



Colorado Department
of Public Health
and Environment

Air Pollution Control Division

Stationary Sources Program

PERMITTING SECTION MEMO

FROM: Matthew S. Burgett, P.E.

DATE: May 15, 2014

RE: PS Memo # 14-01 – 2014 Regulation No. 3 Changes

2014 Regulation No. 3 Changes & Division Memorandum:

- **“Catchall” Provision Removal**
- **Non-Criteria Reportable Pollutant (NCRP) Threshold Change**
- **Removal of the Crude Oil Storage Tank Permit Exemption**

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Questions on this memorandum may be addressed to the CDPHE Air Pollution Control Division (APCD) at:

Main phone: (303) 692-3150

cdphe.commentsapcd@state.co.us

Other Resources:

Colorado Air Quality Control Commission Regulations:

<http://www.colorado.gov/cs/Satellite/CDPHE-Main/CBON/1251601911433>

Rulemaking Hearing February 19 – 23, 2014:

<http://www.colorado.gov/cs/Satellite/CDPHE-AQCC/CBON/1251647985820>

Colorado Air Quality Control Commission:

<http://www.colorado.gov/cs/Satellite/CDPHE-AQCC/CBON/1251592887943>

Permit Section Memos (including 05-01: Oil & Gas Atmospheric Condensate Storage Tank Batteries Regulatory Definitions and Permitting Guidance):

<http://www.colorado.gov/cs/Satellite?c=Page&childpagename=CDPHE-AP%2FCBONLayout&cid=1251597387439&pagename=CBONWrapper>

APCD General Permits:

<http://www.colorado.gov/cs/Satellite/CDPHE-AP/CBON/1251596446083>

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This memorandum is intended to address three revisions to Regulation No. 3 that were adopted by the Colorado Air Quality Control Commission (AQCC) on February 23, 2014, and offer direction on how the Colorado Air Pollution Control Division (Division) will implement these changes. These changes to Regulation No. 3 become effective on April 14, 2014. The three changes will be identified below and direction on each change follows.

1. Removal of the “catchall” provision:

The revisions remove the so-called catchall provisions from Part A., Section II.D.1., and Part B, Section II.D. Sources subject to a federal New Source Performance Standard (“NSPS”) or National Emission Standard for Hazardous Air Pollutants (“NESHAP”) incorporated into Regulation Numbers 6 or 8 are no longer subject to Air Pollutant Emission Notice (APEN) reporting and construction permitting solely due to being subject to that NSPS or NESHAP. These sources will now typically only trigger APEN reporting and construction permitting requirements if the source’s emissions exceed the reporting and permitting thresholds found at Part A, Section II.D.1.a and II.D.1.b, and Part B, Section II.D.2 and II.D.3. Please note there may be other reasons why a source whose emissions are below these thresholds still seeks to obtain a permit¹ (e.g. to acquire a federally enforceable synthetic minor emission limit). Please note that compliance with any applicable NSPS or NESHAP is still required even if a construction permit is no longer necessary for the emission unit. The Division will continue to evaluate a source’s compliance with applicable regulations even if a construction permit is no longer required.

A number of currently issued construction permits and active APENs processed in accordance with the catchall provisions will no longer be necessary due to the removal of these provisions. The Division does not have the resources to investigate all permits/APENs to determine if they are still necessary and will rely on the owners and/or operators of these emission units to investigate these new requirements, determine if they have any emission units that are affected by the changes, and submit cancellation requests, if appropriate. The Division does not intend to issue formal exemption letters for the canceled units. Cancellation requests should state that cancellation is requested due to the removal of the catchall provision and clearly identify if cancellation is requested for the construction permit only, or both the construction permit and APEN. It is the owner or operator’s responsibility to determine if an APEN and/or permit is required and, as such, should investigate the situation thoroughly to assure that it is appropriate to request a cancellation.

Per Regulation No. 3, Part B, Section 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.

The Division’s cancellation request form can currently be found at the following website:

<http://www.colorado.gov/cs/Satellite/CDPHE-AP/CBON/1251596800297>

¹ Please be aware that the APEN and/or construction permit exemptions, including the emission de minimis levels, do not apply if the potential to emit, taking into account design rate and 8760 hours per year of operation, trigger Prevention of Significant Deterioration and/or Non-Attainment Area New Source Review Requirements. In those cases an APEN shall be filed and the necessary permit obtained.

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2. Adjustment of the non-criteria reportable pollutant threshold:

The revisions set a 250 lb/year reporting threshold for uncontrolled actual emissions of all non-criteria reportable pollutants (NCRP), replacing the complex matrix in Part A, Appendix A, in which reporting thresholds were based on the NCRP Bin and operating scenario (the operating scenario was based on the release height or distance to the property boundary). Please note that the 250 lb/year threshold is per APEN and NCRP, and that “uncontrolled actual emissions” represents actual emissions prior to any control device (i.e. reduction of emissions due to a control device should not be applied when comparing emissions to this 250 lb/yr threshold).

Setting this universal NCRP threshold will result in some owners/operators having to report additional NCRP emissions, and some owners/operators no longer having to report some NCRP emissions. The Division expects that any NCRP emissions that need to be reported to the Division should represent emissions from 2014. As such, **revised APENs which take into account the new 250 lb/yr NCRP reporting threshold are due by April 30, 2015** (if necessary). However, it is not necessary to submit a revised APEN for the sole reason of removing NCRPs that now fall below 250 lb/yr. As of 2015 (the 2014 inventory year), the Division will not invoice for any NCRPs that fall below 250 lb/yr on an uncontrolled actual basis.

For example:

An emission point historically operating under the obsolete Scenario 1 (release point less than 10 meters) has no control device and the following emissions every year:

- 100 pounds Benzene (Bin A); and
- 500 pounds Toluene (Bin C).

Previous APENs would have had to report Benzene only since it exceeded the previous 50 lb/yr de minimis level. Toluene would not have been reported since the de minimis level was previously 1000 lb/yr. Now, the owner/operator of this emission point must submit a revised APEN by April 30, 2015 reporting Toluene, but not Benzene because the new de minimis level is 250 lb/yr for all NCRPs.

3. Removal of the crude oil storage tank permitting exemption:

The revisions remove the crude oil² storage tank permitting exemptions in Part B, Section II.D.1.n., and Part C, Section II.E.3.ddd., and correct an error in the crude oil truck loading equipment construction permit exemption in Part B, Section II.D.1.l.

² Crude oil means a hydrocarbon liquid that has an American Petroleum Institute (API) gravity less than 40° API at 60° F, based on an annual average of all samples. The annual average is based on the most recent 12 contiguous months. If the site did not operate at all times during the most recent 12 months, samples from previous months shall be included in the average such that 12 complete months of data is included. If the site has been in operation for less than 12 months, all available samples shall be used; the annual average shall be determined upon reaching 12 months of operation. (Air Pollution Control Division Permit Section Memo 05-01, Oil & Gas Atmospheric Condensate Storage Tank Batteries Regulatory Definitions and Permitting Guidance)

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The removed crude oil storage tank permitting exemptions applied to crude oil storage tanks with capacities of 40,000 gallons or less. Crude oil storage tanks with capacities greater than 40,000 gallons were never categorically exempt from construction permitting.

Therefore, owners/operators of newly constructed or modified³ crude oil storage tanks with uncontrolled actual emissions greater than reporting thresholds and located at facilities with total facility uncontrolled actual emissions (including every emission unit at the site that requires an APEN) greater than the construction permitting thresholds in Part B, Sections II.D.2. and II.D.3. or operating permit thresholds in Part C, Section II.A.1. are no longer exempt from permit requirements. The applicable construction permitting thresholds are 2 tons/year of VOCs in ozone nonattainment areas, and 5 tons/year of VOCs in attainment areas.

The Division will not require existing crude oil storage tanks (i.e. those that commenced construction prior to April 14, 2014) to obtain a construction permit since they were constructed while the removed exemption was in effect. However, some owners/operators may still wish to obtain permits for existing un-modified tanks to establish enforceable emission limits for those tanks. In order to provide an efficient implementation considering the Division’s resources, for those sources that seek to obtain a construction permit, the Division is requesting the submittal of construction permit applications in phases. Sources with crude oil storage tanks that are located at either an exploration and production or a non- exploration and production facility which commenced construction prior to April 14, 2014 that are now seeking a construction permit should submit a construction permit application, including an updated APEN, according to the following schedule:

Table 1: Crude Oil Storage Tank Due Dates

Storage Tank Location	Requested Application/APEN Due Date
Rio Blanco County	September 1, 2014
Counties names beginning with the letters A – L	January 1, 2015
Counties names beginning with the letters M – Y (other than Rio Blanco)	July 1, 2015

Please note that if the crude oil storage tank commenced construction, or conducted a modification, on or after April 14, 2014, APEN/application submittal is required on the following schedule:

- For a non-exploration and production facility, a source MUST request and receive a construction permit prior to commencing construction or commencing construction of a modification on the crude oil storage tank, if a construction permit is required.
- For exploration and production facilities, an APEN/application is due to the Division within 90 days of the date of first production after any new construction or modification.

³ The Division will view crude oil storage tank modifications similarly to condensate tank battery modifications. See the definition of “Modification to a condensate tank battery” in PS Memo 05-01 for additional details.

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Please note that all crude oil storage tanks, existing or new, are required to have an APEN on file with the Division if uncontrolled actual emissions exceed the thresholds in Regulation No. 3, Part A, II.D.1.a. The applicable APEN thresholds are 1 tons/year of VOCs in ozone nonattainment areas, and 2 tons/year of VOCs in attainment areas.

Operators have the option of submitting a traditional construction permit application or an application for coverage under the General Permit 08 (GP08), for storage tanks. Sources electing coverage under GP08 will immediately have the authority to construct new crude oil storage tanks and will immediately have federally enforceable limits on controlled emissions for use in calculating the controlled potential to emit under NSPS OOOO. GP08 should be available before the end of June 2014.

Emission calculations for crude oil tanks can be completed in one of two ways. Sources can use the statewide default emission factors found in the Table 2, below:

Table 2: Crude Oil Storage Tank State Emission Factors (lb/bbl)

VOC	Benzene	n-Hexane
3.2	0.046	0.245

Or, sources may develop site-specific emission factors. When developing site-specific emission factors, the source should refer to the Air Pollution Control Division Permit Section Memo 05-01, Oil & Gas Atmospheric Condensate Storage Tank Batteries Regulatory Definitions and Permitting Guidance, for more information.