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SECONDARY MATERIALS RECYCLED IN PHOSPHORIC ACID
RECIRCULATING SYSTEMS

JUN 27 1990

Karl T. Johnson
Assistant Vice President, Regulatory Programs
The Fertilizer Institute
501 Second St. N.E.
Washington, D.C. 20002

Dear Mr. Johnson

This letter is in response to the two concerns you raised in your April 16, 1990 letter to dan Derkics, and which staff also discussed at their April 18, 1990 meeting with you.

The first issue you raised concerns the status of corrosive, low volume secondary materials such as precipitates and spilled materials that are generally recycled in the phosphoric acid plants' recirculating water systems. You are correct in your interpretation of the impact on these wastes from the recent rulemakings on the mining waste exclusion. The Agency interpretation of the mixture rule as it applies to mineral processing wastes could result in the entire water circulation system losing its exempt status if there is continued circulation of the corrosive secondary materials through the system.

In your letter, you suggest that the upcoming Report to Congress (RTC) may result in a determination that the co-management of secondary materials with process wastewater is appropriate and would not endanger the exempt status of the entire water system. The Agency does not believe that the RTC is an appropriate vehicle to recommend such changes, due in part to the severe time constraints the court has imposed on the Agency for completion of the report. Instead, any Agency action addressing these issues would have to be in the form of a proposed and final rulemaking amending the mixture rule. Undertaking such a rulemaking by the Agency at this time, however, is unlikely due to other court ordered, higher priority deadlines. In addition, it is unclear what impacts such a rulemaking would have on other industries.

Consequently, it would be prudent for the phosphoric acid industry to take the steps necessary to comply with the requirements of the recent Bevill rulemakings.

The second issue raised in your April letter concerns the mixture rule and the use of phosphoric acid process wastewater in the production of ammoniated phosphate fertilizer. You are correct in your interpretation of the rule. The mixture of non-hazardous ammoniated phosphate fertilizer waste with process wastewater does not make a phosphoric acid plants water recirculation system a hazardous waste management unit when the mixture of process wastewater and non-hazardous ammoniated phosphate wastes is returned to the system.

If you have any additional questions concerning these matters, please contact Bob Hall or Dan Derkics at (202) 475-8814 or (202) 382-3608, respectively.

Sincerely,

Robert Tonetti
Acting Branch Chief
Special Waste Branch