



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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MEMORANDUM

SUBJECT: Applicability of 40 CFR Part 60, Subpart X

FROM: Rick Colbert, Director
Agriculture and Ecosystems Division (2225A)
Office of Compliance

TO: Winston Smith, Director
Air, Pesticides, and Toxics Management Division
EPA Region IV

This is in response to your memorandum of June 26, 1995, in which you requested assistance responding to an applicability determination with respect to 40 CFR Part 60, Subpart X. Specifically, the request came from a letter submitted by IMC Agrico Company (IMC) on June 19, 1995.

The company is requesting an applicability determination with respect to their Big Bend distribution facility near Tampa, Florida, where granular triple superphosphate (GTSP) produced at two IMC facilities is stored prior to distribution. The production facilities are located 30 to 50 miles from this distribution terminal.

It is Region IV's position that the Big Bend terminal is covered by Subpart X. You requested a determination by my office considering that IMC has reached a different conclusion. You asked also for clarification with respect to the issue of whether the age of the material stored would affect the determination.

IMC argues that Subpart X is intended to cover GTSP storage at manufacturing facilities but not at distribution facilities such as their Big Bend facility. To support their claim they refer to a Background Information Document (EPA-450/2-74-019a, October 1974) which in part describes the GTSP storage process. IMC claims that the process description (pages 61-63) of that document makes it clear that the term "storage facility" applies only to initial storage facilities and to storage facilities associated with a manufacturing operation. In describing the manufacturing process the BID describes movement of GTSP after manufacture to a storage building where the product is cured.

The BID further states that "after 3 to 5 days" during which fluorides evolve from the storage pile, the product is considered cured and ready for shipping.

We are in agreement with Region IV's opinion that the terminal is subject to Subpart X. First, the plain-English reading of the regulation would make the terminal subject to Subpart X, whether the purpose of the storage terminal was product curing or distribution; 40 CFR 60.241(a) defines a GTSP facility as "any facility curing or storing GTSP." Second, this reading of the regulation is consistent with and supported by the Background Information Document. The language quoted by IMC does indicate that GTSP is ready for shipping after 3-5 days of curing, but the document clearly indicates that the rule applies to storage of the GTSP after this point since emission of fluorides is not limited to uncured GTSP or storage of uncured or curing GTSP (see BID at 68). Monitoring is required in accordance with 40 CFR 60.243 and performance testing is required under the conditions of 40 CFR 60.244. If, as described at 40 CFR 60.244(a), the stored GTSP is more than ten days old then performance testing at the storage facility is not required. The storage facility must be able to indicate through its records that its stored GTSP is older than ten days in order to claim that this performance testing requirement does not apply.

Finally, please note that although the BID does describe GTSP product as "considered cured and ready for shipping" 3 to 5 days following manufacture (page 63), the BID is also very clear (pages 66-68) that ten days of aging is the relevant criteria for determining whether GTSP is considered "fresh" with respect to performance testing requirements. While GTSP may thus be shipped before it has been aged for ten days, the facility where it is stored following shipment will be subject to performance testing as provided at 40 CFR 60.244(a).

In summary, IMC's Big Bend facility is subject to 40 CFR Part 60 Subpart X. The facility must perform monitoring as required at 40 CFR 60.243 and performance testing as required at 40 CFR 60.244.

If you have any questions concerning this response, please contact Steve Howie of my staff at (202) 564-4146.

cc: John Rasnic (2223A)
David McNeal (Region 4)