

IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF

P4 Production, LLC  
1853 Highway 34  
Soda Springs, Idaho 83276

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COMPLIANCE  
AGREEMENT SCHEDULE  
Idaho Code § 39-116A

FINDINGS AND CONCLUSIONS

1. Pursuant to the Idaho Environmental Protection and Health Act (EPHA), Idaho Code §§ 39-108 and 39-116A, the Department of Environmental Quality (DEQ) enters into this Compliance Agreement Schedule (CAS) with P4 Production, LLC.
2. As listed on Secretary of State's website, P4 Production, LLC is registered to do business in Idaho and owns and operates an elemental phosphorus manufacturing facility located at 1853 Highway 34, Soda Springs, Idaho, 83276 (DEQ Facility ID No. 029-00001). P4 Production, LLC will be referred to as "P4". In the context of transfer of ownership, the assets located at the P4 facility address will be referred to as the "Facility Property" (see CAS Paragraphs 26 and 27).
3. P4 is an air pollution source regulated under EPHA and the Idaho Administrative Procedures Act (IDAPA), [Rules for the Control of Air Pollution in Idaho](#) (Rules). The P4 facility is classified as an Environmental Protection Agency (EPA) Clean Air Act Major Source due to the facility's potential to emit sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), particulate matter with an aerodynamic diameter of less than or equal to 2.5 and 10 micrometers (PM<sub>2.5</sub>/PM<sub>10</sub>), and volatile organic compounds (VOCs) above the Major Source threshold of 100 tons per year. The facility operates under Tier I operating permit T1-2020.0029, issued December 23, 2021.
4. Pursuant to 40 CFR, Part 51, Subpart P, § 308 "Protection of Visibility" (Subpart P) and IDAPA 58.01.01.665-667 "Regional Haze Rules", DEQ is required to develop and implement air quality protection plans to reduce pollution attributable to the formation of haze at national parks and wilderness areas known as Mandatory Class I Federal Areas. According to Subpart P, § 308(f)(2), DEQ must evaluate four factors to determine whether specific control measures are reasonable and should be included in an updated long-term strategy.
5. On August 7, 2019, P4 was notified that the facility's nodulizing kiln was selected for a four factor analysis for PM<sub>10</sub>, SO<sub>2</sub>, and NO<sub>x</sub>.

6. On December 2, 2019, P4 submitted its four factor analysis to DEQ. According to the analysis, the most effective controls are already in place for SO<sub>2</sub> and PM<sub>2.5</sub>/PM<sub>10</sub>. Furthermore, no new controls were deemed technically feasible for NO<sub>x</sub>.
7. On September 3, 2021, DEQ notified P4 of the agency's concurrence that no feasibly cost effective control technologies were identified in the facility's four factor analysis; therefore, it was not reasonable for DEQ to require additional controls for the current regional haze planning period.
8. On May 30, 2023, DEQ met with P4 to discuss incorporation of the nodulizing kiln's permitted SO<sub>2</sub> and PM<sub>10</sub> emission limits into Idaho's Regional Haze State Implementation Plan (SIP). According to the discussion, DEQ has determined that a Permit to Construct (PTC) modification will be pursued to also establish a NO<sub>x</sub> emission limit for the nodulizing kiln. The respective modified PTC will be incorporated into the SIP. In furtherance of establishing a new NO<sub>x</sub> emission limit, P4 has agreed to implement a sequence of performance tests. Furthermore, P4 agreed that the plan will be memorialized in an enforceable CAS between DEQ and the facility. The plan involves conducting monthly NO<sub>x</sub> performance testing on the nodulizing kiln over the course of 12 months. In an effort to determine general consistency, the contemporary dataset will be cross referenced and combined with data created in 2002–2003. Ultimately, the proposed testing plan seeks to provide a more complete representation of process variability, including the influence of ambient temperature, kiln feed chemistry, and moisture variation. Measurements will be taken using a 42IQ analyzer. The analyzer will be calibrated each month using standard EPA Method 7E calibration gas. The NO<sub>x</sub> emission limit will be represented by the average of all the sample data (including 2002–2003 sample data), plus three standard deviations.

## AGREEMENT SCHEDULE

9. By November 30, 2023, P4 will submit a performance test protocol for DEQ review and approval. Testing will be conducted over a 12-month time series.
10. By December 30, 2023, DEQ will review the submitted test protocol and provide full written approval, provisional approval, or a disapproval of the test protocol, pending resolution of outstanding action items.
11. By February 1, 2024, or 30 days after final written approval of the test protocol, whichever is later, P4 will commence the 12-month NO<sub>x</sub> emission testing trial on the nodulizing kiln according to the DEQ-approved test protocol.
12. By February 15, 2025, or 15 days following completion of the 12-month NO<sub>x</sub> emission testing period conducted under the DEQ-approved protocol, whichever is later, P4 will submit a NO<sub>x</sub> emissions test report to DEQ for review and approval. The test report will

include a proposed annual NO<sub>x</sub> emission limit in tons per year based on the average of all sampled data (including 2002–2003 sample data) and three standard deviations. DEQ approval of the test report will include approval of the proposed value for the newly established NO<sub>x</sub> emission limit.

13. By March 15, 2025, or 30 days after DEQ approves the test report, whichever is later, P4 will submit a PTC application to revise PTC No. P-2012.0055 to include a NO<sub>x</sub> emission limit.

## INSPECTIONS

14. Pursuant to Idaho Code § 39-108 and this CAS, DEQ may conduct investigations or inspections determined necessary by DEQ to verify compliance with all applicable requirements in this CAS.

## CORRESPONDENCE

15. All correspondence sent by P4 to DEQ regarding this CAS must be addressed to:

- Mary Anderson  
DEQ State Office Air Quality Planning Bureau Chief  
1410 N Hilton Street  
Boise, ID 83706  
Office Phone: (208) 373-0202  
[mary.anderson@deq.idaho.gov](mailto:mary.anderson@deq.idaho.gov)
- Melissa Gibbs  
DEQ Pocatello Regional Office Air Quality Manager  
444 Hospital Way Suite 300  
Pocatello, ID 83201  
Office Phone: (208) 239-5022  
[melissa.gibbs@deq.idaho.gov](mailto:melissa.gibbs@deq.idaho.gov)
- Emanuel Ziolkowski  
DEQ State Office Air Quality Compliance Assurance Program Supervisor  
1410 N Hilton Street  
Boise, ID 83706  
Office Phone: (208) 373-0102  
[emanuel.ziolkowski@deq.idaho.gov](mailto:emanuel.ziolkowski@deq.idaho.gov)

16. All correspondence sent by DEQ to P4 regarding this CAS should be addressed to:

- Vikranth Michael  
P4 Production LLC, Site Manager  
1853 Highway 34  
Soda Springs, ID 83276  
(208) 547-1201  
[vikranth.michael@bayer.com](mailto:vikranth.michael@bayer.com)

## DOCUMENT SUBMITTALS

17. Unless a different process is specified herein or in rule or statute, the following document submittal and review process (Submittal Review Process) will be followed regarding document submittals required by this CAS. This process must be followed until DEQ approves the document, or the document review timeframe expires, whichever comes first.
- A. After receipt of a submittal from P4, DEQ will 1) notify P4 in writing that the document is approved, or 2) notify P4 in writing of any deficiencies in the document. If DEQ notifies P4 of deficiencies in the document, P4 must submit a revised document to resolve those deficiencies within 30 calendar days of receipt of DEQ's notice.
  - B. The Submittal Review Process may be repeated until DEQ notifies P4 the document is approved. However, the submittal must receive DEQ's approval within 180 calendar days from the due date for the first submittal of the document, unless DEQ provides P4 with a written extension of the 180 calendar day timeframe. The failure of P4 to obtain DEQ approval of a submittal within such timeframes will constitute a violation of this CAS.
  - C. If the date on which a submittal or other communication is due falls on a Saturday, Sunday, or federal holiday, the submission deadline is the next business day.
  - D. Each document approved by DEQ under the Submittal Review Process, or otherwise submitted and approved pursuant to this CAS, is incorporated into and enforceable as a part of this CAS.
  - E. All submittals required of P4 pursuant to this CAS must be submitted to DEQ only in electronic format.

## STANDARD PROVISIONS

18. This CAS does not relieve P4 from its obligation to comply with any of the provisions of EPHA, any provision of an air permit issued by DEQ to P4, or other applicable local, state, or federal laws and regulations.
19. This CAS binds P4 and its successors and assignees to this CAS, until the terms of the CAS are met to DEQ's satisfaction, and DEQ terminates it in writing.
20. If P4 fails to comply with the terms of this CAS, DEQ may seek and obtain, in any appropriate district court, specific performance of the CAS and other relief as authorized in the EPHA.
21. If any event occurs that causes or may cause delay in the achievement of any requirement of this CAS, P4 must notify DEQ in writing within ten calendar days of the date P4 knew, or should have known, of the delay.
  - A. Any notice under this paragraph will describe in detail the date of the event that causes or may cause the delay, the event that causes the delay, 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 will be implemented.
  - B. P4 will use 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.
  - C. The burden of proving that any delay is caused by circumstances beyond the reasonable control of P4 rests wholly with P4.
22. If P4 wishes to seek an extension of any deadline contained in this CAS, it must make a written request to DEQ. The written extension request must explain the reasoning for the request and state the length of extension requested. Any extension provided by DEQ will be in writing, in response to the request.
23. If P4 violates the terms of this CAS, DEQ will provide written notice to P4 describing the violation. No later than ten calendar days after receiving the notification, P4 must reply to DEQ in writing to explain the violation and provide a date in which the violation will be cured, to DEQ's satisfaction.

24. A waiver or decision by DEQ to not enforce any provision, term, condition, or requirement of this CAS does not constitute a waiver of any other provision, term, condition, or requirement.
25. Each person signing this CAS certifies they have the authority to sign for the party represented and to bind that party to its terms.
26. 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 will remain in force and will not be affected.
27. If P4 sells, offers for sale, or otherwise transfers ownership of the Facility Property (or any portion thereof) before termination of this CAS and termination thereof, P4 must notify any prospective purchaser of the terms and conditions of this CAS and the current status of completion of the requirements of this CAS. P4 must also provide notice to DEQ of the offer for sale and identify new owners at least ten calendar days before closing any sale or transfer of the Facility Property or any portion thereof.
28. Sale or transfer of the Facility Property or any portion thereof by P4 does not relieve P4 of its obligation to complete the terms and conditions of this CAS unless appropriate arrangements are made with the purchaser or receiver of the Facility Property for assignment of the obligations of this CAS and DEQ consents in writing to the assignment of the obligations of this CAS to the new owner.
29. This CAS sets forth the entire agreement related to the subject matter of this CAS and may not be modified without written consent of all parties.
30. This CAS does not affect the right of DEQ or the State of Idaho to pursue appropriate relief for any other violation of law, including civil penalties, injunctive or other equitable relief, or criminal sanctions.
31. P4 agrees that this CAS will be admissible as evidence in any proceeding to enforce this CAS.
32. Pursuant to Idaho Code § 39-116A, DEQ and P4 may meet annually to reassess the necessity and appropriateness of this CAS. P4 will contact DEQ to schedule a meeting.
33. If this CAS is signed and agreed to with an electronic signature by either party, the electronic signature will have the same legal and evidentiary effect as a handwritten signature.

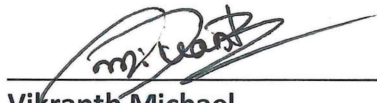
## EFFECTIVE DATE AND TERMINATION

34. The effective date of this CAS is the date of the signature by the DEQ Director.
35. If DEQ determines that all CAS requirements have been met, DEQ may terminate the CAS. P4 may request that the CAS be terminated. DEQ will issue a written notice of termination.

**Table 1 - CAS requirements and deadlines:**

Requirement	Paragraph	Deadline
Submit a performance test protocol for DEQ review and approval.	9	November 30, 2023
DEQ will review the submitted test protocol.	10	December 30, 2023
Commence the 12-month NO <sub>x</sub> emission testing trial on the nodulizing kiln	11	February 1, 2024, or 30 days after final written approval of the test protocol.
Submit a NO <sub>x</sub> emissions test report to DEQ for review and approval.	12	February 15, 2025, or 15 days following completion of the 12-month NO <sub>x</sub> emission testing period.
Submit a PTC application to revise PTC No. P-2012.0055 to include a NO <sub>x</sub> emission limit.	13	March 15, 2025, or 30 days after DEQ approves the test report.

DATED THIS 20 day of NOVEMBER, 2023

  
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**Vikranth Michael**  
Site Manager, P4 Production, LLC

DATED THIS 27th day of November, 2023

  
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**Jess Byrne**  
Director, Idaho Department of Environmental Quality