

From: EBERSOLE Gerald <EBERSOLE.Gerald@deq.state.or.us>
Subject: FW: SSSSSS applicability questions from Uroboros
Date: April 15, 2016 at 8:48:23 AM PDT
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Hi Eric, I approve an extension of time for Uroboros to provide the information requested in DEQ's April 13, 2016 letter.

The original deadline was April 18, 2016. The new deadline is May 2, 2016.

Someone at DEQ will get back to you on your other questions as soon as possible.

Let me know if you have any questions.

Jerry Ebersole
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From: Eric Lovell [eric@uroboros.com]
Sent: Thursday, April 14, 2016 6:19 PM
To: EBERSOLE Gerald
Subject: SSSSSS applicability questions from Uroboros

Gerald Ebersole
Interim Air Quality Manager, Northwest Region, Oregon DEQ
Sent by email April 14, 2016

Jerry,

In reviewing NESHAP 6S qualifications, as revised by the recent EPA and DEQ letters, I must request a couple of further clarifications.

A. Notification and application timeline.

EPA's original intent in SSSSSS was to allow 120 days after a source or furnace became subject to SSSSSS rules to submit an Initial Notification, as follows:

1. According to NESHAP SSSSSS page 73205 section 63.11456 Notifications and Records, para (1): "*...if you start up your affected source before December 26, 2007, you must submit an Initial Notification...within 120 days after your affected source becomes subject to the standard.*" And,
2. Page 73183, Summary of Changes Since Proposal, Notifications: "*We have revised 63.11456 to simplify the section and clarify that the deadline for submitting the Initial Notification is 120 after the furnace becomes subject to the rule, regardless of whether the furnace is existing or new.*"

EPA's current position reversed the SSSSSS authors' original position in 2007 that exempted periodic furnaces as used in the manufacture of stained glass. This original interpretation was in place unchallenged for nine years for six regulatory agencies: EPA, and Oregon, Puget Sound, Pennsylvania, Indiana and West Virginia. See SSSSSS page 73186 B.1. Comments and Responses:

"Response: After reviewing the emissions inventory in support of the listing decisions made pursuant to sections 112(c)(3) and 112 (k) and available information, we have concluded that the glass manufacturing area source category was listed based on emissions from relatively large manufacturing plants that operated continuous glass furnaces. Periodic furnaces were not included in the inventory.", and

"Therefore, we have revised 63.11448 to specify that periodic or pot furnaces are not subject to the final Glass Manufacturing NESHAP. We believe this revision will address most of the concerns of the stained glass manufacturing sector..."

If indeed the NESHAP authors originally intended back in 2007 to use the 80+ year old standard glass industry term 'continuous furnace' (for furnaces that melt and process glass in a continuous flow) to define use for pot furnaces or day tanks that are idled in the hot state between uses, it was certainly an unfortunate choice of terminology, and not backed up by terminology throughout the SSSSSS rule.

In addition to the above specific references, NESHAP rules and even the Initial Notification Example provided with SSSSSS rules are sprinkled with terminology unique to construction and use of actual continuous furnaces, with terms like 'Glass pull rate' and 'tons/day' or 'tons/hour', which only can apply to continuous flow furnaces. Each of the author's use of such terms further support their intention at that time that continuous furnaces were what the glass industry has always called them – continuous flow furnaces.

Even the EPA letter to DEQ dated April 12th, 2016 refers to 'some confusion' that this has caused, although it is debatable whether the confusion was within the glass industry or revisionist history by current holders of the regulator's offices.

Again, Uroboros Glass does not dispute the need to revise or change SSSSSS qualifications in some meaningful way now. Our concern is over the timing of the effective date for those revisions. Lacking any guidance from DEQ in this situation, I am inclined to interpret our furnaces as pre-2007 built, *newly subject* furnaces, for which SSSSSS provides a 120 day period for "Initial Notification. If you choose to dispute this interpretation, please make that clear by reply to this letter. This is my third request on this point.

Further, NESHAP SSSSSS 63.11450 Compliance Dates, (c) and (d), page 73201, clearly provide for a two year period for achieving compliance with emission limits. I won't wear you out with a discussion of this point, but it's pretty clear in the SSSSSS rules. This differs significantly from the current DEQ/Uroboros agreement for cadmium and chrome use. Once you have gathered the necessary information from us in the

next few days, we would appreciate some guidance on this point as well.

Questions regarding 'capacity':

To comply with your request for information, we must complete several questions about capacity or furnace HAP capacity. NESHAP 6S rules are pretty clear that melted glass poundage that do not contain glass HAPS are not to be considered as part of the annual HAP melt capacity of a furnace, nor should cullet remelt poundage. We think that our smallest furnaces might fall below the 50 tpy quantity requirement based on this specification.

See page 73187-8 Comment and response re: furnaces that melt both HAP containing and HAP free glasses. So, before we can answer your questions on individual furnace HAP glass capacity, would you please confirm that DEQ agrees with this interpretation?

Question #5 requests 'current production levels'. As you know we are in a 65% suspended situation, so our current production levels are very, very low. Once emission control equipment is certified, we would expect to return to 2015 production levels. Is your intent to determine our actual current production levels of HAP containing poundage or ??

In addition to the above, we are already reporting to DEQ HAP lbs actually used weekly. By combining that confidential but likely publicly available information with separate reports on total melt pounds for individual furnaces also made publicly available, it would be possible for an enterprising reader to reverse engineer our proprietary formulas. These formulas are unique to our business and are key intellectual property assets, as they have been for glass makers for millennia. After I see how these separate reports might stack up if combined, I might have to ask you for a change in the way this data is reported to better prevent such an unintended leak of our intellectual property.

Further, the various slants at the capacity question embodied in questions 2,3,4,5,and 6 will require considerable research of day to day production records to report accurately. We do not know if we can complete your requests by the end of the day Monday. There were only 3 business days allowed for this purpose. If it appears we cannot complete it per your initial request, may we request some additional time?

Sincerely,
Eric Lovell

Eric Lovell
President

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