



Water Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Pacific Southwest Region
75 Hawthorne Street
San Francisco, California 94105-3901

Mail Code: WTR-7

October 18, 2000

Ms. Suzanne S. Wienke, P.E.
Senior Engineer
Industrial Waste Section
Technical Services Department
County Sanitation Districts of Los Angeles County
P.O. Box 4998
Whittier, California 90607-4998

Dear Ms. Wienke:

This is in response to your November 9, 1999, facsimile transmission in which you asked whether changes at Stabile Plating Company, Inc. in Covina, California cause this discharger to be subject to the new source metal finishing requirements under 40 CFR 433.17. I apologize for the delay in this response. Our decision is based on the November 1, 1999, letter included in your facsimile from Mr. Lawrence J. Straw, Jr., representing Stabile Plating, to Mr. John D. Kilgore of the County Sanitation Districts of Los Angeles County. We conclude that the changes at Stabile Plating cause it to be a new source under 40 CFR 403.3(k) and, consequently, this facility is subject to the new source metal finishing requirements under 40 CFR 433.17.

In his letter, Mr. Straw explains the relevant circumstances at Stabile Plating with the following description:

When the arson fire occurred in 1993, damaging one wall and a portion of the roof, the facility was an *existing* source. The process equipment within the facility was undamaged by the fire. Because the site could not be adequately secured with perimeter fencing while the damage to the wall and roof was repaired, process equipment was removed and stored off-site until the repairs were complete and the building was secure. At that time, (with the concurrence of the Districts) the same equipment which had been removed was reinstalled at the identical locations from which it had been removed. This process equipment was then returned to service. ...

Our analysis will evaluate these facts under the applicable regulations. We note that Mr. Straw's letter briefly discusses changes that occurred at Stabile Plating in 1989 which may have created a new source. The letter, however, does not provide sufficient information to evaluate those changes.

The Clean Water Act imposes more stringent requirements on new sources based on the concept that new facilities have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. On October 17, 1988 (53 FR 40610), the U.S.

Environmental Protection Agency (EPA) promulgated the definition of a new source under 40 CFR 403.3(k). The relevant provisions of this rule state:

(k)(1) The term *New Source* means any building, structure, facility or installation from which there is or may be a Discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, *provided that*:

(i) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (k)(1)(ii), or (k)(1)(iii) of this section but otherwise alters, replaces, or adds to existing process or production equipment.

Stabile Plating constructed new plating lines under 40 CFR 403.3(k)(1)(ii) using old components that had been the plating lines before the fire. The design and installation of the plating lines following the fire provided Stabile Plating with an opportunity to also design and install enhanced production equipment that would minimize the generation of pollutants.

The preamble to the October 17, 1988, regulations contains an example that is helpful in addressing Stabile Plating's case. On page 40602 EPA explains:

Finally, one local Control Authority requested a clarification of the status (new source or existing source) of a facility that moves existing equipment into a new building or into an existing building that did not previously have an industrial discharge to the sewer. Under today's rule, discharges from such facilities would be new sources if the other requirements regarding construction of the source after proposal of new source standards were met.

The movement of existing equipment in this example creates a new source because the construction and reassembly of the existing production equipment into the new or existing building provides an opportunity to design and install the best and most efficient production processes and wastewater treatment technologies. Stabile Plating's design and construction of the new, post-fire plating lines using its pre-fire production equipment provided it with the same opportunity to install enhanced production equipment that would minimize the generation of pollutants.

On August 31, 1982 (47 FR 38478), EPA proposed pretreatment standards for new sources under 40 CFR Part 433 that cover metal finishing operations. EPA subsequently promulgated these standards on July 15, 1983 (48 FR 32487). The construction of Stabile Plating's new process lines and the discharge of pollutants from those operations occurred after the proposal date. Consequently, these production operations are regulated as a new source under the categorical pretreatment standards at 40 CFR Part 433.

Thank you for your inquiry. If you have any questions regarding this matter, please call me at 415.744.1907. My e-mail address is silva.keith@epa.gov.

Very truly yours,

Original Signed By:

L. Keith Silva
Pretreatment Coordinator