

EMCSF 15.1 v2
EMAR 1,2,3 15.1 v1



FMC- self-monitoring?
Roger Turner to: Greg Weigel
Cc: Kira Lynch, Susan Skinner, Rick Albright, "Bill Bacon"

06/04/2010 05:24 PM

Greg Weigel:

As you prepare the Order to FMC to carry out a gas extraction system for the toxic gases being released from the ponds, on the Fort Hall Reservation, I have added below some references to a few of the past FMC violations for your reference. The RCRA violation is one of the largest recorded in the United States. ALL of the violations show, serious intent to withhold monitoring data to EPA. After reading the references below to a few of the FMC violations, I hope you reconsider the Workplan, and devise a plan to have some independent monitoring of the pond releases at FMC. To do otherwise, may just result in more withheld data to EPA, more violations of EPA regulations.

Please also reference the violations below, as relevant facts, in your Unila

Thank-you

Roger Turner

FMC To Pay Largest RCRA Settlement in Environmental Enforcement History

OCTOBER 16, 1998

The Department of Justice and the Environmental Protection Agency today announced that FMC Corporation, Inc. has agreed to spend a total of approximately \$170 MILLION - including the largest civil penalty ever obtained under the Resource Conservation and Recovery Act (RCRA) of \$11,864,800 - to settle charges that it repeatedly violated the hazardous waste law at its phosphorus production facility in Pocatello, Idaho.

On October 16, 1998, settlement was reached with FMC Corporation, Inc. for numerous RCRA hazardous waste violations at its phosphorus production facility in Pocatello, Idaho. In the settlement, FMC has agreed to spend a total of approximately \$170 million -- including the largest civil penalty ever obtained to date under the Resource Conservation and Recovery Act (RCRA) of \$11,864,800. The most serious of violations involve mismanagement of ignitable and reactive phosphorus wastes in ponds. Storage of such hazardous wastes in ponds is prohibited by RCRA because of the potential threat to human health and the environment. The sediments in these ponds burn vigorously and persistently when exposed to the air, and a number of fires have been documented at these ponds in the past. The wastes in these ponds also generate phosphate and hydrogen cyanide, highly toxic gases that can cause serious health and environmental problems. FMC at times has reported elevated levels of phosphine around the ponds, and it is believed that migratory bird deaths in the area also may be attributable to phosphine poisoning.

Release date: 09/07/2006



(Seattle, Washington - September 7, 2006) The owners of the FMC Idaho LLC elemental phosphorous facility, located just west of Pocatello, Idaho, have agreed to pay an \$85,000 penalty to settle federal Clean Air Act violations with the U.S. Environmental Protection Agency (EPA). The Company ceased production of phosphorous from raw ore in 2001, but continued to process smaller amounts of phosphorous material as the plant was being decommissioned. Since the alleged infractions, the Company has continued to decommission and dismantle the facility.

According to Jim Werntz, EPA's Idaho office director in Boise, plant operators needed to be especially diligent in terms of protecting air quality while they decommissioned and decontaminated phosphorus-laden debris.

"It's a matter of being a responsible corporate neighbor," said EPA's Werntz. "Plant operators were required to regularly test the emissions from an air pollution control "scrubber" to control particulate matter. And it just didn't happen."

Documents associated with this legal action reveal four specific violations cited by EPA:

- * FMC did not perform the tests in the time required
- * FMC did not notify EPA of the planned tests (as required).
- * FMC failed a test due to excessive emissions.
- * FMC failed to promptly notify EPA of the test failure.

At the height of its operations in Pocatello, the FMC plant produced approximately 250 million pounds of elemental phosphorus per year from two million tons of shale, silica, and coke. The elemental phosphorus was sold and used in a variety of products from cleaning compounds to foods. Ore was shipped to the plant in railcars and stockpiled at the plant. The primary by-products from the production process were slag (stored on-site), ferrous-phosphate residuals, carbon monoxide and several aqueous waste streams.

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What is this?

FMC Corp. Settles Under-reporting Complaint

Release date: 12/1/1997

Contact Information: Christina Colt

colt.christina@epamail.epa.gov

(206) 553-4016 or (800) 424-4372

December 1, 1997 - - - - - 97-72

FOR IMMEDIATE RELEASE

FMC Corporation has agreed to pay \$209,600 IN CIVIL PENALTIES to settle a U.S. Environmental Protection Agency complaint that the company's phosphorous plant in Pocatello, Idaho, under-reported the quantities of wastes it released into the environment in violation of federal public right-to-know law.

Announcement of the settlement was made today by Chuck Clarke, EPA's Northwest regional administrator in Seattle.

Clarke said the complaint alleged that FMC failed to report to EPA -- under the federal Toxic Release Inventory (TRI) -- more than five million pounds per year of materials disposed of in surface impoundments at the Pocatello plant in 1993, 1994 and 1995. The missing data for 1995, when added to amounts already reported by FMC, brought to 7,496,955 pounds the total of all FMC releases to the environment, an amount that ranked No. 1 in Idaho.

"The TRI is one of the most powerful tools in the country for environmental protection," Clarke said. "The inventory allows the public to learn about chemical releases in their communities by providing information that citizens need and want to know."

The federal Emergency Planning and Community Right-to-Know Act (EPCRA), Section 313, requires more than 20,000 facilities in the nation to report annually to EPA on the total amount of chemicals released into the air, into water or on land -- either accidentally or as result of routine plant operations -- or transported as waste to another location. The reports are compiled by EPA and published annually in the national TRI.

The TRI is compiled from data submitted each summer from businesses reporting their releases from the previous calendar year. Information on releases from 1996 was submitted to EPA late this past summer, and won't be published in state-by state compilations until the next national TRI is published next spring. The most recent TRI covers releases for 1995.

TRI data is based on reports on the manufacture, use or processing of any of 654 chemicals and chemical categories. In the case of FMC, the company filed reports in 1995 on releases of materials in a dozen categories. By weight, more than half the material was zinc compounds, about a third was phosphorous and the remainder were a variety of metals and metallic compounds consisting of cadmium, selenium, chromium, barium, nickel, antimony, manganese, and copper.

Reports for the TRI have been required since 1987. For the first few years, FMC submitted information on the wastes it released to the surface impoundments at the Pocatello phosphorous plant. FMC discontinued reporting the surface impoundment figures in the wake of a court decision in the early 1990's involving reporting responsibilities under the federal Superfund law. FMC told EPA it interpreted the decision as relieving FMC from its reporting obligations under EPCRA.

EPA maintained that the decision had no bearing on the EPCRA reporting requirement. The purpose of the Superfund law was to vest EPA with the ability take appropriate response action, while the purpose of EPCRA was to satisfy the public's right to know.

Below is the list of the Idaho's top facilities for total releases in 1995. The list is taken from the 1995 Toxic Release Inventory, and has been updated to reflect the complete data from FMC. All quantities are expressed in pounds.

Idaho

Ranking Corporation Pounds of
Chemicals Released

- 1 FMC/Pocatello 7,496,955
- 2 Potlatch/Lewiston 1,851,510
- 3 Amalgamated Sugar, Paul 1,052,455
- 4 Amalgamated Sugar, Nampa 799,300
- 5 Avonmore West, Gooding 674,258
- 6 Ore-Ida Foods/Burley 554,317
- 7 Avonmore West, Richfield 492,061
- 8 Woodgrain Millwork, Fruitland 466,608
- 9 Amalgamated Sugar, Twin Falls 461,819
- 10 J. R. Simplot, Caldwell 261,503
- 11 J. R. Simplot, Pocatello 170,860

Nationally, according to the 1995 data, the FMC phosphorus plant in Pocatello ranked No. 35 among all 20,000 facilities across the country in terms of total releases.

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