

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

NOTICE OF APPLICABILITY DETERMINATION

June 5, 2020

[VIA EMAIL: GSteinbauer@babstcalland.com]

Adam Willsey
Director of Enabling Technologies
Kopp Glass, Inc.
2108 Palmer Street
Pittsburgh, PA 15218

RE: Kopp Glass, 2108 Palmer Street, Pittsburgh, PA – 40 CFR 63, Subpart SSSSSS applicability determination

Dear Mr. Willsey:

As you are aware, the Allegheny County Health Department (ACHD) has been reviewing whether Kopp Glass is subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Glass Manufacturing Area Sources, 40 CFR 63, Subpart SSSSSS (“Subpart 6S”). As part of this review, the ACHD requested via a letter dated May 11, 2020, that Kopp Glass provide information relating to its glass making operations. Kopp Glass provided the ACHD with this information on May 20, 2020. On May 13, 2020, an ACHD Air Quality Engineer performed a site visit of the facility and obtained additional information regarding Kopp Glass’ operations for purposes of determining Subpart 6S applicability. On May 27, 2020, Kopp Glass provided additional information to the ACHD relating to Subpart 6S applicability.

Based on the information obtained during its review, the ACHD has determined that Kopp Glass is subject to the NESHAP for Hazardous Air Pollutants for Glass Manufacturing Area Sources, 40 CFR 63, Subpart SSSSSS. Specifically, the ACHD has determined that pot furnace No. 2 (12 pot) is subject to Subpart 6S. The ACHD’s determination memo is attached to this letter.

The ACHD is aware of Kopp Glass’ position that “pot furnaces” should be exempted under Subpart 6S. However, after reviewing the language of Subpart 6S and recent determinations by the United States Environmental Protection Agency (EPA) relating to the applicability of Subpart 6S to pot furnaces, the ACHD finds that pot furnaces are not exempt. It is important to



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note that Subpart 6S does not reference or mention “pot furnaces.” The actual regulations state that Subpart 6S applies to any glass manufacturing plant that is an area source of hazardous air pollutants (HAPs) and operates one or more “**continuous furnaces**” which produce glass, which contains one or more of the glass manufacturing metal HAP as raw materials, at a rate of at least 45 MG/yr (50 tpy). The regulations define “continuous furnace” as a “glass manufacturing furnace that operates continuously except during periods of maintenance, malfunction, control device installation, reconstruction, or rebuilding.”

The issue of whether 6S exempts “pot furnaces” was addressed by the EPA in a letter dated April 12, 2016, in which the EPA responded to a request by the Oregon Department of Environmental Quality (ODEQ) regarding the applicability of Subpart 6S to a glass making facility in Portland, Oregon. In its letter to ODEQ, the EPA noted that while the facility melts glass “in a batch process,” the actual furnaces are continuously operated at “high temperatures at all times.” The EPA therefore concluded that because the facility operates a “continuous furnace,” it is subject to the NESHAP. The EPA also addressed whether “periodic or pot furnaces” are exempted under Subpart 6S:

In choosing to exempt non-continuous furnaces, the EPA focused on their operation being periodic. A furnace that shuts down seasonally or is only operated for portions of the year would not be considered a continuous furnace. This revision was meant to address the concerns of small operators or artisanal shops **which may turn kilns/furnaces on and off regularly. The furnaces [ODEQ] describe are kept hot (operated) for a year or more** between rebrickings and produce glass on a routine schedule.

Recently, the EPA determined that the Paul Wissmach Glass Company (PWGC) in West Virginia was subject to Subpart 6S. The glass making facility has seven “pot furnaces” in which “natural gas continues to be fired into the furnace chamber” between batches and “are heated 38 to 41 weeks per year.” On February 3, 2020, the EPA issued a Notice of Noncompliance/ Opportunity to Show Cause in which it determined that because it has a “continuous furnace,” Subpart 6S applied to the facility.

In a letter dated May 20, 2020, Kopp Glass provided furnace production data which indicated that pot furnaces Nos. 1 and 2 have produced glass, which contains one or more of the glass manufacturing metal HAP as raw materials, at a rate of at least 50 tons per year (tpy). Currently, only pot furnace No. 2 is active. Further, during the glass making operations, furnace No. 2 is continuously heated with natural gas and remains heated except during periods of maintenance, malfunction, control device installation, reconstruction, or rebuilding. Therefore, the ACHD determines that furnace No. 2 is a “continuous furnaces” subject to Subpart 6S.

Please be aware that pursuant to Article XI (“Hearings and Appeals”) of the Allegheny County Health Department Rules and Regulations, you are notified that if you are aggrieved by this determination you have thirty (30) days from the date of issuance or receipt of this determination in which to file an appeal. Such a Notice of Appeal shall be filed in the Office of the Director at 542 Fourth Avenue, Pittsburgh, PA 15219. This determination is enforceable upon issuance and any appeal of this determination shall not act as a stay. In the absence of a timely appeal, the terms of this determination shall become final.

Request for a Meeting

The Subpart 6S regulations were issued on December 26, 2007, and required sources subject to the regulations to be in compliance by December 28, 2009. A source subject to Subpart 6S is required to obtain a Title V Operating Permit and to comply with the applicable emission limits specified in Section 63.11451. The ACHD requests an opportunity to meet with Kopp Glass for the purpose of discussing Kopp Glass' compliance with Subpart 6S. Please notify the ACHD within ten (10) calendar days of the date of this letter regarding the scheduling of a meeting.

If you have any questions concerning this matter or if you and your attorney would like to schedule a meeting, please contact Gregson Vaux, ACHD Air Quality Engineer, at 412-578-8148 or by email at Gregson.Vaux@AlleghenyCounty.us or Jeff Bailey, Esq., ACHD Assistant Solicitor, at 412-578-2658 or by email at Jeff.Bailey@AlleghenyCounty.US. Thank you for your anticipated prompt attention to this matter.

Sincerely,



Jayme Graham
Air Quality Program Manager

cc: Jeffrey Bailey, Esq, ACHD Assistant Solicitor (via email)
Gary Steinbauer, Esq. (via email GSteinbauer@babstcalland.com)
Chip Babst, Esq. (via email: CBabst@babstcalland.com)

Memo to JoAnn Truchan
 From Gregson Vaux
 Regarding determination for applicability of 40 CFR 63 SSSSSS to Kopp Glass, Inc.
 June 3, 2020

Company Name	Kopp Glass, Inc.	
Site Location	2108 Palmer Street, Pittsburgh, PA 15218	
Date that request was received and format of the request	The request was issued internally (verbal request) by Dean Deluca on March 09, 2020.	
Facility ID#	0264	
Description of the proposal	Does 40 CFR 63 SSSSSS apply to the glass furnaces at Kopp Glass, Inc.?	
Estimated Emissions	The estimated emissions from the facility are not applicable to the determination of whether the Kopp Glass facility is subject to subpart SSSSSS except for whether the facility is an area source or major source of HAPs. Kopp Glass has previously been determined to be an area source of HAPs.	
Basis for 40 CFR 63 SSSSSS applicability	In order for 40 CFR 63 SSSSSS to apply to Kopp Glass, Inc., the following conditions must be met:	
	The facility is an area source of HAP emissions: [§63.11448(b)]	Kopp Glass is currently permitted as a minor source (area source) and produces HAP emissions. It is currently calculated to produce less than 10 tons/yr of a single HAP or 25 tons/yr of total HAPs.
	The facility manufactures flat glass, glass containers, or pressed and blown glass by melting a mixture of raw materials to produce molten glass, which are then formed into sheets, containers, or other shapes [§63.11448(a)]	Kopp Glass does manufacture glass shapes by producing molten glass from raw materials and then pressing the glass in molds.
	The facility uses one or more continuous furnaces to produce glass that contains compounds of one or more metal HAPs. [§63.11448(c)]	A continuous furnace is defined in §63.11459 as: a glass manufacturing furnace that operates continuously except during periods of maintenance, malfunction,

device installation, reconstruction, or rebuilding.

In a letter dated April 12, 2016 from the USEPA to the Oregon DEQ, the definition of continuous furnace was further clarified as a furnace that remains above ambient temperature for its operating life. The pot furnaces at Kopp Glass are continuous furnaces and thus meet this 6S criterion.

Which units are subject to Subpart SSSSSS?

Furnaces that meet the following criteria are subject to SSSSSS:

- Continuous furnaces
- Furnaces charged with one or more glass manufacturing metal HAPs that produce glass at a rate of at least 50 tons/yr

According to these criteria, Pot furnace #2, is currently subject to 6S. Pot furnaces #1 and #3 are not subject to 6S because they are out of service, but if they were to be put back into service and if either of these two furnaces were to produce 50 tons of glass with metal HAPs in a year, then they would also be subject to 6S.

SSSSSS Issues

Emissions

The applicability section of the 6S regulation does not take actual emissions into account. Although it is desirable from a health standpoint for emissions to be minimized, the rate of HAPs emissions does not influence whether 6S applies to a facility or a furnace.

On page 73187 of Federal Register Volume 72, No. 246 It is specifically stated that there is no de minimis level for metal HAPs used in glass production. Any quantity of metal HAPs used in a glass recipe will trigger 6S applicability.

One furnace or many?

The active pots at Kopp Glass are all contained within a single structure (pot furnace #2) that acts as a combustion chamber and melts the glass through heat transfer. Since all of the pots require the one combustion chamber to operate and melt the glass, then all of the pots attached to that combustion chamber are part of a single furnace. There are two other pot furnaces (#1 and #3), but they have been out of service since 2011 and before 2008 respectively.

Additionally, page 29 of the permit application, received from Kopp Glass on December 17, 2014 states that there are two pot furnaces at the facility and the application received on August 27, 2018 states that there are three pot furnaces at the facility. Thus, Kopp Glass in its own documents refers to the pots as belonging

to just three furnaces, one of which is currently active and two which are out of service.

Continuous
furnace
definition

There are professional glass organizations such as the International Materials Institute at Lehigh University, that define pot furnaces as not being continuous, but these organizations do not provide the U.S. EPA accepted definition for a continuous furnace. The accepted definition is found in 40 CFR §63.11459 and it states that a continuous furnace “operates continuously except during periods of maintenance, malfunction, control device installation, reconstruction, or rebuilding”. The accepted definition makes no mention of pot furnaces.

The question is what it means to operate continuously. Kopp Glass in their correspondence with the Allegheny County Health Department¹ has argued that a continuous furnace must charge raw materials and produce glass continuously, but EPA has stated in a regulatory interpretation² dated April 12, 2016 that for 6S purposes, a continuous furnace is continuous in that its temperature is continuously above ambient. The EPA stated that batch furnaces that do not charge raw materials or produce glass continuously can be considered continuous furnaces.

Pot
Furnaces

Volume 72, No. 246 of the Federal register equates pot furnaces with periodic furnaces once on page 73182 and twice on page 73186. However, the actual Code of Federal Regulations does not mention “pot furnaces” at all, nor does it use the word “periodic”. SSSSSS simply states that a furnace must be continuous for the regulation to apply.

In a February 3, 2020 enforcement letter to the Paul Wissmach Glass Company in Paden City, West Virginia, The U.S. EPA states that SSSSSS applies to the company’s pot furnaces.

Kopp Glass, Inc. is subject to 40 CFR 63 SSSSSS since it meets the applicability criteria of 40 CFR §63.11448

¹ Letter from Gary Steinbauer (Kopp Glass’ attorney) to Jeffrey Bailey (Assistant Solicitor for ACHD) dated May 27, 2020

² Regulatory Interpretation letter from Edward Messina, Director Monitoring, Assistance, and Media Programs Division, Office of Compliance to Joni Hammond, Deputy Director, Oregon Department of Environmental Quality, dated April 12, 2016