



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 21 2007

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Kendall Keith
President
National Grain and Feed Association
1250 I Street, NW
Suite 1003
Washington, DC 20005-3922

Dear Mr. Keith:

This letter is in response to your request for clarification of the definition of "permanent storage capacity" in the Clean Air Act New Source Performance Standard for Grain Elevators. 40 CFR Part 60, Subpart DD. Specifically, the National Grain and Feed Association (NGFA) has asked whether certain grain storage systems marketed as temporary storage would be considered "permanent storage capacity" for the purpose of Subpart DD. These storage systems are generally characterized by permanent asphalt or concrete foundations, rigid sidewalls and long-lasting tarp covers. Associated with these storage systems are permanent aeration towers and conveyor systems. These storage systems may be used to store as much as three million bushels of grain.

Subpart DD applies to affected facilities at any grain terminal elevator or any grain storage elevator. 40 CFR 60.300. Grain terminal elevator means "any grain elevator which has a permanent storage capacity of more than 88,100 m³ (ca. 2.5 million U.S. bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots." 40 CFR 60.301. Grain storage elevator means "any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant which has a permanent grain storage capacity of 35,200 m³ (ca. 1 million bushels)." 40 CFR 60.301.

"Permanent storage capacity" is defined as "grain storage capacity that is inside a building, bin, or silo." 40 CFR 60.301. This definition is intentionally broad to include the variety of structures used to store grain. While EPA did not define the word "bin" in Subpart DD, Webster's New Collegiate Dictionary (2006) defines "bin" as "a box, frame, crib or enclosed space used for storage." The storage systems described above by NGFA with permanent foundations and sidewalls meet the definition of "permanent storage

capacity” in that they are “bins.” Therefore, when determining whether Subpart DD applies, facilities utilizing these storage systems must include the grain storage capacity of these storage systems in determining whether they trigger the applicability threshold for Subpart DD.

As you know, facilities subject to Subpart DD also are subject to United States Department of Agriculture (USDA) regulations since USDA regulates grain storage. However, storage is defined differently in these separate regulations as each Agency regulates the structures for different purposes. To eliminate any confusion arising from these different definitions, the Agency intends to proceed with a notice and comment rulemaking to amend Subpart DD to clarify the issue.

This response is not a site-specific applicability determination and does not represent final agency action. This letter does not bind the Agency to this particular interpretation in any future contexts, especially if the question is later posed within the context of a site-specific request for an applicability determination. For site-specific applicability determinations, facilities should contact the EPA Regional office for the Region in which they are located.

If you have any questions concerning potential revisions to Subpart DD, please contact Bill Schrock at 919-541-5032. Any questions concerning this letter may be directed to Scott Throwe of my staff at 202-564-7013.

Very Truly Yours,



Michael S. Alushin, Director
Compliance Assessment and Media Programs Division
Office of Compliance

cc: Peter Tsirigotis, OAQPS
Penny Lassiter, OAQPS
Robin Dunkins, OAQPS
Bill Schrock, OAQPS
Susan Stahle, OGC
Sally Schaver, OAR