

The Honorable Peter Visclosky
U.S. House of Representatives
Washington, DC 20515-1401

Dear Congressman Visclosky:

Thank you for your letter of January 30, 2003, to Administrator Whitman, in which you transmitted correspondence from your constituent Mr. Hans Schweiger. Mr. Schweiger expressed concerns regarding the U.S. Environmental Protection Agency's (EPA's) recently published regulations on the recycling of hazardous wastes to make zinc fertilizer products. I am pleased to respond on behalf of the Administrator.

EPA has taken a good, hard look at the issue of contaminants in fertilizers, particularly fertilizers made from recycled hazardous wastes. I welcome this opportunity to convey to you and Mr. Schweiger some of our findings, and the actions we have taken regarding fertilizer contaminants.

The extensive data we have reviewed regarding contaminants in fertilizers (such as lead, cadmium, arsenic, dioxins and others) indicate that while small amounts of such contaminants can be found in a wide range of fertilizer products, the risks they pose to people and the environment are generally very low and should not be cause for alarm. Mr. Schweiger may be aware of speculations in recent media stories and elsewhere that hazardous wastes are being indiscriminately "dumped" into fertilizers, and that such practices are tolerated or even encouraged by government regulators. The reality is that adding hazardous wastes to fertilizers as a way of simply disposing of them is illegal, and is punishable as a civil and/or criminal offense. EPA and state environmental agencies have invested substantial enforcement resources into investigating compliance with hazardous waste regulations by the fertilizer industry; these investigations so far have not revealed any evidence that such "sham" recycling is a widespread practice. We strongly encourage anyone with knowledge of such wrongdoings to notify EPA or state environmental agency officials.

With regard specifically to the use of industrial hazardous wastes to produce fertilizers, we believe that this can be and is a legitimate, environmentally beneficial recycling practice, for certain hazardous wastes, provided they are first processed by manufacturers to remove harmful contaminants. Certain hazardous wastes do contain valuable metals that are important micronutrients for plant growth and can be used to produce high purity fertilizers. This recycling practice is currently regulated by EPA and state environmental agencies under the Resource Conservation and Recovery Act (RCRA). On July 15, 2002, we published final regulations that strengthened regulatory controls over this recycling practice. A primary objective of the new regulations is to ensure that fertilizers made from recycled hazardous wastes are good, clean, high-quality fertilizers. Enclosed is a copy of the rulemaking notice that was published in the Federal Register, and the fact sheet that accompanied it. Further information on this rulemaking, and other information EPA has assembled with regard to fertilizer contaminants, can be found on the Agency's website, at <http://www.epa.gov/epaoswer/hazwaste/recycle/fertiliz/index.htm>.

It is important to note, however, that EPA's authority to regulate fertilizer contaminants under RCRA is limited to fertilizers made from regulated hazardous wastes. This represents perhaps one-tenth of one percent of all fertilizers used in this country. Since state agriculture agencies generally have much broader regulatory authority over fertilizer contents, EPA welcomes and supports state initiatives to develop comprehensive regulatory programs for contaminants in all fertilizer products. Currently, the states of Washington, California, Texas and Oregon have established comprehensive regulatory programs to control contaminants in all types of fertilizer products.

Again, thank you for your correspondence. If you (or Mr. Schweiger) have any further questions regarding this matter, please have your staff contact Mr. David Fagan of my staff, at (703) 308-0603, or by email at fagan.david@epa.gov.

Sincerely yours,

Marianne Lamont Horinko
Assistant Administrator

Enclosures

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