



ASSISTANT ADMINISTRATOR FOR AIR AND RADIATION

WASHINGTON, D.C. 20460

October 1, 2024

Mr. Patrick Kane
Vice President, EHS Enterprise Operations
Mosaic Fertilizer, LLC
13830 Circa Crossing Drive
Lithia, Florida 33547

Dear Mr. Kane:

Mosaic Fertilizer, LLC (Mosaic) has asked the U.S. Environmental Protection Agency to approve, under 40 CFR 61.206, the use of phosphogypsum in a small-scale pilot road project on Mosaic's property at its New Wales facility in Mulberry, Florida. This letter serves as official notice of pending conditional approval of your request.

The EPA has evaluated Mosaic's request in light of the materials submitted and incorporated by reference. Key documents are as follows:

- *Request for Approval of Additional Uses of Phosphogypsum Pursuant to 40 C.F.R § 61.206, Small-scale Road Pilot Project on Private Land in Florida*, March 31, 2022, contains the formal request by Mosaic, with risk assessment and radiological monitoring plan appended.
- *Response to EPA September 9, 2022, Request for Information; Small-scale Pilot Project*, December 22, 2022, describes leach testing results, modeling results, and site hydrogeology.
- *Revised Request for Approval of Use of Phosphogypsum in Small-scale Pilot Project*, August 23, 2023, describes changes made to the proposed project and includes *Phosphogypsum – Road Pilot Study – Radiological Risk Review – Update* as an attachment.
- *Request for Approval of Use of Phosphogypsum in Small-scale Pilot Project; November 27, 2023, Meeting; Response to Questions*, February 7, 2024, includes the environmental study design document, *Beneficial Use of Mosaic Phosphogypsum* as an attachment.

Our rationale for conditionally approving your request was based on the following findings:

- Mosaic's request is complete per the requirements of 40 CFR 61.206(b).
- Mosaic's risk assessment is technically acceptable and indicates that the potential radiological risks from the proposed project meet the regulatory requirements of 40 CFR 61.206(c); that is, the project poses no greater radiological risk than maintaining the phosphogypsum in a stack.

Complete documentation of the EPA's review and findings may be found in *Review of the Small-scale Road Pilot Project on Private Land in Florida Submitted by Mosaic Fertilizer, LLC*, e-Docket EPA-HQ-OAR-2024-0446.

EPA has decided to approve this small-scale pilot project, contingent upon the following conditions:

1. The approval is valid only for the construction of the specific pilot project as described by the applicant, specifically:
 - Phosphogypsum for the pilot project will be taken from the New Wales South stack.
 - Four sections of test road containing phosphogypsum in the road base, each 500 feet long and 24 feet wide, will be constructed in place of the existing road adjacent to the New Wales stacks. Four control sections of road not containing phosphogypsum will also be constructed, each 300 feet long and 24 feet wide.
 - Test road sections will contain no more than 50% phosphogypsum by weight in a single 10 inch layer of road base.
 - Phosphogypsum will not be included in pavement, nor extend beyond paved areas of the road.
 - No changes may be made to the design of the pilot project without the EPA's approval.
2. Mosaic shall submit the complete request as described above, and this approval, in hard copy to the Mulberry Public Library for public review at the beginning of the 30-day public comment period. The location of the Mulberry Public Library is: 905 NE 5th Street, Mulberry, Florida 33860.
3. Sampling that conforms with §61.207 must be performed on the actual phosphogypsum used for the project prior to its removal from the stack. The results of sampling for radium-226, including raw analytical data, must be submitted to the EPA prior to the construction of test road base containing phosphogypsum.
4. Any phosphogypsum that is unused in the road construction or removed as part of road maintenance and not reincorporated into the road base must be returned to the stack upon completion of the pilot project construction.
5. Workers involved in road construction shall be informed that phosphogypsum contains elevated levels of naturally occurring radionuclides and instructed in proper industrial hygiene prior to working on the project.
6. The Applicant shall meet all of the applicable requirements of 40 CFR 61.200-210. This approval does not supersede the requirements of any other Federal or State regulation.
7. Environmental sampling shall be completed as described in *Beneficial Use of Mosaic Phosphogypsum* for a minimum of 18 months. All sampling results, including reports and raw analytical data, shall be submitted to the EPA no more than 60 days after they are generated.

8. Within 90 days of completing the test phase, Mosaic shall submit to the EPA and to the Florida Department of Environmental Protection a complete final report on the test, including conclusions on the suitability of phosphogypsum as a component of road base.

This approval is pursuant to 40 CFR Part 61, Subpart R, promulgated under the authority of the Clean Air Act. This approval does not relieve Mosaic from responsibility to comply with all other federal, state, or local laws, regulations, or restrictions on the use of phosphogypsum. Any use of phosphogypsum not consistent with the limitations set forth in this approval shall be construed as unauthorized distribution of phosphogypsum and may constitute a violation of or noncompliance with 40 CFR Part 61, Subpart R. Approval by the EPA is specific to the pilot project as described in the Mosaic request. Any other instance of use of phosphogypsum requires a separate request and approval.

The EPA will publish a notice of pending approval in the Federal Register informing the public of this pending approval, the availability of the Mosaic request and supporting materials for public review and notice that the EPA will approve the petition after the 30-day comment period unless significant adverse comments are received. The EPA will also publish a notice of availability in the Tampa Bay Times, La Gaceta, and the Lakeland Ledger and directly notify other stakeholders of this pending approval. The EPA will make all comments available to the public and review them for their significance and determine whether they contain information that would alter the basis for this decision. If no significant adverse comments are received, the EPA will summarize comments and issue a final approval letter. If EPA determines that there are comments which call into question whether this alternative use should proceed, the EPA will advise you and give you an opportunity take steps to address the concerns, such as updating your analysis or amending the proposed use. The EPA's complete process is described in Section 2.4 of the 2005 guidance document "Applying to EPA for Approval of Other Uses of Phosphogypsum: Preparing and Submitting a Complete Petition Under 40 CFR 61.206, A Workbook."

We look forward to a continued working relationship with you on this request and pilot project. Please contact Jonathan Walsh at 202-342-9238 or walsh.jonathan@epa.gov for any further assistance.

Sincerely,



Joseph Goffman
Assistant Administrator

cc: Karen Bennett, Earth and Water Law
Jonathan Edwards, EPA
Lee Veal, EPA
Tom Peake, EPA
Jonathan Walsh, EPA
John Coates, Florida DEP