



# Florida Department of Environmental Protection

Bob Martinez Center  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

November 18, 2008

Mr. Stephen J. Ast, President  
Boca Raton Resort & Club  
501 East Camino Real  
Boca Raton, Florida 33432-6127

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

## NOTICE OF INELIGIBILITY TO USE TITLE V AIR GENERAL PERMIT

Dear Mr. Ast:

This is to notify you that the Department, pursuant to your submittal received on October 23, 2008, has determined that your facility does not qualify to use the Title V Air General Permit for Perchloroethylene Dry Cleaner.

The requirements that a facility must meet in order to qualify for use of the Title V Air General Permit are set forth in Rule 62-213.300, Florida Administrative Code (F.A.C.). Your submittal indicates your facility is not eligible for the reason(s) listed below:

- facility information provided is insufficient
- equipment information provided is insufficient
- equipment control information is insufficient
- emissions indicate facility is not eligible
- source category is incorrect
- certification statement is blank or not signed by Responsible Official (Owner)
- other:

If you have any questions regarding the Department's determination, please contact Dick Dibble or Sandy Bowman at the Bureau of Air Monitoring and Mobile Sources at 850/488-0114. However, if you believe you meet the requirements for a Title V Air General Permit, you may complete the enclosed blank notification form, making the corrections indicated above, and resubmit it to the Department. Any facility which does not qualify for a Title V air general permit may require a standard air pollution control permit from the Department. A notice of your legal rights begins on the following page.

The DEP will consider the above-noted action final unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57, Florida Statutes, (F.S.).

A person whose substantial interests are affected by the proposed 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) by the Agency Clerk in the DEP Office of General Counsel, MS #35, 3900 Commonwealth Boulevard, Tallahassee, FL, 32399-3000 (Telephone: 850/488-9314, Fax: 850/487-4938). Petitions filed by the permit applicant or any of the parties listed below must be filed within 14 (fourteen) days of receipt of this notice. Petitions filed by any other person must be filed within 14 (fourteen) days of receipt of notice of this proposed action. 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 28-106.205, F.A.C..

A petition that disputes the material facts on which the permitting authority'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 each 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, as well as the rules and statutes which entitle the petitioner to relief;
- (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.

A petition that does not dispute the material facts upon which the permitting authority'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, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the permitting authority'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 permitting authority on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation will not be available in this proceeding.

In addition to the above, a person subject to regulation has a right to apply to the Department of Environmental Protection 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 the action proposed in this note.

The application for a variance or waiver is made by filing a petition with the Office of General Counsel of the Department of Environmental Protection, 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) above;
- (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 of the variance or wavier 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), F.S., 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 the United States Environmental Protection Agency and by any person under the Clean Air Act unless and until the Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

Any party to this order (permit) has the right to seek judicial review of the permit 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 permitting authority 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 permitting authority.

Executed in Tallahassee, Florida, this 21<sup>st</sup> day of November, 2008.

STATE OF FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION



Joseph Kahn, Director  
Division of Air Resource Management

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this order and all copies were sent by certified mail before the close of business on \_\_\_\_\_ to the person(s) listed:

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

Martha Jane Wise  
(Clerk)

11-21-08  
(Date)

cc: Jim Stormer, Palm Beach County

MEMORANDUM

TO: *Jane Wise*

CC: *Sandy Bowman*

FROM: *Dick Dibble, Air General Permits*

DATE: *November 18, 2007*

TIME: *10:00 AM*

SUBJECT: *Denial of Air General Permit*

**Ref:** 10/23/08 - PERCHLOROETHYLENE DRY CLEANER AIR GENERAL PERMIT NOTIFICATION FORM for:  
BRE/Baton Operating Lessee, Inc EHM LLC, Panthers BRHC LLC DBA  
Boca Raton Resort and Club  
501 East Camino Real  
Boca Raton, Palm Beach Co., Florida 33432-6127

*Jane,*

*We will need to prepare and send a NOTICE OF INELIGIBILITY TO USE TITLE V AIR GENERAL PERMIT to the following Responsible Official:*

Mr. Stephen J. Ast, President  
Boca Raton Resort & Club  
501 East Camino Real  
Boca Raton, Florida 33432-6127

*... for the following reason:*

    ✓     emissions indicate facility is not eligible

*Thank you for your assistance. Should you have any questions, please call me.*

*Dick Dibble*  
*GIC# - 345, or*  
*921-9586*

