Small unit exemption (SUE) eligibility for emission units subject to a NESHAP

Per 567 IAC 22.1(2)"w," the small unit exemption cannot be used if an emission unit emits HAP and is "required to be reviewed for compliance" with a NESHAP. In the past, this has generally been interpreted to mean that if an emission unit was subject to specific NESHAP requirements, SUE could not be used. Due in part to the large number of Area Source NESHAP that have been promulgated in recent years, there have been a lot of questions on SUE eligibility for equipment that may be subject to a NESHAP.

Before making a determination about SUE eligibility, it is important to be sure the equipment is required to either have a permit or be covered by an exemption. If the equipment is grandfathered, or doesn't exhaust directly to the outside, it probably doesn't need to be permitted or exempted.[1]

If an emission unit is required to either have a permit or be covered by an exemption, and the unit emits HAP, the following guidance may be helpful in determining whether the unit is eligible for the SUE.

Question #1: What does "required to be reviewed for compliance" with a NESHAP mean?

Answer:
Required to be reviewed:
If an emission unit is subject to specific NESHAP requirements, the unit is "required to be reviewed for compliance" with the NESHAP. These NESHAP requirements can include maintenance or work practice standards, recordkeeping or reporting requirements, or operational or emission limitations, among others. An emission unit with these types of requirements is not eligible for the SUE. (See next section for exceptions to this.)

Not required to be reviewed:
If an emission unit is subject to a NESHAP, but has no substantive NESHAP requirements, then the equipment is not "required to be reviewed for compliance" with the NESHAP. In these instances, SUE may be used.

Examples:
- The equipment is subject to a NESHAP, but has no requirements. (Several types of engines meet this description.)
- The equipment is subject to a NESHAP, and the only requirement is an initial notification.
- The equipment is subject to a NESHAP, but has no requirements as long as usage/throughput remains below specified thresholds. Recordkeeping may be associated with these thresholds. (The 50 ton per day threshold in the Prepared Feeds Manufacturing NESHAP (7D) is an example of this.)

If an emission unit doesn't meet the applicability criteria of a NESHAP, or is specifically exempted by a NESHAP, then the equipment is not "required to be reviewed for compliance" with the NESHAP. In these instances, SUE may be used.

Question #2: If a unit was installed under the small unit exemption prior to the promulgation of a new NESHAP, can the unit continue to be covered under SUE? If not, what is the deadline for submitting a permit application?
Answer: If equipment that is currently exempted through the SUE becomes subject to NESHAP requirements, SUE can't be used anymore. No later than the NESHAP compliance date, the facility would need to either submit a permit application for the equipment, or ensure that the equipment is covered under a different exemption.

Question #3: Does SUE eligibility depend on whether Iowa has adopted the specific NESHAP?
Answer: No. Because Iowa may become the delegated authority for any given NESHAP in the future, it would be unnecessarily confusing to have different SUE eligibility for NESHAP that we have not yet adopted.

[1] This point came up during discussions about prepared feeds facilities. Some of those facilities created a SUE justification document for their mixing operations. For mixers that have requirements under the Prepared Feeds Manufacturing NESHAP (7D), it may seem that SUE couldn't be used, and the equipment would need a permit. But in many cases, the mixers vent inside and likely wouldn't have triggered permitting requirements in the first place. So the correct determination may be that the SUE wasn't necessary.

Examples

NESHAP Subpart	Required to be reviewed for NESHAP compliance (not SUE eligible)	Not required to be reviewed for NESHAP compliance (SUE eligible)	Equipment that has NESHAP requirements but typically wouldn't need to be permitted or exempted
Misc. Metal Parts & Products (4M)	• Spray booth at a facility that was previously considered an area source for HAP, but is now major due to a one- source determination (facility had used SUE for the booth when it was an area source)		
RICE NESHAP (4Z)	• Engine subject to 4Z maintenance requirements (oil change, filter inspection, etc.)	• Engine that's only subject to initial notification requirement • Engine that complies with 4Z by complying with NSPS 4I or 4J • Engine that's exempt from RICE based on hours of operation (existing, limited use, > 500 HP at a major source) • Engine that's exempt from RICE as long as it meets the definition of "emergency stationary RICE," "institutional emergency stationary RICE," or "commercial emergency stationary RICE" (In order to meet these definitions, most engines need to comply with the hour limitations at 40 CFR 63.6640(f))	
Miscellaneous Surface Coating (6H)		• Spray booth at a facility if the facility doesn't use any coatings containing the 6H Target HAP	
Area Source Boiler NESHAP (6J)		• Boiler meeting the 6J definition of "gas-fired boiler" – these units are not subject to 6J	
Aluminum, Copper, and other Nonferrous Foundries (6Z)		• Equipment at a facility with an annual metal melt below the 600 ton threshold described in the NESHAP (facilities below this threshold are not subject to 6Z)	
Prepared Feeds (7D)	• Pellet cooler subject to 7D control equipment requirements • Loadout equipment subject to 7D equipment standard, where loading is done outside	• Pellet cooler at a facility whose average daily feed production is less than 50 tons/day	• Mixing equipment subject to 7D work practice standards • Loadout equipment subject to 7D equipment standard, where loading is done inside a building