



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502  
www.deq.idaho.gov

C.L. "Butch" Otter, Governor  
John H. Tippets, Director

**JUL 24 2015**

**VIA CERTIFIED MAIL**

Jim McCulloch  
P4 Production, LLC  
P.O. Box 816  
Soda Springs, Idaho 83276-0816

RE: Signed Compliance Agreement Schedule, P4 Production, LLC,  
Facility ID No. 029-00001

Dear Mr. McCulloch:

Enclosed is a signed copy of the Compliance Agreement Schedule to address future compliance issues at the P4 Production, LLC facility located in Soda Springs. We appreciate your cooperation in resolving this matter in a timely and reasonable manner.

If you have any questions, please contact me at (208) 373-0502 or via email at [Steve.Bacom@deq.idaho.gov](mailto:Steve.Bacom@deq.idaho.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Bacom", is written over the word "Sincerely,".

Steve D. Bacom  
Compliance and Enforcement Coordinator, Air Quality Division

Enclosure (1) P4 PRODUCTION LLC (TV FACILITY) Revised CAS Form (2015AAJ226[v3])

Case No. E-2015.0010

2015AAJ316

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF

P4 Production, LLC	)	<b>COMPLIANCE AGREEMENT</b>
1853 Hwy 34 North	)	<b>SCHEDULE</b>
Soda Springs, Idaho 83276	)	Idaho Code §39-116A
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1. Pursuant to the Idaho Environmental Protection and Health Act (EPHA), Idaho Code Section 39-116A, the Department of Environmental Quality (Department) enters into this Compliance Agreement Schedule (CAS) with P4 Production, LLC (P4). P4 owns and operates an air pollution source that produces elemental phosphorus from phosphate-containing ore in Soda Springs, Idaho.
2. In April 2011 rules addressing mercury emissions became effective at IDAPA 58.01.01.006.67, 215 and 401.02.a.ii.

Subsection 401.02.a.ii. states:

*“A Tier II operating permit is required for any stationary source or facility which:*

- ii. Has annual actual mercury emissions in excess of sixty-two (62) pounds. Fugitive emissions shall not be included in a determination of the actual mercury emissions. The owner or operator of the stationary source or facility shall submit a Tier II permit application for review and approval by the Department, no later than twelve (12) months after becoming subject to Subsection 401.02.a.ii, that includes an MBACT analysis for all sources that emit mercury. A determination of applicability under Subsection 401.02 shall be based upon best available information. An MBACT analysis for review and approval by the Department shall be included in a Tier II renewal application for any mercury emissions source not otherwise subject to MBACT.”*

MBACT is defined at IDAPA 58.01.01.006.67 as:

*“Mercury Best Available Control Technology (MBACT). An emission standard for mercury based on the maximum degree of reduction practically achievable as specified by the Department on an individual case-by-case basis taking into account energy, economic and environmental impacts, and other relevant impacts specific to the source. A Department approved MBACT shall be valid until the source subject to the MBACT is modified. If the proposed modification to the source subject to MBACT occurs within ten (10) years of the MBACT determination, a new MBACT review shall not be triggered as long as the source can meet the existing MBACT requirements. If the proposed modification occurs more than ten (10) years after the MBACT determination, then the proposed modification shall be subject to a new MBACT review.”*

3. Because P4 emits more than 62 pounds of mercury, on April 9, 2012, P4 submitted a Tier II operating permit application with an MBACT analysis to the Department pursuant to subsection 401.02.a.ii. Mercury emissions originate from raw material used in the kiln process and are emitted from the hydrosonic scrubber stacks. For more detail see the Tier II Statement of Basis (SOB) attached as Exhibit A at pages 5 and 6. P4’s MBACT analysis is summarized in Table 4 of the SOB. Exhibit A at page 8. The two technologies P4 identified as technically feasible are 1) calcium bromide injection followed by activated carbon injection (ACI) with the addition of a baghouse; and 2) bromated activated carbon injection (BACI) with the addition of a baghouse as discussed on pages 8 through 10, while those identified as technically infeasible are discussed on pages 10 through 12.
4. The Department accepted P4’s assertion that existing control equipment constitutes MBACT and that a 12 month rolling average of 746.4 pounds per any consecutive 12 month period is the MBACT standard. Exhibit A at page 12. See also section 2.3 of the Tier II Operating Permit issued March 4, 2014, which is attached as Exhibit B. The annual mercury limit of 746.4 pounds was derived from an emissions test conducted in 2002.

5. Section 2.7 of the Permit requires mercury source tests and corresponding monitoring and recordkeeping requirements. From the source test results P4 is to:

*“Develop a mercury emission factor in units of pounds of total mercury emitted per ton of kiln input; and calculate the allowable kiln throughput per each consecutive 12 calendar month period that will not exceed 746.4 pounds of mercury emitted per any consecutive 12 calendar month period. The kiln throughput limited shall be calculated using the mercury emission factor in pounds of total mercury per ton of kiln input developed by the most recent emission test unless approve otherwise in writing by DEQ. The permittee shall maintain a copy of the source test reports and calculations on-site and make them available to DEQ representatives upon request.”*

6. P4 conducted the source testing required under section 2.7 in August of 2014 and discovered mercury emissions were much higher than anticipated. See Exhibit C which is a letter dated March 5, 2015 to the Department discussing the results of the test. P4 also intended that the March 5, 2015 letter constitute a Permit application request to update the MBACT analysis and amend the current Permit to provide for a mercury emission limit of 2205.4 pounds per year. Exhibit C, page 1, first paragraph. The Department found P4’s application incomplete and P4 submitted additional information by letter dated April 17, 2015, a copy of which is attached as Exhibit D.
7. The Parties agree that due to the unique characteristics of P4’s phosphate nodulizing kiln, additional time is needed to research, analyze, install and test available mercury control technologies.
8. With the current kiln throughput limit at 746.4 pounds of mercury emissions per rolling 12 months, P4 would be required to curtail operation of the kiln sometime in August 2015. A modified or revised Tier II permit with the potential installation of additional mercury controls will not be completed by August 27, 2015. Consequently to avoid production curtailment at the facility and to allow additional time to complete the necessary work, so long as P4 complies with the terms and conditions of the Compliance Agreement Schedule, the Department agrees to exercise enforcement discretion and not take an action against P4 for exceeding the rolling annual mercury emission limit pending issuance of a revised Tier II incorporating the mercury controls (i.e., devices and/or technologies) and management practices that P4 employs to comply with section 10 of this CAS.
9. P4 hereby agrees to the provisions of this CAS and the following terms and actions to be completed by the schedule set forth below:

10. In order to resolve the rolling annual mercury emission limit issue noted above, P4 shall install additional mercury controls (i.e., devices, technologies and/or management practices) required to reduce mercury emissions from the kiln stacks to meet a DEQ approved revised MACT emission limit incorporated into the modified or revised Tier II permit described in Section 8 of this CAS.
11. The requirements of section 10 of this CAS are subject to the following milestones and deadlines:
  - A. Within 90 days of the effective date of this CAS, P4 shall submit a corrective action plan (CAP) to the Department for review and approval, which outlines the specific activities and schedule that P4 will undertake to analyze, design, select, and test the mercury controls and management practices listed in pages 8 through 10 of Exhibit A and/or any other newly discovered technologies that P4 will employ to comply with section 10 of this CAS;
  - B. Within 18 months of DEQ approval of the CAP as provided in Section 12 of this CAS, P4 shall submit one of the following applications:
    - i. In the event a modification as defined in IDAPA 58.01.01.006.68 is required to comply with the requirements of Section 10 of this CAS, P4 shall submit an application to modify the Tier II permit pursuant to IDAPA 58.01.01.401.02.a.ii or 03.b; or
    - ii. In the event no modification is required to comply with the requirements of Section 10 of this CAS, P4 shall submit an application for a revision to the Tier II permit pursuant to IDAPA 58.01.01.404.04 to incorporate any revised terms or conditions required to comply with Section 10 of this CAS.
  - C. P4 shall propose an installation and operation schedule in the application to modify or revise the Tier II permit referenced in Section 11.B of this CAS.
12. DEQ will review P4's CAP. In the event that DEQ requires additional information and/or revisions to the CAP, P4 shall submit the requested information and/or revisions within 30 days of the receiving a written request from DEQ. DEQ will approve P4's CAP once it has received all the necessary requested information and/or revisions.
13. P4 shall implement the DEQ approved CAP in accordance with the prescribed and approved methods and schedules. The CAP shall be incorporated into this CAS by reference and shall be enforceable hereof.

14. If P4 fails to comply with any of the specific requirements appearing under Sections 10 through 13 of this CAS, then P4 shall be in violation of this CAS and subject to stipulated penalties and/or other remedies referenced under Sections 15 and 20 of this CAS for each violation and each day of violation.
15. **STIPULATED PENALTIES**
- A. In the event that P4 fails to comply with any of the requirements appearing in this CAS, P4 shall be in violation of this CAS and subject to a One Thousand Dollar (\$1,000) stipulated penalty for each violation and each day of violation as referenced in Section 14 of this CAS.
- B. The stipulated penalty payment shall be made within 30 days of receiving a written request from the Department.
- C. Payment of the stipulated penalty under this Section shall not relieve P4 of any of its obligations under this CAS, and does not preclude the Department from seeking any other relief available under law as outlined in Section 20 of this CAS.
16. All correspondence sent by P4 to DEQ regarding this CAS shall be addressed to:
- Steve D. Bacom, Air Quality Compliance and Enforcement Coordinator  
Department of Environmental Quality  
1410 North Hilton  
Boise, Idaho 83706
17. All correspondence sent by DEQ to P4 regarding this CAS shall be addressed to:
- Jim McCulloch  
P4 Production, LLC  
P.O. Box 816  
Soda Springs, Idaho 83276-0816
18. This CAS shall not relieve P4 from its obligation to comply with any of the provisions of EPHA, the Rules, any provision of an air quality permit issued by DEQ to P4, or other applicable local, state, or federal laws and regulations.
19. This CAS shall bind P4, its successors and assigns until such time as the terms of the CAS are met and DEQ terminates the CAS in writing.
20. P4 expressly recognizes that failure to comply with the terms of this CAS may result in a district court action for specific performance of the CAS, civil penalties, assessment of costs, restraining orders, injunctions, and other relief available under law.

21. If any event occurs that causes, or may cause, delay in the achievement of any requirement of this CAS, P4 shall notify DEQ in writing within 15 days of the date P4 knew, or should have known, of the delay.

Any notice under this paragraph shall describe in detail the anticipated length of the delay, all anticipated consequences of the delay, measures taken by P4 to prevent or minimize the delay, and a timetable by which those measures shall be implemented.

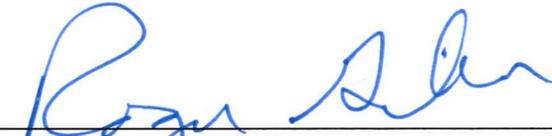
P4 shall utilize all reasonable measures to avoid or minimize any such delay. If DEQ determines that the delay or anticipated delay in achieving any requirements of this CAS has been or will be caused by circumstances beyond the reasonable control of P4, DEQ may grant an extension for a period equal to the length of the delay.

The burden of proving that any delay is caused by circumstances beyond the reasonable control of P4 shall rest wholly with P4.

22. A waiver by DEQ of any provision, term, condition, or requirement of this CAS shall not constitute a waiver of any other provision, term, condition, or requirement.
23. DEQ and P4 represent and warrant that each has the authority to enter into this CAS and to take all actions provided for herein, and no further action or authorization is required.
24. In case any provision or authority of this CAS or the application of this CAS to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the CAS shall remain in force and shall not be affected thereby.

25. The effective date of this CAS shall be the date of the signature by the Director of the Department of Environmental Quality.

DATED THIS 14<sup>th</sup> day of July, 2015

  
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**ROGER GIBSON**  
Vice President of Operations, Authorized Representative of P4 Production, LLC

*mms*

DATED THIS 23<sup>rd</sup> day of July, 2015

  
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**JOHN H. TIPPETS**  
Director, Department of Environmental Quality