

40 CFR 63 Subpart AA - Rule Interpretation Memos

- ! [Clarification of the exemption contained in 40 CFR §§63.610 and 63.631](#)
[March 27, 2001]

Last Modified: March 27, 2001

Air Rule Interpretation Summary Form

Code Number	63AA.001 63BB.001
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Clarification of the exemption contained in 40 CFR §§63.610 and 63.631	March 27, 2001
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Rule/Regulation Citation(s):	Federal Rule: <u> X </u> State Regulation: <u> ___ </u> Description:
40 C.F.R. Part 63, Subpart AA § 63.610	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants
40 C.F.R. Part 63, Subpart BB § 63.631	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants

Interpretation Request:

Title 40 Code of Federal Regulations (C.F.R.) Part 63, Subpart AA and Subpart BB have exemptions from specific new source performance standards (40 C.F.R. Part 60). Title 40 C.F.R. §§ 63.610 and 63.631 both state that to be exempt, the source must have a current operating permit (Title V) and be in compliance with all the requirements of the subpart. In addition, 40 C.F.R. §§ 63.610 and 63.631 state that the exemption is effective once the owner or operator demonstrates to the Administrator that the operating requirements, the monitoring requirements, and the performance tests and compliance provisions, have been met.

When can an owner or operator claim a source's exemption, contained in 40 C.F.R. §§ 63.610 and 63.631, from the specified new source performance standards (40 C.F.R. Part 60)? If the source has already conducted the performance test for 40 C.F.R. Part 63, Subpart AA and/or Subpart BB and has demonstrated to the Administrator that the operating requirements, the monitoring requirements and the performance tests and compliance provisions are being met, does the source have to wait until the Title V permit is issued to be exempt from the specified new source performance standards (40 C.F.R. Part 60)? In addition, once it has been demonstrated that the source is exempt from the specified requirements of 40 C.F.R. Part 60, does the source have to comply with the specified requirements of 40 C.F.R. Part 60 if they are not in compliance with all of the requirements of 40 C.F.R. Part 63, Subpart AA and Subpart BB?

Determination:

The exemption from the specified new source performance standards can be claimed by the owner or operator for a source only after a Title V operating permit has been issued for the source and the owner or operator has demonstrated to the Administrator that the requirements of 40 C.F.R. §§ 63.604, 63.605, and 63.606 (Subpart AA) and/or 40 C.F.R. §§ 63.624, 63.625, and 63.626 (Subpart BB), as appropriate, have been met. In addition, once the exemption is effective, the source is only subject to the requirements of 40 C.F.R. Part 63, Subpart AA and/or Subpart BB.

Bibliography:

61 Fed. Reg. 68448 (Dec. 27, 1996).

61 Fed. Reg. 68451 (Dec. 27, 1996).

64 Fed. Reg. 31371 (June 10, 1999).

Title 40 C.F.R. Part 63, Subpart AA (1999).

Title 40 C.F.R. Part 63, Subpart BB (1999).