

Rule 401 Permit Exemptions

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**RULE 401****1 PURPOSE**

This Rule specifies emissions units that are categorically or conditionally exempted from the requirement to obtain an Authority to Construct or a Permit to Operate from the Air Pollution Control Officer (APCO). This Rule also specifies recordkeeping requirements to verify exemption criteria and outlines a compliance schedule for emissions units and sources that exceed the exemption status or otherwise become subject to Rule 400-*Permit Requirements* of these Rules and Regulations.

**2 APPLICABILITY**

- 2.1** This Rule is applicable to any article, machine, equipment, or other contrivance that emits or may emit air contaminants which would otherwise be subject to Rule 400-*Permit Requirements*.
- 2.2** This Rule shall not exempt equipment, operations, or processes described in Section 4 of this Rule from complying with all other applicable requirements of these Rules and Regulations, including but not limited to, Rule 1101-*Title V-Federal Operating Permits*.
- 2.3** This Rule shall not apply to any equipment, operation, or process if the APCO determines the emissions unit may violate these Rules and Regulations, including Rule 200-*Nuisance*. When the APCO makes such a determination and written notification is provided to the owner or operator, the equipment, operation, or process shall thereafter be subject to Rule 400-*Permit Requirements*.
- 2.4** This Rule shall not apply to any equipment, operation, or process in Section 4 of this Rule with actual emissions greater than 80 pounds per day of PM<sub>10</sub>, PM<sub>2.5</sub> or oxides of sulfur (SO<sub>x</sub>), 25 pounds per day of oxides of nitrogen (NO<sub>x</sub>) or volatile organic compounds (VOCs), 500 pounds per day of carbon monoxide (CO), or 3.2 pounds per day of lead (Pb).
- 2.5** This Rule shall not apply to any equipment, operation, or process that is subject to the provisions of the National Emissions Standards for Hazardous Air Pollutants (NESHAPs), 40 CFR (Code of Federal Regulations) 61 or 63, or the New Source Performance Standards (NSPS), 40 CFR 60, unless the equipment is an internal combustion engine with a manufacturer's maximum power rating of less than fifty (50) horsepower.

### 3 REQUIREMENTS

#### 3.1 Permit Application

**3.1.1** Unless otherwise noted in the exemption description, a permit application is not required to claim the exemption provided the required documentation and recordkeeping is maintained.

**3.1.2** If an application is required for an APCO determination, the APCO must issue a written determination approving or denying the exemption requested in accordance with the application administrative requirements of Rule 400-*Permit Requirements*.

**3.2 Required Information:** The APCO may require from any owner or operator claiming an exemption under this Rule any information, analyses, plans, or specifications which will disclose the nature, extent, quality, or degree of air contaminants which are or may be discharged by the source for which the exemption is claimed.

**4 EXEMPT SOURCE CATEGORIES:** An Authority to Construct and Permit to Operate shall not be required for:

#### 4.1 Combustion and Heat Transfer Sources

**4.1.1** Equipment used exclusively for steam cleaning.

**4.1.2** Water cooling towers and water cooling ponds not used for evaporative cooling of process water or not used for evaporative cooling of water from barometric jets or from barometric condensers.

**4.1.3** Steam generators, water boilers or water heaters fired exclusively by natural gas, liquefied petroleum gas (LPG) or a combination thereof, having a maximum fuel input heating value of less than one (1) million British thermal units (MMBtu) per hour or thirty (30) boiler horsepower (HP).

**4.1.4** Equipment used for space heating, other than boilers.

##### 4.1.5 Internal Combustion Engines

**4.1.5.1** Any reciprocating internal combustion engine with a brake horsepower rating of less than fifty (50).

**4.1.5.2** Internal combustion engines used exclusively for purposes of educating students in the operation, maintenance, repair, and rebuilding of such engines.

**4.1.5.3** Any natural gas, propane, or LPG fueled engine rated at 250 brake horsepower or less and operating less than 200 hours per calendar year for non-emergency purposes.

**4.1.5.4** Fuel cells or microturbines used in power and/or heat generating equipment that meet the following emission standards: NO<sub>x</sub> 0.07 lb/Megawatt-hour (MW-hr), CO 0.10 lb/MW-hr, and VOCs 0.02

lb/MW-hr.

**4.1.6 Process Heaters**

**4.1.6.1** Crucible furnaces, pot furnaces, or induction furnaces, each with a maximum rated capacity of less than 450 cubic inches of any molten metal.

**4.1.6.2** Kilns used exclusively for firing ceramic ware, heated exclusively with natural gas, liquefied petroleum gas, and/or electricity.

**4.2 Food and Beverage Processing Equipment**

**4.2.1** Equipment used in, or in conjunction with, eating establishments for the purpose of preparing food for human consumption, except coffee roasters.

**4.2.2** Coffee roasters with a manufacturer's maximum throughput rating of 25 pounds per hour or less.

**4.2.3** Barbecue equipment not used for commercial purposes.

**4.2.4** Ovens at bakeries, provided the total production from the bakery is less than 5,000 pounds of product per day and each oven is rated at less than one (1) MMBtu/hr.

**4.2.5** Breweries with an annual production of less than one (1) million gallons, unless boilers or other heating sources are in excess of the capacities in Section 4.1.3 of this Rule.

**4.3 Commercial Surface Coating Operations:** Non-automotive coating operations using less than one (1) quart per day and eight (8) gallons per year of spray coatings, including those operations that use non-refillable handheld aerosol spray cans.

**4.4 Solvent Cleaning Operations:** Unheated, non-conveyorized cleaning equipment with an open surface area of ten (10) square feet or less and internal volume of 92.5 gallons or less using only organic solvents with an initial boiling point of 248°F as determined by the American Society for Testing of Materials (ASTM) 1078-78 and losing 25 gallons or less of solvent per year to the atmosphere (excluding solvent recycled or properly disposed of). A material usage log shall be maintained for each emission unit claiming this exemption. The log shall note the date, type and amount of solvent added to or removed from the emission unit.

**4.5 Composting Operations:** Operations that receive and compost less than 125 tons (1000 cubic yards) of green waste annually. "Green waste" is any organic waste material generated from gardening, agriculture, or landscaping activities including, but not limited to, grass clippings, leaves, tree and shrub trimmings, and plant remains.

**4.6 Vehicles and Mobile Equipment**

**4.6.1** Motor vehicles which are devices by which any person or property

may be propelled, moved, or drawn upon a highway or used exclusively on stationary rails or tracks, but not including any article, machine, equipment or other contrivance mounted on such vehicle that would otherwise require a permit under the provisions of these Rules and Regulations.

**4.6.2** Locomotives, airplanes, and watercraft used to transport passengers or freight.

**4.6.3** Self-propelled mobile construction equipment other than pavement burners.

**4.7 Residential and Commercial Uses**

**4.7.1** Equipment utilized exclusively in connection with any structure which is designed for and used exclusively as a dwelling for not more than four (4) families, including incinerators used exclusively in connection with such a structure.

**4.7.2** Comfort air conditioning or comfort ventilating systems which are not designed to remove air contaminants generated by or released from specific units or equipment.

**4.7.3** Refrigeration units, except those used as, or in conjunction with, air pollution control equipment.

**4.7.4** Any architectural or industrial coatings that are subject to the requirements of these Rules and Regulations when applied to structures and their appurtenances.

**4.8 Portable Handheld Equipment:** Handheld equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of metal, wood, plastic, or similar material.

**4.9 Abrasive Blasting Equipment**

**4.9.1** Blast cleaning equipment using a suspension of abrasive in water.

**4.9.2** Abrasive blasting cabinets with a confined volume of less than 100 cubic feet that are vented through a control device.

**4.10 Agricultural Sources:** Any engine or equipment used in agricultural operations in the growing of crops or the raising of fowl or animals at any agricultural source except when the agricultural source is:

**4.10.1** A major stationary source or major modification at a stationary source as defined in Rule 432-*Federal New Source Review* of these Rules and Regulations, or

**4.10.2** A stationary source that emits in any 12-month period, air contaminant emissions equal to or more than the following quantities of emissions:

**4.10.2.1** 50% of the major source thresholds for regulated air pollutants as defined in 40 CFR Part 70.2(excluding Hazardous Air Pollutants (HAPs));

**4.10.2.2** Five (5) tons per year of a single HAP;

- 4.10.2.3** 12.5 tons per year of any combination of HAPs; or  
**4.10.2.4** 50% of any lesser threshold for a single HAP as the U.S. Environmental Protection Agency (EPA) may establish by rule.
- 4.11 Maintenance:** Routine repairs or routine maintenance not involving structural changes to an emissions unit to which a permit has been granted or is not required by this Rule. Routine maintenance is intended to include replacement of wearable parts such as spark plugs, seals, belts, etc.
- 4.12 Printing and Reproduction Equipment:** Any graphic arts operation or group of graphic arts operations located at a stationary source, that emit less than an average of fifteen (15) pounds of VOCs per operating day for each calendar month and less than 300 pounds of VOCs annually from all such operations. All records necessary to calculate average daily VOC emissions, such as emission factors or mix ratios, VOC content of each material used, number of operating days per month, and daily or monthly records of material usage, shall be maintained on-site for two (2) years and be made available to the APCO upon request.
- 4.13 Wastewater Treatment Facilities, Water Reclamation Facilities, and Wastewater Pump Stations:** Facilities with a design throughput capacity of less than one (1) million gallons of wastewater per day.
- 4.14 Portable Equipment:** Any portable equipment that is registered in accordance with Rule 440-*Portable Equipment Registration* of these Rules and Regulations or with the Statewide Portable Equipment Registration Program. This exemption does not apply to any equipment while in use for screening of soils in contaminated soil remediation projects.
- 4.15 Woodworking and Other Fabrication Operations:** Operations that utilize shop dust collection systems that do not vent outside the working area of the facility, and doors, windows and other outlets can remain closed during normal business operations.
- 4.16 Pilot Tests:** Pilot tests for the purposes of determining contamination levels for designing a soil remediation system providing:
- 4.16.1** The pilot test will not last more than five (5) days; and  
**4.16.2** The effluent stream from the pilot test is controlled by carbon canisters, a thermal or catalytic incinerator/oxidation unit, or an internal combustion engine.
- 4.17 Walnut Hullers:** Walnut hulling facilities processing only crops grown by the owner that utilize a wet process hull removal, and with a drying fuel consumption of less than 5500 gallons of propane per year or 52 therms of natural gas per year.

**4.18 Low Emitting Sources:** As determined by the APCO, other low emitting sources with an uncontrolled emissions rate of each air contaminant of:

**4.18.1** CO at less than the 500 pounds per day; and

**4.18.2** Particulate matter (PM10 or PM2.5), NOx, VOCs, or SOx at:

**4.18.2.1** Less than or equal to two (2) pounds per day or,

**4.18.2.2** If greater than two (2) pounds per day, is less than or equal to 75 pounds per year.

## **5** **CONDITONALLY EXEMPT SOURCES:**

**5.1** Request for Exemption applications are required for the following:

**5.1.1 Replacement of Equipment:** Identical replacement in whole or part of any article, machine, equipment or other contrivance for which a Permit to Operate has previously been granted for such equipment. Identical means the same manufacturer, model number, and type, and resulting in emissions less than or equal to those from the original equipment or device and not requiring a change in permit conditions.

**5.1.2 Other Low Emitting Sources:** As determined by the APCO, other low emitting sources with an uncontrolled emissions rate of each air contaminant of less than 500 pounds per year.

**5.2** In order to claim an exemption under Section 5 of this Rule, a permit application, the information required to make the determinations listed above, and the application fee specified in Rule 500-*Stationary Source Permit Fees* of these Rules and Regulations must be submitted to the APCO. The applicant must receive a written confirmation of exempt status from the APCO prior to commencing construction.

**5.3** Any person claiming an emissions unit is exempt under Section 4 of this Rule may voluntarily submit a permit application, the information required to substantiate the claim, and the application fee specified in Rule 500-*Stationary Source Permit Fees* of these Rules to the APCO to receive a written response from the APCO approving or denying the claimed exemption status.

## **6** **RECORDKEEPING**

All records necessary to calculate daily emissions, daily operating parameters, or equipment size, ratings, or capacity to demonstrate compliance with any exemption requirements in Sections 4 and 5 above shall be maintained on-site for two (2) years and be made available to the APCO upon request. Such records may include: emission factors, VOC content of each material used, amount of fuel used, number of operating hours per day and days per calendar month, and daily or monthly records of material usage; manufacturer's brochures, operating logs and any other

specific records as noted in the Section 4 of this Rule.

## **7 COMPLIANCE SCHEDULE**

- 7.1** The owner or operator of an emissions unit or operation, that was exempt from written permit requirements that becomes subject to the requirements of Rule 400-*Permit Requirements* through the loss of the exemption upon adoption of this Rule, shall apply for a Permit to Operate not later than November 26, 2011.
- 7.2** For sources that are exempt from the requirements of Rule 400-*Permit Requirements* and subsequently exceed the standards and/or thresholds of this Rule, the owner or operator of an emissions unit or operation shall apply for a Permit to Operate within thirty (30) days of the date of the loss of exemption.