

PERMIT BY RULE, CHAPTER 106 - December 27, 1996

30 TAC 106 - Subchapter A - General Requirements

106.1 Purpose

This chapter identifies facilities or types of facilities which the commission has determined will not make a significant contribution of air contaminants to the atmosphere and pursuant to the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), 382.057, are exempt from the permit requirements of the TCAA, 382.0518.

106.2 Applicability

This chapter applies to facilities or types of facilities listed in this chapter where construction is commenced on or after the effective date of the relevant exemption. Facilities or types of facilities contained in this chapter must qualify for an exemption under this chapter and may not be qualified for an exemption listed in 116.211 of this title (relating to Standard Exemption List). Facilities or types of facilities not contained in this chapter may qualify for an exemption under 116.211 of this title.

106.4 Requirements for Exemption from Permitting

(a) To qualify for an exemption, the following general requirements must be met. (1) Total actual emissions authorized under exemption from the proposed facility shall not exceed 250 tons per year (tpy) of carbon monoxide (CO) or nitrogen oxides (NO_x); or 25 tpy of volatile organic compounds (VOC) or sulfur dioxide (SO₂) or inhalable particulate matter (PM₁₀); or 25 tpy of any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen.

(2) Except as noted in paragraph (3) of this subsection, any facility or group of facilities, which constitutes a new major stationary source, as defined in 116.12 of this title (relating to Nonattainment Review Definitions), or any modification which constitutes a major modification, as defined in 116.12 of this title, under the new source review requirements of the Federal Clean Air Act (FCAA), Part D (Nonattainment) as amended by the FCAA Amendments of 1990, and regulations promulgated thereunder, must meet the permitting requirements of Chapter 116, Subchapter B of this title (relating to New Source Review Permits) and cannot qualify for an exemption under this chapter. Persons claiming an exemption under this chapter should see the requirements of 116.150 of this title (relating to New Major Source or Major Modification in Ozone Nonattainment Area) to ensure that any applicable netting requirements have been satisfied.

(3) Any facility or group of facilities, which constitute a stationary source, as defined in 116.12 of this title, that emits NO_x and is located in the Houston/Galveston ozone nonattainment area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties) or the Beaumont/Port Arthur ozone nonattainment area (Hardin, Jefferson, and Orange Counties) can exceed the major source/major modification level listed in Table 1 of 116.12 of this title (relating to Nonattainment Review Definitions) if the following conditions are met.

(A) Any new facility or group of facilities, which constitute a new stationary source, as defined in 116.12 of this title, and emit NO_x in an amount, after netting, exceeding the major source threshold or major modifications exceeding the major modification level for NO_x listed in Table 1, shall register by submitting a Form PI-8.

(B) The registration shall be submitted prior to commencement of construction, but not later than December 31, 1997.

(C) No other applicable limits contained in this section shall be exceeded.

(4) Any facility or group of facilities, which constitutes a new major stationary source, as defined in 40 Code of Federal Regulations (CFR) 52.21, or any change which constitutes a major modification, as defined in 40 CFR 52.21, under the new source review requirements of the FCAA, Part C (Prevention of Significant Deterioration) as amended by the FCAA Amendments of 1990, and regulations promulgated thereunder, must meet the permitting requirements of Chapter 116, Subchapter B of this title and cannot qualify for an exemption under this chapter.

(5) Unless at least one facility at an account has been subject to public notification and comment as required in Chapter 116, Subchapter B or Subchapter D of this title (relating to New Source Review Permits or Permit Renewals), total actual emissions from all exempted facilities at an account shall not exceed 250 tpy of CO or NO_x; or 25 tpy of VOC or SO₂ or PM₁₀; or 25 tpy of any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen.

(6) Construction or modification of a facility commenced on or after the effective date of a revision of this section or the effective date of a revision to a specific exemption in this chapter must meet the revised requirements to qualify for an exemption.

(7) A proposed facility shall comply with all applicable provisions of the FCAA, 111 (Federal New Source Performance Standards) and 112 (Hazardous Air Pollutants), and the new source review requirements of the FCAA, Part C and Part D and regulations promulgated thereunder.

(8) There are no permits under the same Texas Natural Resource Conservation Commission account number that contain a condition or conditions precluding the use of a standard exemption or an exemption under this chapter.

(b) No person shall circumvent by artificial limitations the requirements of 116.110 of this title (relating to Applicability).

(c) The emissions from the facility shall comply with all rules and regulations of the commission and with the intent of the Texas Clean Air Act (TCAA), including protection of health and property of the public, and all emissions control equipment shall be maintained in good condition and operated properly during operation of the facility.

(d) Facilities exempted by this chapter are not exempted from any permits or registrations required by local air pollution control agencies. Any such requirements must be in accordance with TCAA, 382.113 and any other applicable law.

106.6 Registration of Emissions

(a) An owner or operator may certify and register the maximum emission rates from facilities exempted under this chapter in order to establish enforceable allowable emission rates which are below the emission limitations in 106.4 of this title (relating to Requirements for Exemption from Permitting).

(b) All representations with regard to construction plans, operating procedures, and maximum emission rates in any certified registration under this section become conditions upon which the exempt facility shall be constructed and operated.

(c) It shall be unlawful for any person to vary from such representation if the change will cause a change in the method of control of emissions, the character of the emissions, or will

result in an increase in the discharge of the various emissions, unless the certified registration is first revised.

(d) The certified registration must include documentation of the basis of emission estimates and a written statement by the registrant certifying that the maximum emission rates listed on the registration reflect the reasonably anticipated maximums for operation of the facility.

(e) The certified registration shall be maintained on-site and be provided immediately upon request by representatives of the Texas Natural Resource Conservation Commission or any air pollution control agency having jurisdiction. If the plant site is unmanned, the regional manager may authorize an alternative site to maintain this documentation. Copies of the certified registration shall be included in applications for permits subject to review under the undesignated heads in Chapter 116, Subchapter B of this title (relating to New Source Review Permits).

30 TAC 106 - Subchapter C - Domestic and Comfort Heating and Cooling

106.102 Comfort Heating (Previously SE 3)

This section exempts combustion units designed and used exclusively for comfort heating purposes employing liquid petroleum gas, natural gas, solid wood, or distillate fuel oil. Distillate fuel oil includes diesel fuel, kerosene, and heating oil Grades 4 and lighter. Distillate fuel oil does not include heavier residual oils such as Grades 5 and 6 fuel oil. Combustion of bark chips, sawdust, wood chips, treated wood, or wood contaminated with chemicals is not included. Used oil that has not been mixed with hazardous waste may be used as fuel in space heaters provided that:

(1) the space heater or combination of space heaters at the same account have a maximum capacity of 1.0 Million Btu per hour (MMBtu/hr) provided each individual heater is not greater than 0.5 MMBtu/hr;

(2) the combustion gases from the heater(s) are vented to the ambient air in accordance with the following requirements:

(A) through an unobstructed vertical vent; or

(B) for a stack with a cap;

(i) for a flat roof, through a minimum of a three-foot stack; or

(ii) for a sloped roof, through a stack that is three feet higher than a point extending ten feet horizontally from the roof; and

(3) the heater(s) burns only used oil that the owner or operator generates on-site or used oil received from household do-it-yourself used oil generators.

30 TAC 106 - Subchapter G Combustion

106.181 Small Boilers, Heaters, and Other Combustion Devices

(a) Small boilers, heaters, drying or curing ovens, furnaces, or other combustion units, but not including stationary internal combustion engines or turbines, are exempt provided that all the conditions of this section are met.

(b) Combustion units may burn used oil as a fuel as long as the used oil has not been mixed with hazardous waste and the combustion unit meets the following conditions:

(1) the combustion unit or combination of combustion units at the same account have a maximum capacity of 1.0 million Btu per hour (MMBtu/hr) and each individual combustion unit is not greater than 0.5 MMBtu/hr;

(2) the combustion gases from the combustion unit(s) are vented to the ambient air in accordance with the following requirements:

(A) through an unobstructed vent; or

(B) through a vertical vent with a cap; and

(i) a flat roof, through a minimum of a three-foot stack; or

(ii) a sloped roof, through a stack that is at least three feet higher than the highest point on the roof or three feet higher than a point extending ten feet horizontally from the roof; and

(3) the combustion unit(s) burns only used oil the owner or operator generates on-site or used oil received from household do-it-yourself used oil generators.