

Check Sheet

Company Name: CARGILL FERTILIZER → MODIFICATION (WITHDRAWN)  
 Permit Number: 0570008-009-AC → PERMIT EXPIRATION ✓  
 PSD Number: 0570008-019-AC → EXTENSION 1 YEAR  
 Permit Engineer: REYNOLDS (AC 29-~~032002~~)  
238303

Application:

- Initial Application
- Incompleteness Letters
- Responses
- Waiver of Department Action
- Department Response
- Other

Cross References:

- 
- 
- 

Intent:

- Intent to Issue
- Notice of Intent to Issue
- Technical Evaluation
- BACT Determination
- Unsigned Permit
- Correspondence with:
  - EPA
  - Park Services
  - Other
- Proof of Publication
  - Petitions - (Related to extensions, hearings, etc.)
  - Waiver of Department Action
  - Other

Final Determination:

- Final Determination -0570008-019-AC EXTENSION
- Signed Permit
- BACT Determination
- Other

Post Permit Correspondence:

- Extensions/Amendments/Modifications
- Other

**Best Available Copy**

P 265 659 164

US Postal Service  
**Receipt for Certified Mail**  
 No Insurance Coverage Provided.  
 Do not use for International Mail (See reverse)

Sent to: <i>Kathy Edgemon</i>	
Street & Number: <i>Carsill Feat.</i>	
Post Office, State, & ZIP Code: <i>Bartow FL</i>	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
<b>TOTAL Postage &amp; Fees</b>	<b>\$</b>
Postmark or Date: <i>Riverview # 5 DAP</i>	<i>2-11-97 Plant</i>

PS Form 3800, April 1995

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional s...
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

Also wish to receive the following services (for an extra fee):

- Addressee's Address
  - Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to:  
*Ms Kathy Edgemon, E.E.*  
*Carsill Fertilizer*  
*P O Box 9002*  
*Bartow, FL*  
*33830*

4a. Article Number  
*P 265 659 164*

4b. Service Type  
 Registered     Insured  
 Certified     COD  
 Express Mail     Return Receipt for Merchandise

7. Date of Delivery  
*2-14-97*

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)  
*Richard*

Thank you for using Return Receipt Service.

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
**NOTICE OF PERMIT MODIFICATION ISSUANCE**

In the Matter of an  
Application for Permit Modification

Ms. Kathy Edgemon  
Cargill Fertilizer, Inc.  
P.O. Box 9002  
Bartow, Florida 33830

DEP File No. AC29-238303  
Riverview No. 5 DAP Plant

Enclosed is a letter that modifies Permit Number AC29-238303 to extend the expiration date from June 30, 1997 to June 30, 1998 issued pursuant to Section 403, Florida Statutes.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57 F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000, telephone: 904/488-9730, fax: 904/487-4938, within fourteen days of receipt of the permit modification. A petitioner must 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 28-5.207 of the Florida Administrative Code.


A petition must contain the following information: (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Permit File Number and the county in which the project is proposed; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of the facts that the petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement identifying the rules or statutes that the petitioner contends require reversal or modification of the Department's action or proposed action; and (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to the action or proposed action addressed in this modification.

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 modification. 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.

This permit modification is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition and conforms to Rule 62-103.070, F.A.C. Upon timely filing of a petition or a request for an extension of time this permit will not be effective until further Order of the Department.

When the Order (permit modification) is final, any party to the order has the right to seek judicial review of the Order pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Legal Office; 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 of Appeal must be filed within 30 (thirty) days from the date this Notice is filed with the Clerk of the Department.

Executed in Tallahassee, Florida.

  
C. H. Fancy, P.E., Chief  
Bureau of Air Regulation

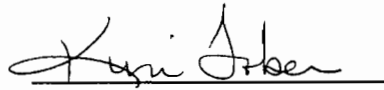
**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy agency clerk hereby certifies that this permit modification was sent by certified mail (\*) and copies were mailed by U.S. Mail before the close of business on 2-11-97 to the person(s) listed:

Ms. Kathy Edgemon, Cargill Fertilizer, Inc. \*  
Mr. David A. Buff, P.E.  
Mr. Bill Thomas, SWD  
Mr. Jerry Campbell, EPCHC

Clerk Stamp

**FILING AND ACKNOWLEDGMENT FILED**, on this date, pursuant to §120.52(7), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

  
(Clerk)

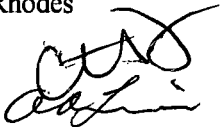

2-11-97  
(Date)

Florida Department of  
Environmental Protection

Memorandum

---

TO: Howard L. Rhodes

THRU: Clair Fancy   
Al Linero  2/7

FROM: John Reynolds

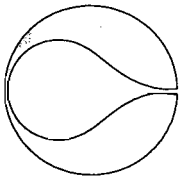
DATE: February 7, 1997

SUBJECT: Cargill/Riverview No. 5 DAP Plant/Permit Extension / AC19-238303

*Kim*

Attached is a letter extending the expiration date of the subject construction permit. The extension was requested as a result of construction delays.

I recommend your approval and signature.



**CARGILL  
FERTILIZER, INC.**

**RECEIVED**

**JAN 10 1997**

**BUREAU OF  
AIR REGULATION**

8813 Highway 41 South - Riverview, Florida 33569 - Telephone 813-677-9111 - TWX 810-876-0648 - Telex 52666 - FAX 813-671-6146

Certified Mail: P 343 040 610

January 6, 1997

Mr. John Reynolds  
Air Permitting Engineer  
Florida Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

Dear Mr. Reynolds:

Re: Cargill Fertilizer, Inc. - Riverview Facility  
No. 5 DAP Plant; Permit No. AC29-238303  
Facility ID No. 0570008; Emission Unit ID No. 055

Cargill Fertilizer, Inc. (Cargill) requested a permit modification to the above-referenced permit on January 19, 1996. This request included using recirculated pond water in the tail gas scrubbers and an extension to the expiration date of the permit. Cargill does not plan to recirculate pond water in the tail gas scrubbers at this time and would like to withdraw this request.

The expiration date of the permit was extended to June 30, 1997 on March 8, 1996. Cargill will be unable to complete construction by this date and would like to extend the expiration date to June 30, 1998. The construction permitted under this permit includes replacement of the granulator and the RG scrubber and details of the equipment fabrication is still underway. Enclosed is a check in the amount of \$250 for the modification fee. If you have any questions, please contact me at (813) 671-6369.

Sincerely,

Kathy Edgemon  
Environmental Engineer

cc: Morris, Russo  
Jim McDonald, FDEP Tampa; Rick Kirby, HCEPC  
File: P-30-33-1







# Department of Environmental Protection

Lawton Chiles  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Virginia B. Wetherell  
Secretary

February 10, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Kathy Edgemon  
Environmental Engineer  
Cargill Fertilizer, Inc.  
P.O. Box 9002  
Bartow, Florida 33830

Re: Modification of Construction Permit No. AC29-238303 (AIRS ID 0570008)  
Riverview No. 5 DAP Plant

Dear Ms. Edgemon:

The Department received Cargill's January 6 letter requesting an extension of the expiration date of the above referenced permit. This request is acceptable and the expiration date is changed as shown below:

Permit No. AC29-238303 is extended from **June 30, 1997** to **June 30, 1998**.

A copy of this letter shall be filed with the referenced permit and shall become part of the permit.

Sincerely,

Howard L. Rhodes, Director  
Division of Air Resources  
Management

HLD/hh



P 339 251 132

US Postal Service  
**Receipt for Certified Mail**

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to	
David Buff	
Street & Number	
KBN Engineering	
Post Office, State, & ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	
AC 29-238303 8-1-96	
No. 5 DAP	

PS Form 3800, April 1995

Fold at line over top of envelope to return to the return address

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requester" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to  
David A. Buff, PE  
KBN Engineering &  
Applied Sciences  
624 NW 23rd St. Suite 500  
Gainesville, FL 32653-1500

5. Signature (Addressee)  
*J. P. Kaskey*

6. Signature (Agent)

4a. Article Number  
P 339 251 132

4b. Service Type  
 Registered     Insured  
 Certified     COD  
 Express Mail     Return Receipt for Merchandise

7. Date of Delivery  
8/5/96

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.



# Department of Environmental Protection

Lawton Chiles  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Virginia B. Wetherell  
Secretary

August 1, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. David A. Buff, P.E.  
KBN Engineering And Applied Sciences, Inc.  
6241 Northwest 23rd Street - Suite 500  
Gainesville, Florida 32653-1500

RE: Modification/Extension of AC29-238303 (No. 5 DAP Plant)  
Cargill Fertilizer, Inc. - Riverview

Dear Mr. Buff:

This is a followup to our March 4 letter concerning Cargill's requested modification of the referenced construction permit. At issue is a change in the scrubbing medium from the standard once-through cooling pond water to an isolated scrubber pond water recirculation system using cooling pond water as makeup.

Since fluoride concentration may build to a higher level in an unneutralized dedicated scrubber pond, the Department requested that Cargill show calculations as necessary to estimate the change in actual fluoride emissions resulting from the modification.

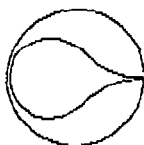
Please call me or John Reynolds at (904) 488-1344 if you have any questions.

Sincerely,

A. A. Linero, P.E.  
Administrator  
New Source Review Section

AAL/JR

cc: B. Thomas, SWD  
J. Campbell, EPCHC  
D. Jellerson, Cargill



# Cargill, Incorporated Law Department Fax Transmission

Rock - SA

0570008-011-AC

Number of Pages (incl. this one): 14

<b>To:</b>	<b>Bill Thomas/FDEP</b>	<b>813/744-6458</b>
	<b>Pat Comer, Esq.</b>	<b>904/921-3000</b>
	<b>Al Linero/FDEP, Bureau of Air Reg.</b>	<b>904/922-6979</b>
	<b>Jim Pennington/FDEP</b>	<b>904/922-6979</b>
	<b>J. Campbell/HCEPC</b>	<b>813/272-5605</b>
	<b>Ozzie Morris/Fertilizer/Tampa</b>	<b>813/671-6149</b>
	<b>David Buff/KBN Engineering</b>	<b>352/336-6603</b>

**From:** Tom MacLeod  
 Cargill, Incorporated/Law Department  
 P.O. Box 5624  
 Minneapolis, MN 55440-5624  
 Telephone: 612/742-4653 Fax : 612/742-6349

**Date:** July 29, 1996

If you do not receive all pages, please contact Pat at 612/742-6348.

\*\*\*\*\*

**Confidentiality Note:** The information contained in this facsimile transmission is intended only for the personal and confidential use of the individual(s) or entity(ies) named above, and may include material that is privileged and confidential. Any dissemination, distribution, or copying of this transmittal is strictly prohibited. If you have received this transmittal in error, please notify us immediately by telephone (612/742-6348) and return the original transmittal to us by mail. Thank you.

## CARGILL, INCORPORATED LAW DEPARTMENT

James D. Moe  
Corporate Vice President  
General Counsel  
& Secretary

Ronald L. Laumbach  
Vice President &  
North America  
General Counsel

Linda L. Cutler  
Vice President  
Assistant General Counsel  
& Assistant Secretary

John S. Erickson  
Vice President &  
Deputy  
General Counsel

H. Jed Hepworth  
Latin America  
General Counsel

Mailing Address:  
P.O. Box 5624  
Minneapolis, MN 55440-5624

Location/Shipping Address:  
15407 McGinty Road West  
Wayzata, MN 55391-2399

FAX (812) 742-6349  
or (812) 742-7503

July 29, 1996

Steven M. Adams  
Gretchen Q. Banks  
Karen L. Baril  
Shirley R. Boyd  
Frederick L. Budde  
James D. Dingel  
Todd T. Erickson  
Phillip M. Fante  
Sheila Brennan Hagen

David L. Blek  
Carelyn J. Brue  
Therese A. Coons  
Robert S. Goodken  
Debra L. Howland  
Robin P. Kirning  
Colleen Murphy Knapp  
Jay A. Kroese

Ronald E. Hurter  
Mark J. Isarechon  
Joseph R. Liesch  
Grace Murgia Musilek  
LaRaye M. Osborne  
Bonnie E. Raquet  
David A. Robertson  
Laura Hicks Wittie

Richard L. Mack  
Thomas W. MacLeod  
Maria-Inés Raj  
Randall J. Romedahl  
Timothy A. Thomas  
Peter A. Vorbrich  
Geri L. Williams

Writer's Direct Dial Number  
(612) 742-4853

### VIA FAX: 813/744-6458 and U.S. MAIL

Mr. Bill Thomas  
Florida Department of Environmental Protection  
3804 Coconut Palm Drive  
Tampa, FL 33619-8218

RE: Hillsborough County Allegations of "Sham Permitting"  
Permit No. 057008-008-AC

Dear Mr. Thomas:

As you are aware, the Hillsborough County Environmental Protection Commission ("HCEPC") has alleged that Cargill Fertilizer, Inc. ("Cargill") engaged in "sham permitting" when it permitted its rock grinding source at its Tampa, Florida facility. Whether a permit is a "sham" is at its core a question of whether the permittee was deceitful or made a misrepresentation. Because of the grave nature of the allegations, Cargill takes them very seriously and finds them to be totally unfounded. As explained below, HCEPC's allegations are based on a fundamental misapplication of U.S. Environmental Protection Agency ("U.S. EPA") enforcement guidance. If allowed to stand, HCEPC's allegations harm Cargill's reputation and threaten to undermine the integrity of Florida Department of Environmental Protection's ("FDEP's") permit program. Cargill believes that its permit is valid and will be proceeding with construction under its terms.

#### I. Permit Background.

The FDEP issued the Cargill rock grinding facility Air Permit No. 057008-008-AC on July 19, 1996, after public notice and comment.<sup>1</sup> The air permit contains federally enforceable limits on the hours of operation to limit the emissions from the source to

<sup>1</sup> Attached at Exhibit A is a chronology of the permit history.

Mr. Bill Thomas  
July 29, 1996  
Page 2

below the major source threshold under the federal Prevention of Significant Deterioration ("PSD") program. The federally enforceable permit limits will restrict the facility's operations to 7,800 hours per year per mill. Cargill believes that the facility can easily comply with its federally enforceable operating limits and that the facility will be economically viable at this production rate.<sup>2</sup> There is no evidence, and HCEPC does not now allege, that Cargill will have any difficulty meeting the terms of the permit or that the facility is not economically viable.

At the time it sought its synthetic minor permit, Cargill made clear that it intended to seek a PSD permit from FDEP for the same facility which would allow Cargill to eventually operate the facility without the federally enforceable operating limits contained in its synthetic minor permit. The PSD permit application was submitted to the FDEP, and a copy was provided to HCEPC, on June 27, 1996. The PSD application subjected the entire rock grinding facility to PSD review. This dual permitting approach would allow Cargill to commence construction and to operate the source as it had in the past under a synthetic minor permit. After issuance of the PSD permit, Cargill could then further expand operations after installation of Best Available Control Technology. Under PSD regulations, Cargill would have up to 18 months to commence construction of this expansion and would be able to operate under its minor permit in the interim.

Cargill fully reviewed the dual permit approach with FDEP and FDEP expressly approved of this approach. In addition to discussions between Cargill personnel and FDEP staff, this approach was clearly set forth in Cargill's March 8, 1996 comments, which states ... "the purpose of this [operating hours] limitation would be to avoid PSD review. . . Cargill will be submitting a PSD application in the near future to obtain an increased operating hours for the mills, i.e., up to 8,760 hr/yr each mill." This approach was again referenced in Cargill's March 20, 1996 comments: "In this application, Cargill will avoid PSD review by limiting future operating hours of the mills. Cargill is taking this approach in order to meet their construction schedule, which mandates beginning construction no later than [sic] July 1, 1996. The application being processed by your office should be issued prior to July 1, 1996, assuming a completeness determination is obtained soon."

Significantly, HCEPC received copies of Cargill's initial permit application and Cargill's March 8, 1996 and March 20, 1996 comments stating the dual permit

---

<sup>2</sup> In fact, at 7,800 hours per year, the rock grinding facility's state permit allows the facility to operate at almost 90% of full operation. Significantly, this facility has not exceeded 6,850 hours per year over the last 3 years -- almost 1,000 hours less than the rock grinding facility is currently permitted. The state permit allows the facility to operate at a higher level of production than it has achieved in the past.

Mr. Bill Thomas  
July 29, 1996  
Page 3

approach. HCEPC provided no comments to Cargill on these documents and, to Cargill's knowledge, provided no comments to FDEP. Subsequently, HCEPC again received notice of Cargill's draft synthetic minor permit when FDEP put it out for public notice and comment on July 2, 1996. HCEPC then received a copy of Cargill's PSD permit application on approximately June 27, 1996. It again failed to raise its concerns either before the end of the public comment period, July 16, 1996, or before FDEP's issuance of the synthetic minor permit on July 19, 1996.

## II. HCEPC Allegations.

Cargill understands that HCEPC now challenges this dual permitting approach, alleging that Cargill engaged in sham permitting to avoid PSD review. In support of this allegation, HCEPC points toward U.S. EPA's enforcement guidance, which was part of the preamble to U.S. EPA's rules concerning federal enforceability of permit limits, the relevant parts of which are attached at Exhibit B.<sup>3</sup> On their face, HCEPC's allegations are unfounded. The dual permit approach cannot be said to be a "sham"<sup>4</sup> when FDEP agreed and HCEPC had notice that it was the appropriate manner to permit the rock grinding facility. Implicit in sham permitting is a deception of the regulatory agency, something that could not have occurred in light of both agencies' knowledge of and FDEP's approval of the dual permit approach. Further, the dual permit approach agreed upon by FDEP and Cargill did not evade PSD review. Cargill has submitted a full PSD application for the rock grinding facility and, pursuant to source obligation regulation 40 C.F.R. Pt. 52.21(r)(4), has reviewed the full facility as if it had not been constructed. Setting the obvious aside, however, the federal guidance relied upon by HCEPC is not applicable to the Cargill's permit, and even if it was, would not mandate enforcement.

The federal guidance outlines U.S. EPA's three enforcement options in the event a permittee violates its federally enforceable limits and becomes subject to PSD.<sup>5</sup> First, if the source intends to adhere to the federally enforceable limits, U.S. EPA may simply enforce the limits. Second, in the event the source is not able to meet the federally enforceable limits, U.S. EPA may require the source to obtain a PSD permit with the

---

<sup>3</sup> HCEPC also refers to a paragraph in the U.S. EPA draft guidance document "New Source Review Workshop Manual: Prevention of Significant Deterioration and Nonattainment Area Permitting," (draft) (October 1990). Whatever the import of this draft document, it expressly refers readers to the more comprehensive discussion in the attached preamble.

<sup>4</sup> A "sham" is defined as "something false or empty that is purported to be genuine . . . the quality of deceitfulness." American Heritage Dictionary, 2d ed. (1976).

<sup>5</sup> See Exhibit B, 54 Fed. Reg. 27280.

Mr. Bill Thomas  
July 29, 1996  
Page 4

assumption that the source had not already been constructed, pursuant to 40 C.F.R. Pt. 52.21(r)(4). U.S. EPA may also elect to seek penalties for violations of the limits. Third, in the event U.S. EPA finds that the source intended to avoid PSD review when it sought the federally enforceable limits and that the limits did not seek some legitimate business plan, U.S. EPA may require the source to obtain a PSD permit as under option 2, and may also seek additional enforcement under the Clean Air Act. It is this third enforcement option that HCEPC claims applies to Cargill.

U.S. EPA's enforcement guidance is not applicable to Cargill's permit. As the guidance makes clear, these three enforcement options are triggered only when a source is unable, or will be unable to meet the federally enforceable limits in its permit which allowed it to avoid PSD review. The preamble states:

If a permit obtained by a source is to be given status as federally enforceable in order to avoid NSR [PSD or nonattainment new source review], it must have met the notice, source information, practical enforceability and other strictures set forth in this document. These same qualities of a federally enforceable permit make it much easier to determine, at a later date, whether the terms or intent of the permit have been violated and, if so, what enforcement action is appropriate. There are three options available to EPA for when a federally enforceable State permit has been or will be violated.<sup>6</sup>

54 Fed. Reg. 27280 (emphasis added). As indicated above, there is no evidence that the federally enforceable limits in Cargill's permit "[have] been or will be violated." According, application of any of U.S. EPA's three enforcement options is inappropriate.

Even if U.S. EPA's guidance were applicable to Cargill, the third option is not appropriate. In support of its allegations, HCEPC would likely point to broad language in the guidance which states enforcement is appropriate where U.S. EPA determines that the source obtained a synthetic minor permit "not for the purpose of adhering to those limitations for an appreciable period of time in accordance with some legitimate business plan, but primarily with an intent to construct, and possibly begin operation of, a major new source or major modification without first obtaining a PSD or nonattainment permit." 54 Fed. Reg. 27280. At the outset, the fact that Cargill and FDEP agreed upon the dual permitting approach and that Cargill intends to operate within its synthetic minor permit limits demonstrates that Cargill did not intend to construct, and has not commenced construction of a major source without PSD review. The new state permit

---

<sup>6</sup> Significantly, as this text indicates, there is nothing improper about seeking to deliberately avoid PSD through the use of federally enforceable limits. U.S. EPA's development of the federal enforceability standard indicates their intent to allow sources to avoid PSD review where avoidance would not harm the integrity of the PSD program.

Mr. Bill Thomas  
July 29, 1996  
Page 5

allows the facility to operate for more hours than it has in the past and is adequate to meet Cargill's current business needs. The PSD permit will allow greater operating flexibility in the future.

Further, the guidance makes clear that the third enforcement option must be carefully applied so as not to bring enforcement against legitimate uses of federally enforceable operating limits. The guidance states: "The EPA in no way seeks to discourage or intends to penalize those owners or operators who accept emissions limitations in pursuit of legitimate business purposes, and who later, in good faith seek relaxation of those limitations." 54 Fed. Reg. 27281 (emphasis added). U.S. EPA is to evaluate indicia of intent such as whether a PSD permit is filed at the same time as a state permit and whether the source can economically operate at the minor source levels for an appreciable length of time to determine whether the source intended to evade PSD review. At its core, the evaluation is to determine whether there is "fraud, misrepresentation or other misuse." However much HCEPC may point to the timing of Cargill's PSD application, the facts make clear that it was done with FDEP's concurrence and that there was no fraud, misrepresentation or misuse. Further, the Cargill facility is economically viable at the minor source permit levels. The enforcement guidance is not applicable because there has been no violation of the federally enforceable limits; even if applicable, the requisites for enforcement under the third option have not been met.<sup>7</sup>

### III. FDEP issued Cargill a valid permit.

By focusing on U.S. EPA guidance as the basis of its allegations, HCEPC ignores the fact that there has been no violation of federal or state law upon which to bring an enforcement action. HCEPC does not claim that FDEP failed to follow its own rules when granting Cargill's permit. Further, the federal PSD regulations plainly allow for a source to use federally enforceable limitations to avoid PSD review. The source obligation rules require a facility to seek PSD permit as if not constructed "[a]t such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation . . . on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operations . . ." 40 C.F.R. Pt. 52.21(r)(4). There is no claim, however, that the federally enforceable limits in Cargill's permit have been relaxed such that PSD review is triggered. Cargill has initiated its own PSD application precisely so that it can

---

<sup>7</sup> The guidance is also inapplicable because it applies to U.S. EPA, not HCEPC. Whatever oversight authority U.S. EPA may have in this matter, it cannot be said that this authority is shared by HCEPC. As discussed below, the HCEPC's only authority in this matter is that which has been delegated to it by the FDEP. The HCEPC is bound by the FDEP's prior determinations as to the appropriate manner to permit a source.



Mr. Bill Thomas  
July 29, 1996  
Page 6

obtain a PSD permit before operating in excess of its federally enforceable limits. Absent a regulatory or statutory violation on the part of FDEP when it issued the permit or permit violation by Cargill operating under the permit, there is no basis on which to bring an enforcement action.

#### IV. Policy Concerns with HCEPC's allegations.

In addition to finding HCEPC's allegations unfounded, Cargill is very concerned by the serious policy implications of allowing HCEPC to press these allegations at this late date. First, it is inequitable to allow HCEPC to challenge the validity of Cargill's permit at this late juncture. Cargill, and the regulated community in general, need finality in the permit issuance process. At some point, absent fraud, a permit must be final and a permittee must be able to rely on its terms. FDEP's own regulations set forth the procedures for obtaining a final determination, including public notice and comment, the close of public comment and final issuance of a permit. HCEPC had two separate opportunities to raise their concerns, upon receipt of Cargill's comments and during the public comment period. Having failed to make its comments when appropriate, HCEPC now seeks to cast a cloud over the validity of Cargill's permit. It is simply inequitable to allow HCEPC to raise its allegations after having slept on its rights on two occasions.<sup>6</sup> HCEPC is a sophisticated agency who knows the importance of the public comment procedure. It should be required to raise its concerns according to FDEP's procedures, as is the general public.

Second, allowing HCEPC to press its allegations at this late date significantly undermines a permittee's reliance on the FDEP's determinations and harms the integrity of the FDEP's permit program. FDEP agreed that the dual permit approach was appropriate to this source. Cargill relied upon FDEP's approval and completed its synthetic minor permit and subsequently submitted its PSD permit application. By claiming that Cargill's permit is a sham, HCEPC is alleging that FDEP's approval of the dual permit approach was incorrect. If county enforcement offices are able to call into question basic permitting decisions of FDEP, Cargill and the regulated community will

---

<sup>6</sup> Federal courts have limited U.S. EPA's authority to reopen properly issued permits, holding that their right of enforcement is against the regulating agency, not the permitted source. See e.g. U.S. v. AM General Corp., 808 F.Supp. 1353 (ND In. 1992); U.S. v. Solar Turbines, Inc., 732 F. Supp. 535, 539 (ND Pa 1989) ("... EPA can not as a matter of law pursue enforcement action against an owner/operator who has committed no violation that can be attributed to it other than to act in accordance with a permit it received from an authorized permit-issuing authority, but which permit EPA believes the issuing authority improperly granted."). While not controlling, it is very doubtful that a court would allow HCEPC to act where U.S. EPA cannot. The opportunity to review a permit is before the permit its issued.

Mr. Bill Thomas  
July 29, 1996  
Page 7

have no choice but to obtain county enforcement concurrence for FDEP's determinations. HCEPC's allegations threaten to significantly undercut FDEP's authority to make a determination on how best to permit a source. If allowed to proceed, the county enforcement agencies will have an equal voice at the permitting table, something far exceeding FDEP's current delegation of authority to the counties.

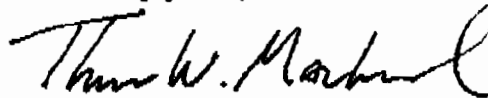
In addition to finality and reliance, HCEPC's allegations threaten the consistency of the air program. Allowing county enforcement offices to second guess the permitting decisions of the FDEP raises the specter that the permit program will be implemented differently in different counties, depending on the counties' separate determinations of what the regulations require. HCEPC now claims that Cargill's dual permit approach is incorrect. Another county may find it acceptable. The result will be different permitting decisions in different counties, depending on the activism of the county enforcement office. Consistency requires that there be the final decision-maker for the proper permitting of a source. HCEPC's allegations, if allowed to proceed, undercuts the FDEP's decision making authority and the consistency of the air program.

\* \* \* \*

It is clear from the facts of this case that there has been no deception by Cargill in the dual permit approach. HCEPC's allegations in essence second guess at a very late date the decisions FDEP made in the permitting process. This matter is at its core a conflict between FDEP and HCEPC over the proper role of county enforcement offices in the permitting process. Cargill strongly supports both the decisions FDEP made in approving of the dual permit approach and, more importantly, the FDEP's authority to determine how the air permit program will be implemented in Florida and how a specific source will be permitted. This said, Cargill believes this matter is best resolved through interagency dialogue. Cargill expects that the FDEP will continue to stand by the decisions it made during the permitting process.

Thank you for your assistance in this matter.

Sincerely yours,



Thomas W. MacLeod

Mr. Bill Thomas  
July 29, 1996  
Page 8

TWM:pa  
cil/66381

cc: Patricia E. Comer, Esq.  
A. Linero/FDEP, Bureau of Air Reg.  
J. Pennington/FDEP  
D. Clark/Fertilizer/Tampa, FL  
M. Daigle/Fertilizer/Tampa, FL  
O. Morris/Fertilizer/Tama, FL  
D. Buff/KBN Engineering, Inc.  
J. Campbell/HCEPC  
S. Boyd/Law/24

**EXHIBIT A****Permitting Chronology for Cargill's Rock Grinding Facility**

January 10, 1996 – Cargill submits synthetic minor permit application to FDEP; copy submitted to HCEPC.

February 8, 1996 – FDEP sends completeness letter to Cargill; copy submitted to HCEPC.

April 23, 1996 – Cargill and FDEP meet to discuss proper permitting for the facility, agree on the dual permit approach.

March 8, 1996 – Cargill submits comments to FDEP which summarizes the dual permit approach; copy submitted to HCEPC.

March 20, 1996 – Cargill submits comments to FDEP which summarizes the dual permit approach; copy submitted to HCEPC.

June 24, 1996 – FDEP signs Intent to Issue for minor source permit; copy submitted to HCEPC.

June 27, 1996 -- Cargill submits PSD application for the rock grinding facility to FDEP; copy submitted to HCEPC.

July 2, 1996 -- Cargill publishes Intent to Issue for minor source permit, beginning formal public comment period.

July 16, 1996 -- Public comment period for synthetic minor permit closes.

July 19, 1996 -- FDEP issues synthetic minor permit to Cargill.

**EXHIBIT B**

PAGE 1

Citation	Database	Mode
54 FR 27274-01	FOUND DOCUMENT	FR
(Cite as: 54 FR 27274, *27280)		Page

from being considered modifications. One of the purposes of the Federal enforceability provision in the current definition is to support the prohibitions against such changes in SIP construction permits by making a violation of such a prohibition grounds, if the modification is major, for requiring a new PSD or nonattainment permit. The EPA believes this provision provides valuable added incentive to sources to comply with their permit limitations, and EPA is not persuaded that it should give up that leverage.

Another industry commenter suggested that if EPA deleted the Federal enforceability requirements and substituted a broader definition of "enforceable," as proposed, that the definition be narrowed to include only enforceability under Federal, State, or local air pollution control laws. Since EPA has decided not to adopt the proposed definition of enforceable, that comment is now moot.

#### D. General Enforcement Issues

Although EPA today concludes that it is appropriate to retain the Federal enforceability requirement, EPA agrees with the suggestions of some commenters that its authority to enforce prohibitions against construction of major sources which lack PSD or nonattainment permits through the "source obligation" regulations (e.g. 40 CFR 52.21(r) (1)-(4)) is an important deterrent to sources which might otherwise construct without a PSD or nonattainment NSR permit. Moreover, EPA believes that these regulations are significantly enhanced by the presence of the Federal enforceability requirement. If the permit obtained by a source is to be given status as federally enforceable in order to avoid NSR, it must have met the notice, source information, practical enforceability, and other strictures set forth in this document.

These same qualities of a federally enforceable permit make it much easier to determine, at a later date, whether the terms or intent of the permit have been violated and, if so, what enforcement action is appropriate. There are three options available to EPA for when a federally enforceable State permit has been or will be violated.

One option is simply to enforce, under section 113, the limitations in the permit which enabled the source to avoid NSR in the first instance, with the result that the source retains its minor status. This is appropriate where, despite the permit violations, it appears that the source intends to adhere to the emissions limitations in the future. However, EPA retains the right to enforce the PSD or nonattainment NSR violation as well.

The second option is to invoke the "source obligation" regulations, e.g., 40 CFR 52.21(r) (4), and treat the source as major by requiring it to obtain a PSD or nonattainment major source permit. This course is appropriate where the source, through a change in business plans, or through the belated realization that its original plans cannot accommodate the design or operational limitations reflected in its minor source permit, can no longer adhere to the limitations in that permit, and so exceeds them. As discussed in the preamble to the 1980 regulations, this option is also appropriate where the source (after receipt of its minor source permit) notifies the permitting authority in advance of its changed plans or expectations and the need for a future relaxation of the limitations in its current permit, without actually violating

Copr. (C) West 1996 No claim to orig. U.S. govt. works

54 FR 27274-01

PAGE 2

(Cite as: 54 FR 27274, \*27280)

those limitations before obtaining a major source permit (see 45 FR 52689). Under either set of circumstances, pursuant to the "source obligation" regulations, EPA treats the source "as though construction had not yet commenced" for PSD and nonattainment permitting purposes.

The EPA believes that the exceedance or relaxation of a minor source permit, and the subsequent obtaining of a major source permit through compliance with the "source obligation" regulation, may not routinely involve penalties or additional sanctions other than those provided in section 113 for any period in which the source actually exceeded the limitations in its minor source permit. The EPA today clarifies, though, that a third general enforcement option is necessary and available under the Act and EPA's regulations in certain situations.

This third enforcement option is appropriate where EPA determines that a source obtained a permit containing limitations allowing it to escape preconstruction review as a major new source or major modification, not for the purpose of adhering to those limitations for an appreciable period of time in accordance with some legitimate business plan, but primarily with an intent to construct, and possibly begin operation of, a major new source or major modification without first obtaining a PSD or nonattainment permit. In such circumstances, EPA enforces the "source obligation" regulations, as in option two above, and requires the source to obtain a PSD or nonattainment permit "as though construction had not yet commenced." In keeping with the retrospective orientation of the "source obligation" regulations, however, EPA also looks to the beginning of actual construction on the new source or modification for purposes of additional enforcement action under sections 113 and 167 as well. Thus, under these circumstances, EPA treats the original permit obtained by the source, which previously allowed it to enjoy minor status, as not "federally enforceable" from the time construction begins on the new source or modification in question. It follows that EPA also treats the source's "potential to emit," as defined in 40 CFR 52.21(b)(4), as not being limited by the restrictions in the original permit. The net result is that EPA deems the new source or modification to have been major ab initio, and EPA considers seeking injunctive relief, civil penalties, and criminal sanctions, as appropriate, against the source under sections 113 and 167 from the beginning of actual construction.

\*27281 The EPA today also wishes to briefly discuss the need and appropriate circumstances for resort to the third enforcement option. As a general matter, it is abundantly clear that Congress intended the NSR provisions in Parts C and D to require preconstruction review of major new sources and modifications. See, e.g., sections 160(5), 165(a), 165(e)(1) and (2), 110(a)(2)(I), 172(a)(1), 172(b)(6), and 173. The evident air quality planning and technology-forcing purposes of the Act's NSR provisions make the reasons for Congress' choice of statutory framework equally obvious. It is much easier, both in technical and practical terms, to consider the air quality impacts and pollution control requirements of a major new source of air pollution before it has been constructed and has begun operation rather than after. Nevertheless, there is a need to accommodate sources which, for legitimate business reasons, have constructed and begun operation as minor sources, but later discover that they now do, or in the future will, emit air pollutants at levels that will require them to be treated as major. In those

Copr. (C) West 1996 No claim to orig. U.S. govt. works

54 FR 27274-01

PAGE 3

(Cite as: 54 FR 27274, \*27281)

circumstances, postconstruction review is unavoidable, and the "source obligation" regulations in 40 CFR 52.21(r)(4) and elsewhere are designed to fulfill this need.

At the same time, in keeping with the general legislative purpose, it is necessary that EPA take steps to prevent owners or operators from turning the statutory scheme on its head by using federally enforceable minor source permits in a manner inconsistent with the statute and with EPA's intention. In particular, EPA must discourage sources that would manipulate the NSR system by improperly obtaining minor status for a new source or modification. This could occur, for example, where the owner or operator's purpose is, from the start, to construct a new source or modification that would not be economically viable for any appreciable period of time if it were restricted to emitting at minor levels. If the source could construct, and even begin operation, under a minor source permit, and shortly thereafter obtain a postconstruction PSD or nonattainment permit when it is convenient to exceed minor emissions levels, with no possibility of other sanctions, it might encourage many owners or operators to proceed in this fashion. The result would be that the exception--postconstruction review in narrow, unavoidable circumstances--could swallow the general rule of preconstruction review. This result was not intended by Congress or EPA, and cannot be allowed.

It is not possible to set forth, in detail, the circumstances in which EPA considers an owner or operator to have evaded preconstruction review in this way, and thus subjected itself to enforcement sanctions under sections 113 and 167 from the beginning of construction. This is ultimately a question of intent. However, EPA will look to objective indicia to establish that intent. For example, if an application for a Federal PSD permit is filed at or near the same time as a State minor source permit, EPA will carefully scrutinize the transaction. The EPA will also look carefully at the economic realities surrounding a transaction. For instance, where it appears obvious that a proposed source or modification, by its physical and operational design characteristics, could not economically be run at minor source levels for an appreciable length of time, EPA will take notice. Examples include the construction of an electric power generating unit, which by its nature can only be economical if it is used as a base-load facility, that is proposed to be operated as a peaking unit, and the construction of a manufacturing facility with a physical capacity far greater than the limits specified in a minor source permit. The EPA may consider how a project's projected level of operation was portrayed to lending institutions, and may examine other records concerning projected demand or output. Significant discrepancies between operating levels as portrayed in these documents and operating restrictions in a minor source permit would justify consideration of enforcement action.

The EPA wants to emphasize, that under the third enforcement option, it does not generally seek monetary penalties, or any remedies other than those provided in the "source obligation" regulations, except in those cases where it believes it could show to the satisfaction of a court that a source owner or operator had obtained a minor source permit with the purpose of obtaining, after construction, a major source permit, so as to evade preconstruction review. The EPA in no way seeks to discourage or intends to penalize those owners or operators who accept emissions limitations in pursuit of legitimate business purposes, and who in good faith later seek a relaxation of those

Copr. (C) West 1996 No claim to orig. U.S. govt. works

54 FR 27274-01

PAGE 4

(Cite as: 54 FR 27274, \*27281)

limitations. As discussed above, the "source obligation" regulations and section 113 enforcement sanctions (for any period in which minor source permit limits are actually exceeded) provide a complete remedy in those situations.

There is no need to revise the text of the NSR rules to explicitly provide for this third enforcement option. The "source obligation" regulations do not by their terms preclude--or even address--the issue of civil penalties or other enforcement action under sections 113 and 167. Similarly, it is not necessary to specify in the definitional provisions that a minor source permit obtained in order to evade the Act's preconstruction review requirements is invalid for the purpose of "federally enforceable" limitations on a source's "potential to emit," and cannot be used as a shield against enforcement action. Implicit in any regulatory scheme is the unwillingness to countenance fraud, misrepresentation, or other misuse, particularly where the result would contravene the underlying statutory or regulatory purposes. Today's action clarifies the purposes served by the EPA regulations in question and outlines the circumstances in which their misuse may lead to enforcement action. [FN23]

FN23 Today's action also serves to clarify that EPA never intended that the source obligation regulations would serve to insulate a source owner or operator from penalties or other enforcement sanctions in cases of fraud or other misuse involving minor source permits. Any contrary interpretation that might be drawn from the preamble to the 1980 regulations (see 45 FR 52689) is thus inaccurate, and is hereby rejected.

## VI. State Operating Permit Program

### A. Introduction

As noted above, today's final action includes clarification of EPA's policy on implementing its definition of Federal enforceability. Under this policy clarification, all terms and conditions contained in State operating permits will be considered federally enforceable, provided that the State's operating permit program is approved by EPA and incorporated into the applicable SIP under section 110 of the Act, and provided that the operating permit meets certain requirements. [FN24] This clarification of the Federal enforceability definition can minimize the time and expense required to obtain federally enforceable limitations. The EPA believes that by encouraging States to adopt federally enforceable operating permit programs, EPA has largely satisfied certain objections to the current definition of "federally enforceable" voiced by industry commenters.

Copr. (C) West 1996 No claim to orig. U.S. govt. works





# Department of Environmental Protection

Lawton Chiles  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Virginia B. Wetherell  
Secretary

March 7, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. David B. Jellerson, P.E.  
Environmental Superintendent  
Cargill Fertilizer, Inc.  
P.O. Box 9002  
Bartow, Florida 33830

Dear Mr. Jellerson:

Pursuant to Cargill's request and as a result of construction delays, the Department hereby extends the expiration date of construction permit ~~AC53-262532~~ (No. 5 DAP) as indicated below:

FROM: June 30, 1996

TO: June 30, 1997

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative proceeding (hearing) in accordance with Section 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Petitions filed by the permit applicant and the parties listed below must be filed within 14 days of receipt of this intent. Petitions filed by other persons must be filed within 14 days of publication of the public notice or within 14 days of their receipt of this intent, whichever first occurs. Petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, F.S.

The Petition shall contain the following information;

- (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department Permit File Number and the county in which the project is proposed;
- (b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;
- (d) A statement of the material facts disputed by Petitioner, if any;
- (e) A statement of facts which petitioner contends warrant

Z 127 633 178



**Receipt for Certified Mail**

No Insurance Coverage Provided  
Do not use for International Mail  
(See Reverse)

Sgt to David Ruff	
Special Item No. KBN Eng. & A.S.	
P.O., State and ZIP Code Gainesville, FL	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	3-4-96
AC 29-238303 #5 DAP	

PS Form 3800, March 1993

Is your RETURN ADDRESS completed on the reverse side?

<b>SENDER:</b> • Complete items 1 and/or 2 for additional services. • Complete items 3, and 4a & b. • Print your name and address on the reverse of this form so that we can return this card to you. • Attach this form to the front of the mailpiece, or on the back if space does not permit. • Write "Return Receipt Requested" on the mailpiece below the article number. • The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to David A. Ruff, P.E. KBN Eng. & Applied Sc. 6241 NW 23rd St. Suite 500 Gainesville, FL 32653-1500		4a. Article Number Z 127 633 178	
5. Signature (Addressee) Mary Remont		4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise	
6. Signature (Agent) C. Smith		7. Date of Delivery 3-7-96	
		8. Addressee's Address (Only if requested and fee is paid)	

Thank you for using Return Receipt Service.



# Department of Environmental Protection

Lawton Chiles  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Virginia B. Wetherell  
Secretary

March 4, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. David A. Buff, P.E.  
KBN Engineering And Applied Sciences, Inc.  
6241 Northwest 23rd Street - Suite 500  
Gainesville, Florida 32653-1500

RE: Modification/Extension of AC29-238303 (No. 5 DAP Plant)  
Cargill Fertilizer, Inc.

Dear Mr. Buff:

This is in response to your January 19 letter requesting an extension of the referenced construction permit and mentioning a change in the scrubbing medium from the standard once-through cooling pond water to an isolated scrubber pond water recirculation system using cooling pond water as makeup.

Since the fee for processing these requests was not received until February 14, that will be the effective receipt date for the Department's review. The extension is being handled separately.

For the scrubber water proposal, though no increase in the fluoride emission limit is requested, a determination of any actual emission increase should be made. Since fluoride concentration may build to a higher level in an unneutralized dedicated scrubber pond, permit conditions may have to be added for monitoring and neutralization. Please address this concern and show calculations as necessary to estimate the change in actual fluoride emissions.

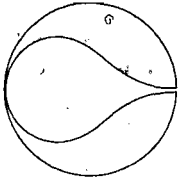
Please call John Reynolds at 904/488-1344 if you have any questions regarding this letter.

Sincerely,

A. A. Linero, P.E.  
Administrator  
New Source Review Section

AAL/JR

cc: B. Thomas, SWD  
J. Campbell, EPCHC  
D. Jellerson, Cargill



**CARGILL  
FERTILIZER, INC.**

3755  
2222 ?

228168

8813 Highway 41 South - Riverview, Florida 33569 - Telephone 813-677-9111 - TWX 810-876-0648 - Telex 52666 - FAX 813-671-6146

Certified Mail: P 204 944 968

February 8, 1996

C.H. Fancy, P.E.  
Bureau of Air Regulation  
Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

Dear Mr. Fancy:

Re: Cargill Fertilizer, Inc. - Tampa Plant  
#5 DAP Request for permit modification  
AIRS No. 0570008; Emission Unit ID 055

This letter is in response to your letter dated January 23, 1996 requesting a fee of \$200.00 to process the above-referenced permit modification. Please find enclosed a check in the amount of \$200 to Florida Department of Environmental Protection (check #577231056). If you have any questions please contact me at (813) 671-6369.

Sincerely,

Kathy Edgemon  
Environmental Engineer

cc: Morris  
File P-30-33-1

**RECEIVED**

**FEB 14 1996**

**MAILROOM # 2**



recycled paper



Z 127 633 151



Receipt for Certified Mail  
No Insurance Coverage Provided  
Do not use for International Mail  
(See Reverse)

Sent to	
David Jellerson	
Street and No.	
Cassell Feet.	
P.O. State and ZIP Code	
Baton, FL	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	1-23-96
AC79-238303 #5 DAP	

PS Form 3800, March 1993

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

Is your RETURN ADDRESS completed on the rev

3. Article Addressed to:  
David B. Jellerson, PE  
Cassell Feet  
PO Box 9002  
Baton, FL  
33830

4a. Article Number  
Z 127 633 151

4b. Service Type  
 Registered  Insured  
 Certified  COD  
 Express Mail  Return Receipt for Merchandise

7. Date of Delivery  
1-25-95

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)  
K. Peckard

Thank you for using Return Receipt Service.

ON RECEIPT



# Department of Environmental Protection

Lawton Chiles  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Virginia B. Wetherell  
Secretary

January 23, 1996

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Mr. David B. Jellerson, P.E.  
Environmental Superintendent  
Cargill Fertilizer, Inc.  
P. O. Box 9002  
Bartow, Florida 33830

RE: Cargill Fertilizer, Riverview, Florida  
AC29-238303, No. 5 DAP Plant

Dear Mr. Jellerson:

The Bureau of Air Regulation received your January 29, 1996, request to amend the above referenced permit. Rule 17-4.050(4)(o), F.A.C., requires a \$250 processing fee for a permit amendment. Since you have a \$50 credit from a previous request, we will not be able to begin processing your request until an additional \$200 is received. If you have any questions, please call Patty Adams at (904)488-1344.

Sincerely,

*for Patricia G. Adams*  
C. H. Fancy, P.E.  
Chief  
Bureau of Air Regulation

CHF/pa

cc: D. Buff, P.E.  
J. Reynolds



January 19, 1996

Mr. John Reynolds  
Air Permitting Engineer  
Florida Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

**RECEIVED**

**JAN 22 1996**

**BUREAU OF  
AIR REGULATION**

Re: Cargill Fertilizer, Riverview, Florida  
AC29-238303; No. 5 DAP Plant

Dear Mr. Reynolds:

Cargill Fertilizer, Inc., was issued an air construction permit on April 4, 1994, to replace the existing granulator and reactor/granulator (RG) scrubber in the No. 5 DAP plant at the Riverview facility. The construction permitted under this permit has not yet begun (i.e., the replacement of the granulator and R/G scrubber), but is projected to begin in 1996. The purpose of this correspondence is to advise the Department of an additional change in the No. 5 DAP plant. This change involves the use of recirculated pond water in the two plant tail gas scrubbers.

The current operation of the two plant tail gas scrubbers (the RGCE tail gas scrubber and the dryer tail gas scrubber) is to use up to 4,200 gpm total of single-pass pond water for both scrubbers. The two scrubbers are supplied pond water through a single water supply system. Cargill is proposing to change the present system to a recirculating pond water system, i.e., the pond water collected in the scrubbers will be recirculated back to the scrubbers. Fresh pond water will be added as needed to maintain the minimum water flow rate.

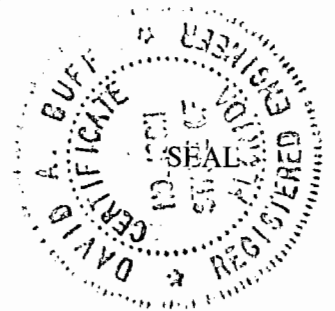
This change will not affect the maximum emission rates contained in permit AC29-238303. Cargill expects the changed system to comply with all permit conditions.

Cargill would also like to request an extension of the expiration date of the permit. The current expiration date is June 30, 1996. Since construction on the granulator has not yet begun, a 1-year extension to June 30, 1997 is requested. This will allow time for construction, startup, and compliance testing.

Please call if you have any questions concerning this request.

Sincerely,

David A. Buff, P.E.  
Professional Engineer #19011



DAB/vjp

cc: David Jellerson, Cargill; Kathy Edgemon, Cargill; Ben Kalra, HCEPC  
Jim McDonald, FDEP Tampa  
File (2)

15227A/2

KBN ENGINEERING AND APPLIED SCIENCES, INC.

6241 Northwest 23rd Street  
Suite 500  
Gainesville, Florida 32653-1500  
352-336-5600 FAX 352-336-6603

5405 West Cypress Street  
Suite 215  
Tampa, Florida 33607  
813-287-1717 FAX 813-287-1716

1801 Clint Moore Road, Suite 105  
Boca Raton, Florida 33487  
407-994-9910  
FAX 407-994-9393

7785 Baymeadows Way  
Suite 105  
Jacksonville, Florida 32256  
904-739-5600 FAX 904-739-7777

1616 'P' Street NW, Suite 350  
Washington, DC 20036  
202-462-1100  
FAX 202-462-2270