrolled actual emissions in:
      - II.D.1.c.(iii)(A) Nonattainment areas of less than five tons per year or manufacturer's site-rated horsepower of less than fifty; or
      - II.D.1.c.(iii)(B) Attainment or attainment/maintenance areas of less than ten tons per year or manufacturer's site-rated horsepower of less than one hundred.
  - II.D.1.d. The collection, transmission, liquid treatment, and solids treatment processes at domestic wastewater treatment works, or treatment facilities that treat only domestic type wastewater, except for combustion processes.
  - II.D.1.e. Each individual piece of fuel burning equipment, other than smokehouse generators, that uses gaseous fuel, and that has a design rate less than or equal to ten million British thermal units per hour.
  - II.D.1.f. Gasoline stations located in ozone attainment areas, except for stations located in the Denver 1-hour ozone attainment/maintenance area.
  - II.D.1.g. Surface mining activities that mine seventy thousand tons or fewer of product material per year. A fugitive dust control plan is required for such sources. Crushers, screens and other processing equipment activities are not included in this exemption.
  - II.D.1.h. Composting piles, however, all odor requirements of Regulation Number 2 must be met.
  - II.D.1.i. Commercial and product quality control laboratory equipment.
  - II.D.1.j. Fires and equipment used for noncommercial cooking of food for human consumption and for cooking of food for human consumption at commercial food service establishments.

- II.D.1.k. Petroleum industry flares, not associated with refineries, combusting natural gas containing no hydrogen sulfide except in trace (less than five hundred parts per million weight) amounts, approved by the Colorado Oil and Gas Conservation commission and having uncontrolled emissions of any pollutant of less than five tons per year.
- II.D.1.l. 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.
- II.D.1.m. Oil production wastewater (produced water tanks), containing less than one percent by volume crude oil on an annual average, except for commercial facilities that accept oil production wastewater for processing.
- II.D.1.n. Crude oil storage tanks with a capacity of 40,000 gallons or less.

Superseded

NOV 2010

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II.D.2. Facilities located in a nonattainment area for any criteria pollutant for which the area is nonattainment; with total facility uncontrolled actual emissions (potential emissions at actual operating hours) that are less than the following amounts:

II.D.2.a. Two tons per year volatile organic compounds.

II.D.2.b. One ton per year PM10.

II.D.2.c. One ton per year PM2.5.

II.D.2.d. Five tons per year total suspended particulate.

II.D.2.e. Five tons per year carbon monoxide.

II.D.2.f. Five tons per year sulfur dioxide.

II.D.2.g. Five tons per year nitrogen oxides.

II.D.2.h. Two hundred pounds per year lead.

For purposes of calculating total facility uncontrolled actual emissions, only those individual (or grouped) emission points requiring Air Pollutant Emission Notices are to be considered.

II.D.3. Facilities located in attainment or attainment/maintenance areas for all criteria pollutants with total facility uncontrolled actual emissions less (potential emissions at actual operating hours) than the following amounts:

II.D.3.a. Five tons per year volatile organic compounds.

II.D.3.b. Five tons per year PM10.

II.D.3.c. Five tons per year PM2.5.

II.D.3.d. Ten tons per year total suspended particulate.

II.D.3.e. Ten tons per year carbon monoxide.

II.D.3.f. Ten tons per year sulfur dioxide.

II.D.3.g. Ten tons per year nitrogen oxides.

II.D.3.h. Two hundred pounds per year lead.

For purposes of calculating total facility uncontrolled actual emissions, only those individual (or grouped) emission points requiring Air Pollutant Emission Notices are to be considered.

II.D.4. Facilities that emit any other criteria pollutant that is not listed in Sections II.D.2. and II.D.3., above (fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, reduced sulfur compounds, and municipal waste combustor emissions), with total facility uncontrolled actual emissions of such pollutants that are less than two tons per year.

II.D.5. When a facility that was previously exempt from permit requirements exceeds one of the permit de minimis levels stated in Sections II.D.2. through II.D.4., above, due to the addition of new emission points, the Division will issue either a facility-wide permit

Supervisor

NOV 2010

for all non-grandfathered emission units above Air Pollutant Emission Notice de minimis levels, or individual emission permits for those emission units.

- II.D.6. All incinerators require a permit as stated in Regulation Number 1, Section III.B.1.
- II.D.7. Oil and gas exploration and production operations that are addressed under Section II.D.1.III. of this Regulation Number 3, Part A, and that are required to obtain a construction permit, are not required to file an application for a construction permit until they are required to file an Air Pollutant Emission Notice, as set forth in Section II.D.1.III. The application shall include a list of all applicable requirements, and how the requirements will be met until a construction permit is issued.
- II.D.8. Any person may request the Division to add source categories to the permit exemption list, in accordance with the procedures set forth in Section II.D.4. of Part A of this regulation.
- II.D.9. Sources with a valid operating permit are not required to obtain a construction permit prior to commencing construction or modification, as set forth in Section II.A.6. of this Part B.

### **III. Construction Permit Review Procedures**

#### **III.A. Option for Pre Application Meeting**

Prior to submitting an application for a permit, an applicant may request and, if so requested, the Division shall grant, a pre-application meeting with the applicant. At such meeting, the Division shall advise the applicant of the applicable permit requirements, including the information, plans, specifications and the data required to be furnished with the permit application.

#### **III.B. Application for a Construction Permit**

- III.B.1. An application for a Construction Permit shall be prepared on forms currently supplied by the Division.
- III.B.2. Applications for Construction Permits, and modifications to Construction Permits, must include an Air Pollutant Emission Notice.
- III.B.3. Applications shall be signed by a person legally authorized to act on behalf of the applicant. The applicant shall furnish all information and data required by the Division to evaluate the permit application and to make its preliminary analysis in accordance with Section III.B.5. of this part.
- III.B.4. An application for a Construction Permit will not be deemed to be complete until all information and data required to evaluate the application have been submitted to the Division. Within sixty calendar days after the receipt of an application or any supplemental information timely requested by the Division, the Division will give notice to the applicant if and in what respect the application is incomplete. If the Division fails to notify an applicant that the application is incomplete within sixty calendar days of receipt of the original application or receipt of the requested supplemental information, the application shall be deemed to have been complete as of the day of receipt by the Division of the application or the last submitted supplemental information, whichever is later.
- III.B.5. Except for applications for sources subject to the requirements of Section VI. of Part D of this regulation (Prevention of Significant Deterioration), the Division shall pre-