

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

MOSAIC FERTILIZER, LLC,

Petitioner,

vs.

FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,

OGC Case No. 07-2704  
DEP Draft Air Permit No. 0570008-055-AC  
Riverview Facility  
BART Project

Respondent.

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**PETITION FOR ADMINISTRATIVE HEARING**

Pursuant to Sections 120.569 and 120.57, Florida Statutes (F.S.) and Rule 28-106.201, Florida Administrative Code (F.A.C.), Petitioner, Mosaic Fertilizer, LLC (Mosaic) hereby submits its Petition for an Administrative Hearing to challenge certain conditions in Draft Air Permit No. 0570008-055-AC issued by the Florida Department of Environmental Protection (FDEP) regarding Mosaic's Riverview facility. In support of its Petition, Mosaic states as follows:

**I. THE NAME AND ADDRESS OF EACH AGENCY AFFECTED AND EACH AGENCY'S FILE OR IDENTIFICATION NUMBER, IF KNOWN.**

Florida Department of Environmental Protection  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399

OGC Case No. 07-2704  
DEP Draft Permit No. 0570008-055-AC

**II. THE NAME AND ADDRESS AND TELEPHONE NUMBER OF THE PETITIONER; THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PETITIONER'S REPRESENTATIVE WHICH SHALL BE THE ADDRESS FOR SERVICE PURPOSES DURING THE COURSE OF THE PROCEEDING.**

Petitioner  
Mosaic Fertilizer, LLC  
Riverview Facility  
8813 U.S. Highway 41 South  
Riverview, Florida  
Hillsborough County

Petitioner's Representative

Robert A. Manning  
Hopping, Green & Sams, P.A.  
Florida Bar No. 0035173  
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Company Contact

Diana M. Jagiella  
The Mosaic Company  
3033 Campus Drive, Suite E490  
Plymouth, MN 55441  
Phone: (763) 577-2841  
Fax: (763) 577-2982

**III. AN EXPLANATION OF HOW THE PETITIONER'S SUBSTANTIAL INTERESTS WILL BE AFFECTED BY THE AGENCY DETERMINATION.**

Mosaic owns and operates a fertilizer production facility in Hillsborough County, Florida, known as the Riverview facility. FDEP issued the above-referenced Draft BART permit containing conditions that are unjustified by agency regulations or statutes. Requiring the Riverview facility to comply with these unwarranted draft conditions when the permit becomes final, would have a substantial and detrimental impact on Mosaic.

**IV. A STATEMENT OF WHEN AND HOW PETITIONER RECEIVED NOTICE OF THE AGENCY ACTION.**

Mosaic received the FDEP's Notice of Intent to Issue Air Permit No. 0570008-055-AC, with the accompanying Draft Permit and Technical Evaluation and Preliminary Determination (attached), via U.S. Mail on December 18, 2007. Mosaic filed a Request for Enlargement of Time to file a Petition on December 21, 2007. FDEP denied this Request on January 2, 2008, and provided fifteen (15) days to file a Petition.

**V. A STATEMENT OF ALL DISPUTED ISSUES OF MATERIAL FACTS.**

1. For each BART determination for this facility, whether FDEP adequately considered, or considered at all, the impact on visibility at the three relevant Class I Areas located 87, 289 and 291 kilometers away. Specific examples include, but are not limited to:
  - a. The new requirement in Draft Condition B.12. to check and record the condition of the covers on the three molten sulfur storage pits at least once per 8-hour shift;
  - b. The requirement in Draft Condition C.4. changing the existing block average to a rolling average;

- c. The new requirement in Draft Condition C.7. imposing a numeric limit on nitrogen oxide (NOx) emissions, and corresponding monitoring and recordkeeping requirements;
  - d. Each emission limit imposed in terms of pounds per unit of production, as opposed to pounds per unit of time.
2. Regarding the Draft Condition B.12. requirement to inspect and record the condition of the covers on the molten sulfur pits once every eight hours, whether DEP considered the adequacy of existing requirements under Rule 62-296.411, and the fact that the facility operates on twelve-hour shifts, not eight.
  3. Regarding FDEP's changing of the averaging period on an existing limit in Draft Condition C.4. from block to rolling, whether FDEP considered the cost and operational difficulties resulting from this change.
  4. Regarding FDEP's imposition of a new NOx standard in Draft Condition C.7., whether FDEP considered the adequacy of imposing the NOx limitation of using the existing combustion technologies, without the need for a numeric limit.
  5. For each BART determination, whether FDEP adequately considered, or considered at all, the cost per level of visibility improvement.

**VI. 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.**

Numerous conditions that FDEP included in Draft BART Permit No. 0570008-055-AC lack regulatory justification, and are therefore arbitrary, capricious and otherwise not in accordance with law. In addition, FDEP failed to consider for each determination the impact on visibility at the three relevant Class I Areas located 87, 239 and 291 kilometers away, a fundamental and necessary criteria in the regulations.

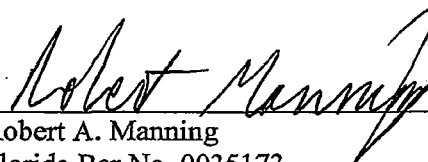
**VII. A STATEMENT OF THE SPECIFIC RULES OR STATUTES PETITIONER CONTENDS REQUIRE REVERSAL OR MODIFICATION OF THE AGENCY'S PROPOSED ACTION, INCLUDING AN EXPLANATION OF HOW THE ALLEGED FACTS RELATE TO THE SPECIFIC RULES OR STATUTES.**

The primary rule at issue in this Petition, and which requires reversal or modification of FDEP's action, is Rule 62-296.340, Fla. Admin. Code, which implements the federal Best Available Retrofit Technology (BART) requirement within the Regional Haze Program. FDEP's issuance of the above-referenced Draft Permit attempts to implement the requirements of this new rule. Other provisions involved include Chapters 62-4, 110, 210 and 204, Fla. Admin. Code, Chapters 120 and 403, Fla. Stat., and 40 CFR Part 51 (including §51.308(e) and Appendix Y).

**VIII. A STATEMENT OF THE RELIEF SOUGHT BY PETITIONER, STATING PRECISELY THE ACTION PETITIONER WANTS THE DEPARTMENT TO TAKE WITH RESPECT TO THE AGENCY'S PROPOSED ACTION.**

Wherefore, Mosaic respectfully requests that:

1. The Department refer this case to the Division of Administrative Hearings for a formal administrative hearing;
2. A formal administrative hearing be conducted;
3. The Department issue a Final Order to revise the Draft Permit, and issue a Final Air Permit, that includes determinations and conditions that reasonably implement FDEP regulations, as specifically explained in Section V above.



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Attorneys for Petitioner, Mosaic  
Fertilizer, LLC

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the Petition for Administrative Hearing was transmitted via hand delivery this 17 day of January, 2008, to:

Rhonda L. Moore  
Assistant General Counsel  
Florida Department of Environmental Protection  
Office of General Counsel  
3900 Commonwealth Boulevard – MS 35  
Tallahassee, Florida 32399-3000

  
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COUNSEL FOR PETITIONER

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