



U.S. Environmental Protection Agency Applicability Determination Index

Control Number: 0100062

Category: NSPS
EPA Office: Region 4
Date: 07/20/2001
Title: Replacement of Equipment and Notification Requirements
Recipient: Tammie Watkins
Author: R. Douglas Neeley

Subparts: Part 60, A, General Provisions
Part 60, OOO, Nonmetallic Mineral Processing

References: 60.110b(b)
60.116b(b)
60.670(d)
60.672
60.674
60.675
60.676
60.7
60.7(h)

Abstract:

Q: Is a piece of equipment which is covered by the exemption in Sec. 60.670(d)(1) considered an affected facility which is subject to the notification requirements of Sec. 60.7?

A: Yes. When a piece of equipment is replaced with equipment of equal or smaller size, the replacement equipment is an affected facility subject to Subpart OOO, even though the exemption in Sec. 60.670(d) may apply.

Letter:

July 20, 2001

4APT-ARB

Ms. Tammie Watkins
Permits Coordinator
Division of Air Quality
North Carolina Department of Environment and
Natural Resources
Mooresville Regional Office
919 North Main Street
Mooresville, North Carolina 28115

Dear Ms. Watkins:

We have received a June 14, 2001, letter (enclosed) from Mr. Steve Whitt of the North Carolina Aggregates Association requesting clarification concerning New Source Performance Standards (NSPS) Subpart OOO - "Standards of Performance for Nonmetallic Mineral Processing Plants" and NSPS Subpart A - "General Provisions." Mr. Whitt's letter references a June 3, 1999, letter from Region 4 to the North Carolina Department of Environmental and Natural Resources (NCDENR) which addresses issues related to the replacement of pieces of equipment with equipment of equal or smaller size and the provisions of Sec. 60.670(d). Mr. Whitt has questioned whether equipment which is covered by the exemption provided in Sec. 60.670(d)(1) is considered an affected facility and whether the notification requirements of Sec. 60.7 are applicable to such equipment. Based on a reevaluation of our June 3, 1999, letter and the regulations, our previous position on these issues is unchanged. Pieces of equipment which are covered by the exemption in Sec. 60.670(d) are considered affected facilities under Subpart OOO and are subject to notification requirements of Sec. 60.7, as indicated in our June 3, 1999, letter. However, as stated in Sec. 60.7(h), individual subparts of Part 60 may include specific provisions which clarify or make inapplicable the provisions set forth in Sec. 60.7.

As stated in Sec. 60.670(d)(1), when an existing facility is replaced by a piece of equipment of equal or smaller size having the same function as the existing facility, the new facility is exempt from the provisions of Secs. 60.672, 60.674, and 60.675, except as provided in Sec. 60.670(d)(3). Subpart OOO at Sec. 60.670(d)(2) states that an owner or operator complying with Sec. 60.670(d)(1) shall submit the information required by Sec. 60.676(a). Sec. 60.670(d)(3) indicates that when all existing facilities in a production line have been replaced with new facilities, the exemption provided in Sec. 60.670(d)(1) does not apply, and the owner or operator must comply with the requirements of Secs. 60.672, 60.674, and 60.675.

In Mr. Whitt's letter, he has questioned whether a piece of equipment which is covered by the exemption provided in Sec. 60.670(d)(1) can be considered an affected facility under Subpart OOO. As indicated in Sec. 60.2, an "affected facility" is any apparatus to which a standard is applicable, and a "standard" is defined as a standard of performance proposed or promulgated under Part 60. All subparts of the NSPS regulations, including Subpart OOO, are designated as "Standards of Performance."

Subpart OOO at Sec. 60.670(e) indicates that an affected facility identified under Sec. 60.670(a)(1) that commences construction, reconstruction, or modification after August 31, 1983, is subject to the requirements of Subpart OOO. A piece of equipment which is exempt from Secs. 60.672, 60.674, and 60.675 due to the provisions in Sec. 60.670(d)(1) is still considered an affected facility and is required to meet the reporting requirements in Sec. 60.676(a). It is not necessary that a piece of equipment be subject to all requirements of Subpart OOO for it to be considered subject to that standard. The requirements of Sec. 60.7 (notification and record keeping) apply to owners or operators of facilities subject to the provisions of 40 CFR Part 60. Therefore, affected facilities under Subpart OOO are subject to notification requirements of Sec. 60.7, as previously discussed in our June 3, 1999, letter. As indicated in Sec. 60.7(h), individual subparts of Part 60 may include specific provisions which clarify or make inapplicable the provisions of Sec. 60.7. In the case of Subpart OOO affected facilities which comply with Sec. 60.670(d)(1), certain requirements of Sec. 60.7 would not apply until all existing facilities in a production line are replaced with new facilities and the exemption from Secs. 60.672, 60.674, and 60.675 no longer exists.

In Mr. Whitt's letter, a comparison is made between Sec. 60.676(a) in Subpart OOO with Sec. 60.116b(b) in NSPS Subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels). Sec. 60.676(a) relates to reporting requirements for Subpart OOO facilities complying with Sec. 60.670(d)(1). Sec. 60.116b(b) relates to keeping records of the dimensions and capacity of storage vessels and states that storage vessels with a design capacity of less than 75 m³ are subject to no provisions of Subpart Kb, other than the record keeping required by that paragraph. When comparing Subparts Kb and OOO, there is a difference in the exemptions provided in the two standards. Subpart Kb at Sec. 60.110b(b) indicates that storage vessels with a design capacity of less than 75 m³ are exempt from the General Provisions in Subpart A and from the provisions of Subpart Kb except for Sec. 60.116b(b). In Subpart OOO, there is no similar language concerning an exemption from NSPS Subpart A (which includes Sec. 60.7), and the exemption from Subpart OOO requirements specified in Sec. 60.670(d)(1) only applies until all existing facilities in a production line are replaced with new facilities. Since the exemption allowed under Subpart OOO is not permanent for a piece of equipment, it is not appropriate to exempt an affected facility from the requirements of Sec. 60.7.

If there are any questions regarding this letter, please contact Mr. Keith Goff of the EPA Region 4 staff at (404)562-9137.

Sincerely yours,

R. Douglas Neeley
Chief
Air and Radiation Technology Branch Air, Pesticides, and Toxics Management Division

Enclosure

cc: Steve Whitt
North Carolina Aggregates Association