



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 21 2013

The Honorable Chuck Fleischmann
U.S. House of Representatives
Washington, D.C. 20515

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

Dear Congressman Fleischmann:

Thank you for your June 17, 2013, letter to the U.S. Environmental Protection Agency regarding the Clean Air Act (CAA) New Source Performance Standards (NSPS) for Calciners and Dryers in the Mineral Processing Industries (40 CFR, Part 60), and the application of these standards to certain foundry operations. I welcome the opportunity to explain how the EPA addresses probable violations of the NSPS.

By way of background, the NSPS Subpart UUU applies to any facility which processes "industrial sand" in "calciners and dryers." As early as 1986, the EPA stated in the preamble to the Notice of Proposed Rulemaking that the rule "... would apply to new, modified, and reconstructed calciners and dryers at mineral processing plants." In both the proposed and the final rules, the EPA defined a mineral processing plant as "... any facility that processes or produces any of the following minerals" In the preamble and in the final rule, the EPA listed "industrial sand" as one of the listed minerals, and broadly defined the affected facility, "dryer," as "... the equipment used to remove uncombined (free) water from mineral material through direct or indirect heating." As a result, where foundries process the listed mineral "industrial sand," they meet the definition of "mineral processing plant," and the "calciners and dryers" that are used by these foundries to process the industrial sand are subject to NSPS Subpart UUU.

The National Industrial Sand Association confirms, on its website, that foundries are one of the primary users of the listed mineral industrial sand, stating that "... [i]ndustrial sand is an essential part of the ferrous and non-ferrous foundry industry." The Association goes on to further state that "... core sand can be thermally or mechanically recycled"

In April 2008, as part of the EPA's proposed amendments to the NSPS for Nonmetallic Mineral Processing Plants (Subpart OOO), we requested public comment on the applicability of Subpart UUU to sand and reclamation processes at metal foundries. The addition of this language in the Subpart OOO proposal coincided with inquiries regarding this issue by foundry industry representatives at that time. After further consideration, the EPA determined, for the reasons discussed above, that our prior interpretation that Subpart UUU applied to calciners and dryers processing industrial sand at foundries was correct. In addition, it was also determined that Subpart OOO was not the appropriate vehicle to take action on this matter because that Subpart dealt with a different industry sector.



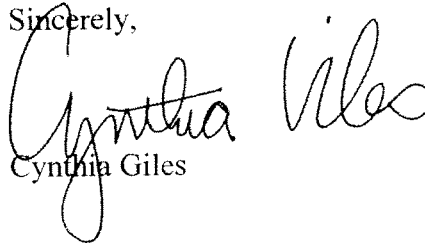
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Consequently, the EPA decided at that time that no further action to amend Subpart UUU, or otherwise change its applicability criteria, was necessary or appropriate. Should the agency decide to re-evaluate the applicability of this rule, it would generally do so under Section 111(b)(1)(B) of the CAA, which authorizes the agency to revise the NSPS from time-to-time. Subpart UUU is not currently scheduled for review under Section 111(b)(1)(B) of the CAA.

Based on the above rationale, the EPA is currently taking enforcement action in the EPA Region 5 for identified violations of NSPS Subpart UUU at subject foundries. There are 138 iron and steel foundries in Region 5. In the last two years, Region 5 has conducted compliance evaluations at 39 of these foundries and, thus far, has found 11 to be in violation of the Clean Air Act; only 3 of the 11 cases included violations of Subpart UUU. To remedy the currently identified Subpart UUU violations, the 3 affected facilities have agreed to conduct some additional testing. Thus far, no penalties have been assessed for the NSPS Subpart UUU violations.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Pamela Janifer in the EPA Office of Congressional and Intergovernmental Relations at (202) 564-6969.

Sincerely,

A handwritten signature in black ink that reads "Cynthia Giles". The signature is written in a cursive style with a large initial "C".

Cynthia Giles