

# Department of Environmental Protection

Jeb Bush  
Governor

Southwest District  
3804 Coconut Palm Drive  
Tampa, Florida 33619

David B. Struhs  
Secretary

## NOTICE OF PERMIT AMENDMENT

### CERTIFIED MAIL

Mr. Richard Krakowski  
Vice President and General Manager  
IMC Phosphate Company  
P.O. Box 2000  
Mulberry, FL 33860-1100

Dear Mr. Krakowski:

Re: Air Construction Permit Amendment Request, dated July 21, 2000  
**Project:** Company Name Change from IMC-Agrico Company to IMC Phosphates Company (*ARMS Project 1050059-0032*)  
**Location:** New Wales Facility (*Facility ID 1050059*)  
**Affected Permit Nos.:** 1050059-024-AC (PSD FL-244), 1050059-029-AC

On July 25, 2000 the Department received the referenced request to change the company name for the two (2) current construction permits for the IMC Phosphates Company New Wales facility. The Department hereby amends air construction permits 1050059-024-AC (PSD FL-244), 1050059-029-AC as follows:

Page 1 - PERMITTEE; and in header on Pages 2-6 for 1050059-029-AC:

### Change From:

IMC-Agrico Company

### To:

IMC Phosphates Company

\* \* \* \* \*

Procedures for administrative hearing and variance/waiver are described below.

## IMC Phosphates Company

### Administrative Hearing

This permit is final agency action unless a timely petition for 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.

A person whose substantial interests are affected by the proposed permitting decision 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 fourteen 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 fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, 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 fourteen 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.

## IMC Phosphates Company

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.

### Variance/Waiver

In addition to the above, a person subject to regulation has a right to apply for a variance from or waiver of the requirements of particular rules, on certain conditions, under section 120.542 F.S.. The relief provided by this state statute applies only to state rules, not statutes, and not to any federal regulatory requirements. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have in relation to this permit.

The application for a variance or waiver is made by filing a petition with the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. The petition must specify the following information:

- (a) The name, address, and telephone number of the petitioner;
- (b) The name, address, and telephone number of the attorney or qualified representative of the petitioner, if any;
- (c) Each rule or portion of a rule from which a variance or waiver is requested;
- (d) The citation to the statute underlying (implemented by) the rule identified in (c);
- (e) The type of action requested;
- (f) The specific facts that would justify a variance or waiver for the petitioner;
- (g) The reason why the variance or waiver would serve the purposes of the underlying statute (implemented by the rule); and
- (h) A statement whether the variance or waiver is permanent or temporary and, if temporary, a statement of the dates showing the duration requested.

The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of those terms is defined in section 120.542(2) of the Florida Statutes, and that the purpose of the underlying statute will be or has been achieved by other means by the petitioner.

Persons subject to regulation pursuant to any federally delegated or approved air program should be aware that Florida is specifically not authorized to issue variances or waivers from any requirements of any such federally delegated or approved program. The requirements of the program remain fully enforceable by the Administrator of EPA and by the person under the Clean Air Act unless and until Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

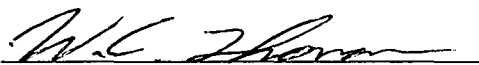
IMC Phosphates Company

This permit amendment is final agency action unless a timely petition for administrative hearing is filed pursuant to sections 120.569 and 120.57 F. S., before the deadline for filing a petition. Upon timely filing of a petition or a request for an extension of time to file the petition, this permit will not be effective until further Order of the Department.

When the Order (Permit) is final, any party to the Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes, 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 Office of General Counsel, Douglas Building, 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 of Appeal must be filed within 30 days from the date the Final Order is filed with the Clerk of the Department.

Executed in Tampa, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
W.C. Thomas, P.E.  
District Air Program Administrator

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copy to:

Al Linero, FDEP DARM/BAR, New Source Review Section, Tallahassee  
(regarding BAR issued construction permit 1050059-024-AC (PSD FL-244))

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this NOTICE OF PERMIT AMENDMENT was sent by certified mail and copies were mailed by U.S. Mail before the close of business on AUG 29 2000 to the listed persons, unless otherwise noted.

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

  
Clerk

AUG 29 2000  
Date