

Environmental Protection Agency

§ 61.205

false information including the possibility of fine and imprisonment. See, 18 U.S.C. 1001.”

(c) If the owner or operator of an inactive stack chooses to conduct measurements over a one year period as permitted by Method 115 in appendix B to part 61, within ninety days after the testing commences the owner or operator shall provide EPA with an initial report, including the results of the first measurement period and a schedule for all subsequent measurements. An additional report containing all the information in § 61.203(b) shall be submitted within ninety days after completion of the final measurements.

(d) If at any point an owner or operator of a stack once again uses an inactive stack for the disposal of phosphogypsum or for water management, the stack ceases to be in inactive status and the owner or operator must notify EPA in writing within 45 days. When the owner or operator ceases to use the stack for disposal of phosphogypsum or water management, the stack will once again become inactive and the owner or operator must satisfy again all testing and reporting requirements for inactive stacks.

(e) If an owner or operator removes phosphogypsum from an inactive stack, the owner shall test the stack in accordance with the procedures described in 40 CFR part 61, appendix B, Method 115. The stack shall be tested within ninety days of the date that the owner or operator first removes phosphogypsum from the stack, and the test shall be repeated at least once during each calendar year that the owner or operator removes additional phosphogypsum from the stack. EPA shall be notified at least 30 days prior to an emissions test so that EPA may, at its option, observe the test. If meteorological conditions are such that a test cannot be properly conducted, then the owner shall notify EPA and test as soon as conditions permit. Within ninety days after completion of a test, the owner or operator shall provide EPA with a report detailing the actions taken and the results of the radon-222 flux testing. Each such report shall include all of the information specified by § 61.203(b).

§ 61.204 Distribution and use of phosphogypsum for outdoor agricultural purposes.

Phosphogypsum may be lawfully removed from a stack and distributed in commerce for use in outdoor agricultural research and development and agricultural field use if each of the following requirements is satisfied:

(a) The owner or operator of the stack from which the phosphogypsum is removed shall determine annually the average radium-226 concentration at the location in the stack from which the phosphogypsum will be removed, as provided by § 61.207.

(b) The average radium-226 concentration at the location in the stack from which the phosphogypsum will be removed, as determined pursuant to § 61.207, shall not exceed 10 pCi/g (4500 pCi/lb).

(c) All phosphogypsum distributed in commerce for use pursuant to this section by the owner or operator of a phosphogypsum stack shall be accompanied by a certification document which conforms to the requirements of § 61.208(a).

(d) Each distributor, retailer, or reseller who distributes phosphogypsum for use pursuant to this section shall prepare certification documents which conform to the requirements of § 61.208(b).

(e) Use of phosphogypsum for indoor research and development in a laboratory must comply with § 61.205.

[57 FR 23317, June 3, 1992, as amended at 64 FR 5579, Feb. 3, 1999; 65 FR 62158, Oct. 17, 2000]

§ 61.205 Distribution and use of phosphogypsum for indoor research and development.

(a) Phosphogypsum may be lawfully removed from a stack and distributed in commerce for use in indoor research and development activities, provided that it is accompanied at all times by certification documents which conform to the requirements of § 61.208. In addition, before distributing phosphogypsum to any person for use in indoor research and development activities, the owner or operator of a phosphogypsum stack shall obtain from that person written confirmation that the research facility will comply

§ 61.206

40 CFR Ch. I (7–1–14 Edition)

with all of the limitations set forth in paragraph (b) of this section.

(b) Any person who purchases and uses phosphogypsum for indoor research and development purposes shall comply with all of the following limitations. Any use of phosphogypsum for indoor research and development purposes not consistent with the limitations set forth in this section shall be construed as unauthorized distribution of phosphogypsum.

(1) Each quantity of phosphogypsum purchased by a facility for a particular research and development activity shall be accompanied by certification documents which conform to the requirements of § 61.208.

(2) No facility shall purchase or possess more than 3182 kg (7,000 lb) of phosphogypsum for a particular indoor research and development activity. The total quantity of all phosphogypsum at a facility, as determined by summing the individual quantities purchased or possessed for each individual research and development activity conducted by that facility, may exceed 3182 kg (7,000 lb), provided that no single room in which research and development activities are conducted shall contain more than 3182 kg (7,000 lb).

(3) Containers of phosphogypsum used in indoor research and development activities shall be labeled with the following warning: Caution: Phosphogypsum Contains Elevated Levels of Naturally Occurring Radioactivity.

(4) For each indoor research and development activity in which phosphogypsum is used, the facility shall maintain records which conform to the requirements of § 61.209(c).

(5) Indoor research and development activities must be performed in a controlled laboratory setting which the general public cannot enter except on an infrequent basis for tours of the facility. Uses of phosphogypsum for outdoor agricultural research and development and agricultural field use must comply with § 61.204.

(c) Phosphogypsum not intended for distribution in commerce may be lawfully removed from a stack by an owner or operator to perform laboratory analyses required by this subpart or any other quality control or quality

assurance analyses associated with wet acid phosphorus production.

[57 FR 23317, June 3, 1992, as amended at 64 FR 5579, Feb. 3, 1999; 64 FR 53213, Oct. 1, 1999; 65 FR 62158, Oct. 17, 2000]

§ 61.206 Distribution and use of phosphogypsum for other purposes.

(a) Phosphogypsum may not be lawfully removed from a stack and distributed or used for any purpose not expressly specified in § 61.204 or § 61.205 without prior EPA approval.

(b) A request that EPA approve distribution and/or use of phosphogypsum for any other purpose must be submitted in writing and must contain the following information:

(1) The name and address of the person(s) making the request.

(2) A description of the proposed use, including any handling and processing that the phosphogypsum will undergo.

(3) The location of each facility, including suite and/or building number, street, city, county, state, and zip code, where any use, handling, or processing of the phosphogypsum will take place.

(4) The mailing address of each facility where any use, handling, or processing of the phosphogypsum will take place, if different from paragraph (b)(3) of this section.

(5) The quantity of phosphogypsum to be used by each facility.

(6) The average concentration of radium-226 in the phosphogypsum to be used.

(7) A description of any measures which will be taken to prevent the uncontrolled release of phosphogypsum into the environment.

(8) An estimate of the maximum individual risk, risk distribution, and incidence associated with the proposed use, including the ultimate disposition of the phosphogypsum or any product in which the phosphogypsum is incorporated.

(9) A description of the intended disposition of any unused phosphogypsum.

(10) Each request shall be signed and dated by a corporate officer or public official in charge of the facility.

(c) The Assistant Administrator for Air and Radiation may decide to grant a request that EPA approve distribution and/or use of phosphogypsum if he