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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL-5811-1]

RIN 2060-AH16

**Revision of New Source Performance Standards for the
Phosphate Fertilizer Industry: Granular Triple
Superphosphate Storage Facilities**

AGENCY: Environmental Protection Agency

ACTION: Direct final rule

SUMMARY: On August 6, 1975 the Environmental Protection Agency (Agency) promulgated new source performance standards (NSPS) to limit emissions of total fluoride compounds from several affected facilities in the phosphate fertilizers industry. Amongst the affected facilities covered by the NSPS were triple superphosphate plants and granular triple superphosphate (GTSP) storage facilities. The NSPS for GTSP fertilizer storage facilities in 40 CFR Part 60, Subpart X were promulgated for the purpose of limiting total fluoride emissions resulting from the continuation during storage of the chemical reactions through which GTSP is manufactured. After an initial curing period, the GTSP fertilizers cease to emit appreciable quantities of fluorides. As now written, the NSPS cover all GTSP storage facilities and

there is no provision to exempt facilities storing only cured fertilizers.

Today's action clarifies the coverage of the NSPS to limit its applicability to those facilities which store fresh GTSP. As a result of today's action, the NSPS will include a work practice through which manufacturers will hold fresh GTSP in storage until it has cured prior to shipment to their customers. This limits the testing and recordkeeping requirements of Subpart X to only those facilities associated with the manufacture of GTSP and, thereby, removes any recordkeeping burden currently imposed upon downstream distributors and users of this product.

DATES: This rule is effective [insert date 60 days from publication date in the Federal Register] unless notice is received by [insert date 30 days from publication date in the Federal Register] that adverse or critical comments will be submitted, or that an opportunity to submit such comments at a public hearing is requested. If adverse comments are received, the effective date will be delayed and timely notice will be published in the Federal Register.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A-97-4 at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center

(6102), 401 M Street, S.W., Washington, D.C. 20460. The Agency requests that a separate copy also be sent to the contact person listed below. The docket is located at the above address in Room M-1500, Waterside Mall (ground floor), and may be inspected from 8 a.m. to 4 p.m., Monday through Friday. The docket is an organized and complete file of all the information submitted to or otherwise considered by the Agency in the development of this rulemaking. For additional information on the availability of electronic information, see Supplementary Information.

FOR FURTHER INFORMATION CONTACT: For information concerning specific aspects of this action, contact Mr. David Painter [telephone number (919) 541-5515], Minerals and Inorganic Chemicals Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Today's action amends Subpart X by limiting its applicability to those facilities which store fresh GTSP. The practical effect of the revision is to apply the provisions of the NSPS to those storage facilities which are co-located with GTSP production facilities. This is accomplished by a work practice through which manufacturers will hold fresh GTSP in storage until it has

cured prior to shipment to their customers. In effect, this action excludes from coverage those facilities which store and distribute cured GTSP.

Electronic Information. An electronic copy of this document is available on the Technology Transfer Network (TTN), one of Agency's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a phone call. Dial (919) 541-5742 for up to a 14,400 bps modem. If more information on the TTN is needed, call the TTN HELP line at (919) 541-5384.

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I. Statutory Authority

The statutory authority for this action is provided by sections 101, 111, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7414, 7416, and 7601).

II. Background

On August 6, 1975 at (40 FR 33152) the Agency promulgated NSPS to limit emissions of total fluoride compounds from several affected facilities in the phosphate fertilizers industry including GTSP storage facilities. The main concern which prompted that inclusion was the continued off-gassing of fluorides from fresh GTSP during storage subsequent to the initial reactions associated with the manufacture of GTSP. For the purposes of the NSPS, fresh GTSP was defined as that produced within the past ten days. Recently, representatives of the Missouri Farmers Association (MFA) have advised the Agency that a literal interpretation of the NSPS could lead to application of the NSPS to its distribution facilities which store only cured GTSP and which are located far from the point of

manufacture. The MFA posited that application of the NSPS in this instance would provide no appreciable benefit to the environment while imposing unproductive paperwork. To support their position, the MFA provided the Agency test data which indicated that one of their warehouses, which is typical of distribution facilities, emits less than one pound per year of total fluorides.

As a part of the Agency's consideration of the concerns raised by the MFA, it obtained data from two companies that manufacture and store GTSP. Those data were developed using methods which differed from those employed by the MFA and gave the same results. That is, emissions of fluorides were associated with storage of fresh GTSP and those emissions were inconsequential after three days. The Agency concluded that cured GTSP stored by facilities such as those of the MFA does not emit appreciable quantities of fluorides and that no practical benefit could be derived by applying Subpart X to distribution facilities which store cured GTSP. Consequently, today's action limits the applicability of Subpart X to only those facilities which store fresh GTSP.

III. Selection of Revised Standards

The purpose of establishing the existing NSPS was to control emissions of total fluoride originating from storage buildings containing fresh GTSP. The total fluoride

emissions result from continuation of the chemical reactions employed in the manufacture of GTSP. These reactions cause the formation and release of a variety of fluoride compounds. The reactions continue for a period of time after newly manufactured GTSP is placed into storage and are referred to as "curing" of the fertilizer. Thus, the need for controlling emissions during storage coincides with the curing period.

When the NSPS were developed, conventional wisdom was that curing of fresh GTSP occurred over a period of three to five days. Test data which was then available was for buildings storing GTSP that was ten days old. The test data became the technical basis for the current standard which defines fresh GTSP as that which is produced no more than ten days prior to a performance test.

In recent discussions with interested parties, the Agency found consensus that the language of the NSPS should be amended to specifically limit their applicability to those facilities storing fresh GTSP. The most direct approach to resolving the issue raised by MFA is to include in the NSPS a work practice that eliminates the shipment of fresh GTSP from the manufacturer. This approach clearly ensures that downstream customers such as MFA will not be storing fresh GTSP.

When the Agency first discussed this approach with the manufacturers of GTSP, they raised concerns about storing

fertilizer longer than needed because of the definition of fresh fertilizer in the current rule. They provided the Agency with data which directly relate the age of GTSP to its potential for emissions of total fluorides. After discussing the new data with State agency and industry technical staffs, the Agency concluded that curing reactions causing significant air emissions are complete within three days of the completion of the manufacturing process. Thus, today's action changes the definition of fresh GTSP such that GTSP is defined as fresh for three, instead of ten, days after production. In keeping with this updated definition, today's action also changes the amount of fresh GTSP that will satisfy the performance testing requirement from 20 to six percent of the amount of GTSP in storage. This change is proportional to the change in the number of days during which GTSP is defined as fresh. The manufacturers have indicated that they find the approach of holding GTSP in storage until it is cured to be an acceptable resolution to the problem raised by the MFA. That is, this approach clearly limits coverage of the standards to only the time period when emissions are actually occurring and relieves their customers, such as MFA, from the paperwork burden associated with the NSPS as now implemented.

IV. Impacts of Revised Standards

A. Applicability

Today's action will limit the applicability of Subpart X to only those facilities that store fresh GTSP. The intent of today's action is to remove from the coverage of the NSPS those facilities storing cured GTSP.

B. Air Quality Impacts

Today's action will have no impact upon air quality in relation to that which was estimated for the NSPS when they were first promulgated. The original impact estimates of the NSPS were based upon the assumption that only those GTSP storage buildings located at production facilities would be subject to the standards. Further, today's action will have no measureable impact upon actual air quality.

C. Nonair Environmental and Energy Impacts

There will be no nonair environmental and energy impacts.

D. Cost and Economic Impacts

There will be a cost savings resulting from removal of recordkeeping and reporting burdens associated with the NSPS as now implemented. The Agency has no information available upon which to base an estimate of the savings that will result.

V. Administrative Requirements

A. Public Participation and Effective Date

The Agency is publishing this action as a direct final rule because it views it as non-controversial and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the Agency is proposing to revise the NSPS should adverse or critical comments be filed. Thus, today's direct final action will be effective [insert date 60 days from publication date in the Federal Register] unless the Agency receives notice by [Insert date 30 days from date of publication] that adverse or critical comments will be submitted or that a party requests the opportunity to submit such oral comments pursuant to section 307(d)(5) of the Clean Air Act, as amended.

If the Agency receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The Agency will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective [insert date 60 days from publication date in the Federal Register].

B. Executive Order 12866

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB), and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, the Agency has determined that this rule is not "significant" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

C. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995 (109 Stat. 48), requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative for State, local, and tribal governments and the private sector that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or unless the selection of this alternative is inconsistent with law.

Because this rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than \$100 million in any one year, the Agency has not prepared a budgetary impact statement or

specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative.

Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

D. Regulatory Flexibility

The Agency has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. This determination has been made because the effect of today's action is to clarify the NSPS to ensure that there are no impacts upon small entities.

E. SUBMISSION TO CONGRESS AND THE GENERAL ACCOUNTING OFFICE

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

F. Paperwork Reduction Act

This regulation does not impose any new information collection requirements and results in no change to the currently approved collection . The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060-0037 (EPA ICR # 1061.06). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. Send comments on the

Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence.

LIST OF SUBJECTS IN 40 CFR PART 60

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Phosphate fertilizers production.

Dated: April 8, 1997.

Carol M. Browner,
Administrator.

For the reasons set forth in the preamble, 40 CFR Part 60 is amended as follows:

PART 60 - [AMENDED]

1. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7601 and 7602.

Subpart X - [Amended]

2. In § 60.241, paragraphs (a) and (d) are revised to read as follows:

§ 60.241 Definitions.

(a) Granular triple superphosphate storage facility means any facility curing or storing fresh granular triple superphosphate.

(d) Fresh granular triple superphosphate means granular triple superphosphate produced within the preceding 72 hours.

3. In § 60.242, paragraph (b) is added to read as follows:

§ 60.242 Standard for fluorides.

(b) No owner or operator subject to the provisions of this subpart shall ship fresh granular triple superphosphate from an affected facility.

4. In § 60.243, paragraphs (b) and (c) are revised and paragraph (d) is added to read as follows:

§ 60.243 Monitoring of operations.

(b) The owner or operator of any granular triple superphosphate storage facility subject to the provisions of this subpart shall maintain a daily record of total equivalent P_2O_5 stored by multiplying the percentage P_2O_5 content, as determined by § 60.244(c)(3), times the total mass of granular triple superphosphate stored.

(c) The owner or operator of any granular triple superphosphate storage facility subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring device which continuously measures and permanently records the total pressure drop across any process scrubbing system. The monitoring device shall have an accuracy of ± 5 percent over its operating range.

(d) The owner or operator of any granular triple superphosphate storage facility subject to the provisions of this subpart shall develop for approval by the Administrator a site-specific methodology including sufficient recordkeeping for the purposes of demonstrating compliance with § 60.242 (b).

5. In § 60.244, paragraph (a)(2) is revised to read as follows:

§ 60.244 Test methods and procedures.

(a)*****

(2) Fresh granular triple superphosphate is at least six percent of the total amount of triple superphosphate or,
