

AIR CONSTRUCTION PERMITTING EXEMPTION for SMALL UNITS [567 IAC 22.1(2)“w”]

Statements in this publication are intended solely as guidance. They cannot be used to bind the Department and are not a substitute for reading the applicable statutes and rules.

Unless covered by this exemption or another exemption specified in 567 Iowa Administrative Code (IAC) 22.1(2), stationary air pollutant emitting equipment constructed, installed, reconstructed, or altered after September 23, 1970 (April 22, 1987 for volatile organic compound (VOC) only emitting equipment), are required to obtain an air construction permit prior to construction or modification. This is true for all stationary equipment with air pollutant emissions that could be reasonably captured and vented to the atmosphere through a stack, chimney, vent, or other functionally equivalent opening. EPA has not defined what is considered “reasonable” regarding the capturing and venting of emissions. Through application, however, the definition of “reasonable” is usually based on whether emissions from similar equipment at other facilities are being captured and vented through a stack or vent.

If you are uncertain about the permitting requirements for stationary equipment located at your facility, please contact 1-877-AIR-IOWA (1-877-247-4692) for assistance.

1. How was the exemption developed?

This exemption was developed jointly by the DNR, the U.S. Environmental Protection Agency (EPA) and representatives of the Iowa Association of Business and Industry (ABI). The goal of all parties was to reduce the regulatory burden on industry while at the same time ensuring that human health and welfare are still protected. The emission units that could be subject to the exemptions are likely to have little or no environmental or human health consequences.

2. What is an emission unit?

An emission unit means any activity or part of an activity at a facility that emits or has the potential to emit any pollutant subject to regulation under the Clean Air Act.

3. What does the Small Unit Exemption cover?

The Small Unit Exemption may be used for emission units and associated control equipment (if applicable) that emit less than the small unit thresholds [specified in 567 IAC 22.1(2)“w”(1)] on a 12-month rolling total basis.

The small unit thresholds are:

- 2 pounds per year of lead and lead compounds expressed as lead;
- 40 pounds per year of lead or lead compounds for equipment for which initiation of construction, installation, reconstruction, or alteration occurred on or before October 23, 2013;
- 5 tons per year of sulfur dioxide;
- 5 tons per year of nitrogen oxides;
- 5 tons per year of volatile organic compounds;
- 5 tons per year of carbon monoxide;
- 5 tons per year of particulate matter;
- 2.5 tons per year of PM₁₀;
- 0.52 tons per year of PM_{2.5} (**does not** apply to equipment for which initiation of construction, installation, reconstruction, or alteration occurred on or before October 23, 2013; or
- 5 tons per year of hazardous air pollutants.

An emission unit that emits air pollutants that are not regulated air pollutants as defined in 567 IAC 22.100 **shall not** be eligible to use this exemption.

4. Can I use this exemption for existing emission units?

Yes, the Small Unit Exemption can be used for existing, non-permitted emission units that emit less than the small unit emissions thresholds specified in the exemption.

5. Can I use this exemption for emission units that have emissions that vent through a permitted emission point?

No. If the emissions from a small unit vent to the atmosphere through an emission point that is permitted, then the small unit emissions have to be included with the permitted emissions from the emission point.

6. What if I have an existing permit for an emission unit that now qualifies for the exemption?

The existing permit will remain in effect. The Iowa DNR will not nullify an existing permit for the purpose of allowing the emission unit to be covered by the Small Unit Exemption [or any other exemption in 567 IAC 22.1(2)].

7. If I use the Small Unit Exemption now, can I still get a construction permit in the future?

Yes. The Iowa DNR will issue a construction permit for the emission point associated with the emission unit if the owner or operator of the emission unit submits an air construction permit application to the Department.

8. Do I have to complete any paperwork to use the small unit exemption?

Yes. The owner or operator must maintain an Exemption Justification Document on site for each emission unit or group of similar emission units to which the Small Unit Exemption is being applied. The Exemption Justification Document contains the information that specifies how the emission units are operated so that the emission thresholds that define a small unit are not exceeded.

9. What is the point of having an Exemption Justification Document?

The Exemption Justification Document acts as a construction permit. It is written by the owner or operator for the facility to indicate how the emission unit or group of similar emission units will be maintained and operated to remain below the small unit emissions thresholds. The controls and resulting emission rates specified in the Exemption Justification Document establish a limit on the potential emissions for that emission unit or group of similar emission units. This allows the controls and limits specified in the exemption justification document to be federally enforceable, which means that credit could be taken for use of the controls or limits in applicability determinations for programs such as Title V or Prevention of Significant Deterioration.

10. Is there a specific format that the Exemption Justification Document has to follow?

No, there is not a specific format that has to be used for an Exemption Justification Document. This is to give facilities flexibility to create exemption justification documents that best suit their needs and capabilities. The only requirement is that the Exemption Justification Document contains the minimum amount of information specified in the exemption. The Department has developed a template for the Exemption Justification Document that may be used by facilities as a model to develop their own exemption justification documents.

11. What information do I have to include in the Exemption Justification Document?

567 IAC 22.1(2)"w"(3) states that the Exemption Justification Document shall include the following for each applicable emission unit or group of similar emission units to which the Small Unit Exemption is being applied:

- i. A description of the emission unit or group of emission units;
- ii. If applicable, a description of the air pollution control equipment used on the emission unit or group of similar emission units;
- iii. If air pollution control equipment is used, a statement that the emission unit or group of similar emission units will not be operated without the air pollution control equipment;
- iv. If available, attach a report of the manufacturer's emission test results or any other emissions testing;
- v. A description of how the emissions from the emission unit or group of similar emission units were determined and maintained below the annual small unit exemption levels;
- vi. A description of all production limits required for the emission unit or group of similar emission units to comply with the exemption levels;
- vii. Detailed calculations of emissions reflecting the use of any air pollution control devices or production or throughput limitations, or both;
- viii. A description of the records that will be maintained to demonstrate that the annual emissions were kept below the exemption levels; and

- ix. A certification from the responsible official that the emission unit or group of similar emission units have complied with the small unit exemption levels.

Facilities designated as major sources or subject to any applicable federal requirements shall retain all records demonstrating compliance with the Exemption Justification Document for five years.

12. Does the Iowa DNR have to review the Exemption Justification Document before it can be used?

No. However, exemption justification documents must be submitted to the Iowa DNR upon request. In addition, exemption justification documents must be made available to state or EPA inspectors upon request during on-site inspections.

13. What if I have unpermitted emission units that meet the small unit thresholds, but I do not complete the exemption justification documents for them?

If the owner or operator claims that an emission unit is subject to the Small Unit Exemption, but does not complete the Exemption Justification Document for the emission unit, then the applicability of the Small Unit Exemption is voided for that particular emission unit. An air construction permit application will then have to be submitted for the emission unit in question.

14. What if I claim a Small Unit Exemption for an emission unit and it is later discovered that the emission unit is exceeding the small unit thresholds?

If the Iowa DNR believes that the emission unit is exceeding the small unit emission thresholds, then the Department will notify the owner or operator of the emission unit in writing and will provide supporting documentation. The owner or operator will have up to 60 days to respond to the Iowa DNR with information to substantiate a claim of applicability to the Small Unit Exemption. If the owner or operator is unable to substantiate the claim the Department's satisfaction, then the owner or operator will have to apply for an air construction permit of the emission unit or cease using the emission unit in question within 90 days of notification by the Iowa DNR. The emission unit and any applicable control equipment may continue operation during this period and the associated initial application review period.

15. Are any notifications to the Iowa DNR required before I start using the Small Unit Exemption?

No notification of use of the Small Unit Exemption is required unless the emission from an emission unit will exceed the substantial small unit thresholds specified in the exemption. A Substantial Small Unit is a small unit which emits more than the following amounts, as documented in the Exemption Justification Document:

- 2 pounds per year of lead and lead compounds expressed as lead;
- 30 pounds per year of lead or lead compounds for equipment for which initiation of construction, installation, reconstruction, or alteration occurred on or before October 23, 2013;
- 3.75 tons per year of sulfur dioxide;
- 3.75 tons per year of nitrogen oxides;
- 3.75 tons per year of volatile organic compounds;
- 3.75 tons per year of carbon monoxide;
- 3.75 tons per year of particulate matter;
- 1.875 tons per year of PM₁₀;
- 0.4 tons per year of PM_{2.5} (*does not* apply to equipment for which initiation of construction, installation, reconstruction, or alteration occurred on or before October 23, 2013);
- 3.75 tons per year of any hazardous air pollutant; or
- 3.75 tons per year of any combination of hazardous air pollutants.

The owner or operator shall notify the Department in writing at least 10 days prior to commencing construction of any new or modified Substantial Small Unit and within 30 days after determining that an existing small unit meets the criteria of the Substantial Small Unit.

16. Are any notifications to the Iowa DNR required after I start using the Small Unit Exemption?

The owner or operator is required to notify the Department within 90 days of the end of the calendar year if the

combined emissions of one or more pollutants from all substantial small units at the facility will meet or exceed any of the following cumulative notice thresholds.

- 0.6 tons per year of lead and lead compounds expressed as lead;
- 40 tons per year of sulfur dioxide;
- 40 tons per year of nitrogen oxides;
- 40 tons per year of volatile organic compounds;
- 100 tons per year of carbon monoxide;
- 25 tons per year of particulate matter;
- 15 tons per year of PM₁₀;
- 10 tons per year of PM_{2.5} (**does not** apply to equipment for which initiation of construction, installation, reconstruction, or alteration occurred on or before October 23, 2013);
- 10 tons per year of any hazardous air pollutant; or
- 25 tons per year of any combination of hazardous air pollutants.

It is possible that emissions from several substantial small units could interact at one or more off property locations and result in exceedances of an ambient air quality standard. To minimize this possibility, the owner or operator must apply for air construction permits for all substantial small units for which the cumulative notice threshold for the pollutant(s) in question has been reached. This will allow the Department to perform engineering evaluations of the emissions and controls (if applicable) and evaluate the possible air quality impacts. 90 days from the date it was determined that the cumulative notice threshold has been reached, the owner or operator shall apply for construction permit(s).

In addition, within five days of making this determination, the owner or operator shall submit a letter to the Department establishing the date that it was determined that the cumulative notice threshold had been reached.

17. Is the use of the Small Unit Exemption voided for future substantial small units once a cumulative notice threshold has been reached?

No. Once the substantial small units that in combination are meeting or exceeding one or more cumulative notice thresholds are permitted, the Substantial Small Unit “slate” is wiped clean. New or modified substantial small units could then be added to the facility until the cumulative notice threshold is again reached. The steps described above would then be followed regarding Department notification and permitting. If emissions from the previously permitted substantial small units were determined to result in predicted impacts that threaten the applicable national ambient air quality standards, then the facility will coordinate with the Iowa DNR to ensure that the addition of future substantial small units will not result in predicted ambient air quality exceedances before the cumulative notice threshold is reached.

18. Does the Small Unit Exemption apply to other air permitting requirements?

No. Owners and operators are still obligated to determine whether other air permitting requirements still apply to the small units and to meet these obligations as applicable. For example, if a facility has two small units that each emits 4.5 tons of xylene (a hazardous air pollutant) and plans on adding another small unit that would emit two tons of xylene, then a hazardous air pollutant standard may be triggered.

19. What does “required to be reviewed for compliance” with a NESHAP mean?

A. Required to be reviewed:

If an emission unit is subject to specific NESHAP requirements, the unit is “required to be reviewed for compliance” with the NESHAP. These NESHAP requirements can include maintenance or work practice standards, recordkeeping or reporting requirements, or operational or emission limitations, among others. An emission unit with these types of requirements is not eligible for the Small Unit Exemption.

B. Not required to be reviewed:

- i. If an emission unit is subject to a NESHAP, but has no substantive NESHAP requirements, then the equipment is not “required to be reviewed for compliance” with the NESHAP. In these instances, the Small Unit Exemption may be used.

Examples:

- The equipment is subject to a NESHAP, but has no requirements.
 - Several types of engines meet this description.
 - The equipment is subject to a NESHAP, but the only requirement is an initial notification.
 - The equipment is subject to a NESHAP, but has no requirements as long as usage/throughput remains below specified thresholds. Recordkeeping may be associated with these thresholds.
 - An example of this is the 50 ton per day threshold in Part 63, Subpart DDDDDDD – National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing.
- ii. If an emission unit does not meet the applicability criteria of a NESHAP or is specifically exempted by a NESHAP, then the equipment is not “required to be reviewed for compliance” with the NESHAP. In these instances, the Small Unit Exemption may be used.

20. If a unit was installed under the Small Unit Exemption prior to the promulgation of a new NESHAP, can the unit continue to be covered under the Small Unit Exemption? If not, what is the deadline for submitting a construction permit application?

If equipment that is currently exempted through the Small Unit Exemption becomes subject to a NESHAP that requires review for compliance (see Question 5), the Small Unit Exemption cannot be used anymore. No later than the NESHAP compliance date, the facility would need to either submit a permit application for the equipment or ensure that the equipment is covered under a different exemption.

21. Does the eligibility for the Small Unit Exemption depend on whether Iowa has adopted the specific NESHAP?

No. Since Iowa may become the delegated authority for any given NESHAP in the future, it would be unnecessarily confusing to have different Small Unit Exemption eligibility for any NESHAP that Iowa has not yet adopted.

22. Who can use this exemption? Can Title V sources use it?

Any facility, including Title V sources, may use this exemption provided that the affected emission units are not required to be reviewed for compliance with any National Emission Standards for Hazardous Air Pollutants (NESHAP). For help with a determination, please call the Construction Permitting Assistance Line at 1-877- 247-4692.

23. Are emission units covered under the Small Unit Exemption considered “insignificant activities for Title V purposes?”

Yes, if they meet the criteria listed in 567 IAC 24.103. The small unit thresholds and the Title V “insignificant activity” thresholds are the same, with the exception of the thresholds for hazardous air pollutants (HAPs) (see 567 IAC 24.103(2)“a”). Also, note that since the Exemption Justification Document is an enforceable document, emission units covered under the Small Unit Exemption will need to be identified by the facility and will be noted in the Title V operating permit.

24. Do emissions from the emission units covered under the Small Unit Exemption have to be included on the Form EI (Plant Emissions Inventory)?

Like other exemptions, emissions from all emission units that utilize the Small Unit Exemption must be included on the Form EI when completing a construction permit application for emission units that will be permitted at the facility.

25. Where can I find a list of all exemptions?

Exemptions are listed in subrule 22.1(2) of 567 Iowa Administrative Code. The administrative rules are easily accessed on-line (<https://www.legis.iowa.gov/law/administrativeRules/agencies>). Go to 567 (Environmental Protection Commission) and to Chapter 22. The exemptions are listed close to the beginning of the chapter.

The administrative rules may also be obtained at the Records Center of the Iowa DNR.