



Concern Over EPA's NSPS, Subpart UUU for Calciners and Dryers in Mineral Processing Industries

EPA Never Intended to Include Foundries as Source Category Subject to Subpart UUU

As part of the original rulemaking, the U.S. Environmental Protection Agency (EPA) never intended for foundries to be subject to this rule because metalcasting is not a mineral processing industry. The rulemaking record contained only a reference to foundries as a downstream user of industrial sand from mineral processing industries. As a result, the metalcasting industry was not provided with an opportunity for notice and comment in Subpart UUU rulemaking. Subjecting foundries to Subpart UUU is a violation of the Administrative Procedure Act. Nonetheless, in a series of Applicability Determinations, EPA inappropriately "interpreted" that foundries were subject to Subpart UUU because foundries have sand reclamation units to reuse sand in the metalcasting process that meet the broad Subpart UUU "definition of calciners and dryers" that "process industrial sand."

State Enforcement Action Led to Proposed Exemption for Foundries

In 2006, a state enforcement action was initiated at a facility that had a unit that processed sand. This action led to discussions within EPA regarding the applicability of Subpart UUU to foundries. In 2008, EPA proposed regulatory language stating that Subpart UUU does not apply to "processes used solely for the reclamation and reuse of industrial sand from metal foundries." EPA did not receive any comments opposing the proposed revisions to exclude foundries from Subpart UUU. In 2009, EPA deferred final action on regulatory language, citing procedural issues related to the lack of notice and comment because Subpart UUU revisions were included as part of another NSPS rulemaking. At that time, EPA officials agreed not to actively enforce Subpart UUU provisions at foundries.

Recent Enforcement Actions against Foundries

EPA Region V has recently initiated enforcement actions against foundries for failure to comply with Subpart UUU. Although EPA has not yet issued civil penalties for violations of Subpart UUU as part of these recent enforcement actions, facilities must revise facility permits to include these units and monitor particulate matter emissions from these units (even though the levels are so low that other units in the mineral processing industries with similar levels of emissions are exempt from monitoring).

EPA Regions across the country have taken inconsistent positions on whether Subpart UUU should apply foundry sand reclamation and reuse processes at foundries. In addition, states have also taken inconsistent and evolving positions on whether Subpart UUU should apply to sand reclamation and reuse processes at foundries.

Message to Congress

Consistent with its original intent of Subpart UUU, EPA must finalize a regulation to exempt foundries from the applicability of this regulation.

- **Subjecting Foundries to Subpart UUU Requirements = Unnecessary Regulatory Burden**
 - EPA's efforts to impose Subpart UUU requirements on units used solely for the reclamation and reuse of industrial sand from metal foundries is an unnecessary regulatory burden. Sand systems at foundries are controlled by other air regulations, where particulate matter and opacity limits are already in place for foundries. In addition, processing units to reclaim and reuse sand at foundries should be encouraged because they provide significant environmental benefits. EPA should, therefore, finalize the regulation to exempt foundries from NSPS, Subpart UUU.

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