Attachment B

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:	)	New Wales Plant
	)	
Mosaic Phosphates Company	)	
	)	
Petitioner.	)	File No.: 06-H-AP

ORDER ON REQUEST
FOR
ALTERNATE PROCEDURES AND REQUIREMENTS

Pursuant to Rule 62-297.620, Florida Administrative Code (F.A.C.), and Title 40 of the Code of Federal Regulations Part 63, section 63.8 (40 CFR 63.8), Mosaic Phosphates Company, located in Polk County, has petitioned for approval of alternate monitoring methods for scrubbers at its New Wales facility. The Petitioner has requested approval to monitor fan amperage in lieu of establishing an upper limit on pressure drop across each scrubber. The basis for this request is the Petitioner's assertion that fan amperage will provide a better indicator of scrubber performance and prevent frequent and unnecessary plant monitoring exceptions. Petitioner agreed to continue to monitor pressure drop, liquid flow rate, and fan amperage for each scrubber. Petitioner also agreed to establish allowable ranges for liquid flow rate and fan amperage and to establish minimum allowable pressure drops for the scrubber systems.

Having considered Petitioner's written request and all supporting documentation, the following Findings of Fact, Conclusions of Law, and Order are entered:

FINDINGS OF FACT

1. 40 CFR 63, Subparts AA and BB require all phosphate fertilizer and phosphoric acid manufacturing plants that are major sources of hazardous air pollutants to monitor liquid flow rate to each scrubber and pressure drop across each scrubber used to control hydrogen fluoride emissions. Additionally, each affected facility must establish allowable ranges for these parameters by submitting upper and lower values for approval or by accepting the default range of ±20 percent of the base line value as specified in Subparts AA and BB. Mosaic Phosphates Company's New Wales Plant is considered a major source of hazardous air pollutants. Therefore, this facility is subject to these requirements.

2. On December 2, 2005, the Department received Petitioner's request for approval of an alternate monitoring plan for Mosaic New Wales. The alternate monitoring plan was requested for scrubbers subject to 40 CFR 63, Subparts AA and BB: the phosphoric acid manufacturing plants (Emission Units (EU) 008, 017, and 039) and the scrubbers at the granulation plants (DAP, MAP, and GMAP (EUs 009, 011, 045, 046, 056, 078)).

3. Petitioner stated, "Fan amps provide an accurate indication of air movement through the evacuation system and can be a reliable indicator of system upsets. Air flow outside normal ranges could

indicate short-circuiting of air through scrubbers, excess tramp air being drawn into the system, scrubber fouling, or inadequate evacuation of process equipment."

4. Petitioner also stated "fan amperage is a better indicator of emissions than pressure drop in the cases when scrubber pressure drop may be relatively small (less than 5 inches.) The result is that for a maximum limit, small deviations in the pressure drop can cause a plant monitoring exception. Requiring a maximum pressure drop as a limit may result in frequent and unnecessary plant monitoring exceptions, while scrubbing efficiency was still maintained."

5. Petitioner further asserted, "...use of fan amps as an alternative parameter meets the intent of the monitoring requirement to assure proper operation of the pollution control system."

6. Petitioner has proposed to perform the necessary baseline emissions testing to establish the minimum pressure drop, minimum and maximum scrubbing liquid flow rates, and minimum and maximum system fan amperage limits for all scrubbers subject to the monitoring provisions of 40 CFR 63, Subparts AA and BB.

CONCLUSIONS OF LAW

1. The Department has jurisdiction to consider Petitioner's request pursuant to Section 403.061, Florida Statutes (F.S.), and Rule 62-297.620, F.A.C.

2. Petitioner has provided reasonable justification that establishing an upper limit on pressure drop in scrubbers at this facility is impractical.

3. Petitioner has provided reasonable justification that monitoring fan amperage in lieu of establishing a maximum pressure drop is no less an effective indicator of scrubber operation than that achieved by monitoring pursuant to 40 CFR 63, Subparts AA and BB.

ORDER

Having considered Petitioner's written request and supporting documentation, it is hereby ordered that for the following emission units: the phosphoric acid manufacturing plants (Emission Units (EU) 008, 017, and 039) and the scrubbers at the granulation plants (DAP, MAP, and GMAP (EUs 009, 011, 045, 046, 056, 078)) that:

1. Petitioner shall not be required to continue to establish an upper limit on the pressure drop across each scrubber.

2. Petitioner shall establish a minimum allowable pressure drop across each scrubber or scrubber system pursuant to the requirements in 40 CFR 63, Subparts AA and BB and shall submit such values to the Department for approval.

3. Petitioner shall establish minimum and maximum acceptable fan amperages for each fan in the scrubbing systems pursuant to the requirements in 40 CFR 63, Subparts AA and BB and shall submit such values to the Department for approval.

4. Petitioner shall establish minimum and maximum acceptable values for liquid flow rate to each scrubber pursuant to the requirements in 40 CFR 63, Subparts AA and BB and shall submit such values to the Department for approval.

5. Petitioner shall continuously monitor pressure drop and liquid flow rate for each scrubber and shall continuously monitor fan amperage for each fan in the scrubbing systems.

6. Except as provided by this order, Petitioner shall comply with all applicable provisions of 40 CFR 63, Subparts AA and BB.

7. This Order shall expire on April 20, 2016.

PETITION FOR ADMINISTRATIVE REVIEW

The Department's proposed agency action will become final upon expiration of the petition period described below unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57 F.S., before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the proposed agency action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000. Petitions filed by the permit applicant or any of the parties listed below must be filed within twenty-one days of receipt of this notice of intent. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3) of the Florida Statutes must be filed within twenty-one days of publication of the public notice or within twenty-one days of receipt of this notice, whichever occurs first. Under Section 120.60(3), however, any person who asked the Department for notice of agency action may file a petition within twenty-one days of receipt of that notice, regardless of the date of publication. A petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57 F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205 of the Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of how and when petitioner received notice of the agency action or proposed action;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts upon which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation is not available in this proceeding.

NOTICE OF APPEAL RIGHTS

Any party to this order has the right to seek judicial review of it under Section 120.68 of the Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within thirty days after this order is filed with the clerk of the Department.

DONE AND ORDERED this 21st day of April, 2006, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Michael G. Cooke

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Clerk Stamp

FILING AND ACKNOWLEDGMENT
FILED, on this date, pursuant to §120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Martha Jane Wise 4/21/06
(Clerk) (Date)