

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

E-CORRESPONDENCE

james.w.kennedy@nasa.gov

In the Matter of an
Application for Permit by:

NASA/Kennedy Space Center
Mail Code: AA
Kennedy Space Center, FL 32899

Brevard County - AP
Emergency Electric Generator (MCR Site)
DEP File Number 0090051-016-AC

Attention: James W. Kennedy,
Director

INTENT TO ISSUE

The Department of Environmental Protection gives notice of its intent to issue a permit (copy attached) for the proposed project as detailed in the application specified above. The Central District is issuing this Intent to Issue for the reasons stated below.

The applicant, NASA/Kennedy Space Center, Mail Code: AA, Kennedy Space Center, Brevard County, Florida, applied on March 27, 2006 to the Department of Environmental Protection for an air construction permit to construct an 800 KW Emergency Electric Generator. This unit is located at the MCR Site on North Kennedy Parkway and north of Haulover Canal, Kennedy Space Center, Brevard County, Florida. This facility is a source of air emissions.

The Department has permitting jurisdiction under Section 403 Florida Statutes (F.S.) and Chapter 62-4.210 and Chapter 62-210.300 Florida Administrative Code (F.A.C.). The project is not exempt from permitting procedures. The Department has determined that an operating permit in accordance with Rule 62-210.300(2)(b), F.A.C., is required for the proposed work.

Pursuant to Section 403.815, F.S. and DEP Rule 62-103.150, F.A.C., you (the applicant) are required to publish at your own expense the enclosed Notice of Intent to Issue Permit. The Notice shall be published one time only within thirty (30) days, in the legal ad section of a newspaper of general circulation in the area affected. For the purpose of this rule, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. If you are uncertain that a newspaper meets these requirements, please contact the Department at the address or telephone number listed below. The applicant shall provide proof of publication to the Department, at 3319 Maguire Boulevard, Suite 232, Orlando, FL 32803-3767 within seven days of publication. Failure to publish the notice and provide proof of publication within the allotted time may result in the denial of the permit.

The Department will issue the permit with the attached conditions unless a timely petition for an administrative hearing is filed pursuant to sections 120.569 and 120.57 of the Florida Statutes, or a party requests mediation as an alternative remedy under section 120.573 before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for petitioning for a hearing are set forth below, followed by the procedures for requesting mediation.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with 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 other person 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. 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 (or a request for mediation, as discussed below) 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 of the Florida Statutes, 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 28-5.207 of the Florida Administrative Code.

A petition must contain the following information:

- (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department Permit File Number, and the county in which the project is proposed;
- (b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;
- (d) A statement of the material facts disputed by the petitioner, if any;
- (e) A statement of the facts that the petitioner contends warrant reversal or modification of the Department's action or proposed action;
- (f) A statement identifying the rules or statutes that the petitioner contends require reversal or modification of the Department's action or proposed action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to the action or proposed action addressed in this notice of intent.

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 of intent. 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.

A person whose substantial interests are affected by the Department's proposed permitting decision, may elect to pursue mediation by asking all parties to the proceeding to agree to such mediation and by filing with the Department a request for mediation and the written agreement of all such parties to mediate the dispute. The request and agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, by the same deadline as set forth above for the filing of a petition.

Mediation under Section 120.573 of Florida Statutes is not available in this proceeding.

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 of the Florida Statutes. 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 notice of intent.

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:

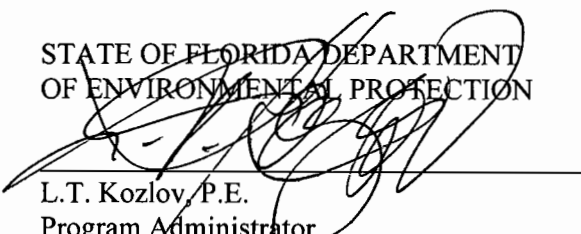
- (a) The name, address, and telephone number of the petitioner;
- (b) The name, address, and telephone number of the attorney or qualified representative of the petitioner, if any;
- (c) Each rule or portion of a rule from which a variance or waiver is requested;
- (d) The citation to the statute underlying (implemented by) the rule identified in (c) 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 waiver 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-proved program. The requirements of the program remain fully enforceable by the Administrator of EPA 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.

Executed in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


L.T. Kozlov, P.E.
Program Administrator
Air Resources Management
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767
(407) 894-7555

DATE: 5-18-06

FILED, on this date, pursuant to Section
120.52, F. S., with the designated Department Clerk,
receipt of which is hereby acknowledged.

Diana Jones May 19, 2006
Clerk Date

ADZ/jt
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Enclosures: Draft Permit
Notice of Intent

Copy: Jennifer M. Hill, P.E. (jhill@jonesedmunds.com)
Caroline Shine, FDEP

CERTIFICATE OF SERVICE

This is to certify that this INTENT TO ISSUE and all copies were mailed before the close of business on

May 19, 2006 to the listed persons by J. Hill

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
PUBLIC NOTICE OF INTENT TO ISSUE CONSTRUCTION PERMIT

The Department of Environmental Protection gives notice of its intent to issue an air construction permit to NASA/Kennedy Space Center, Mail Code: AA, Kennedy Space Center, Brevard County, Florida, 32899, to construct an 800 KW Emergency Electricity Generator. This facility is located at the MCR Site on North Kennedy Parkway and north of Haulover Canal, Kennedy Space Center, Brevard County, Florida. This facility is a source of air emissions. The Department has assigned File Number 0090051-016-AC to the project.

The Department will issue the permit with the attached conditions unless a response received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The Department will accept written comments concerning the proposed permit issuance action for a period of 14 days from the date of publication of "PUBLIC NOTICE OF INTENT TO ISSUE CONSTRUCTION PERMIT." Written comments should be provided to the District office at 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in the proposed agency action, the Department shall revise the proposed permit and require, if applicable, another Public Notice.

The Department will issue the permit with the attached conditions unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57 Florida Statutes (F.S.), before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

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 14 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 14 days of publication of the public notice or within 14 days of receipt of this notice of intent, whichever occurs first. Under Section 120.60(3), F.S., however, any person who asked the Department for notice of agency action may file a petition within 14 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 (F.A.C.).

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, as well as the rules and statutes which entitle the petitioner to relief; and
- (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 the 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 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 F.A.C.

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 under Section 120.573 of the Florida Statutes is not available in this proceeding.

A complete project file is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at: the Department of Environmental Protection, 3319 Maguire Boulevard, Suite 232, Orlando, Florida.



Jeb Bush
Governor

Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Colleen M. Castille
Secretary

Permittee:
NASA/Kennedy Space Center
Mail Code: AA
Kennedy Space Center, FL 32899

Attn: James W. Kennedy,
Director

I.D. Number: 0090051
Permit Number: 0090051-016-AC
Expiration Date: May 30, 2007
County: Brevard
Latitude/Longitude: 28° 31' 00"N/80° 39' 00"W
Project: Emergency Electric Generator (MCR Site)

This permit is issued under the provisions of Chapter(s) 403, F.S., and Florida Administrative Code Rule(s) 62-210. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

The permittee may construct an 800KW stationary diesel fired internal combustion generator for use as an emergency electric power source at the MCR site. The unit is included in E.U. 086. The generator engine is subject to 40CFR63, Subpart ZZZZ, Section 63.6645(d) only and the initial notification requirement has been met by the permit application submittal.

The unit is located at the MCR site on North Kennedy Parkway north of Haulover Canal, Kennedy Space Center, Brevard County, Florida.

GENERAL CONDITIONS:

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.727, or 403.859 through 403.861, Florida Statutes (F.S.) The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.
2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.
3. As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.
4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.
5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.
6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup and auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.
7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:
 - (a) Have access to and copy any records that must be kept under conditions of this permit;
 - (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
 - (c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:
 - (a) A description of and cause of noncompliance; and
 - (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

GENERAL CONDITIONS:

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Section 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.
10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.
11. This permit is transferable only upon Department approval in accordance with Rules 62-4.120 and 62-730.300, Florida Administrative Code (F.A.C.), as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.
12. This permit or a copy thereof shall be kept at the work site of the permitted activity.
13. This permit also constitutes:
 - () Determination of Best Available Control Technology (BACT)
 - () Determination of Prevention of Significant Deterioration (PSD)
 - () Certification of compliance with State Water Quality Standards (Section 401, PL 92-500)
 - () Compliance with New Source Performance Standards
14. The permittee shall comply with the following:
 - (a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.
 - (b) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring information) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.
 - (c) Records of monitoring information shall include:
 1. The date, exact place, and time of sampling or measurements;
 2. The person responsible for performing the sampling or measurements;
 3. The dates analyses were performed;
 4. The person responsible for performing the analyses;
 5. The analytical techniques or methods used;
 6. The results of such analyses.
15. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

SPECIFIC CONDITIONS:

OPERATING CONDITIONS

1. The emission unit (E.U. 086) maximum operating limits are as follows:
 - a) 305,000 gallons of no. 2 diesel fuel or biodiesel fuel in any consecutive 12 month period.
 - b) The maximum sulfur content of all fuel oils fired shall not exceed 0.05 percent by weight.[Rule 62-210.200, Potential to Emit (PTE), F.A.C. and construction permit 0090051-0016-AC]

EMISSION LIMITS

2. The visible emissions from the emission unit must comply with Rule 62-296.310(2), F.A.C. (limited to less than 20% opacity).

COMPLIANCE

3. The emission unit shall be tested in accordance with DEP Method 9 within 180 days after being placed in operation. The test shall be conducted for 30 minutes.
[Rule 62-297.401, F.A.C.]
4. At least 15 days prior to the date on which each formal compliance test is due to begin, the permittee shall provide written notification of the test to the air compliance section of this office. The notification must include the following information: the date, time and location of each test; the name and telephone number of the facility's contact person who will be responsible for coordinating the test; and the name, company, and telephone number of the person conducting the test.
[Rule 62-297.310(7)(a)9., F.A.C.]
5. The maximum permitted operating rate is 55.2 gallons per hour. Testing of emissions shall be conducted with the emissions unit operation at permitted capacity. Permitted capacity is defined as 90 to 100 percent of the maximum operation rate allowed by the permit. If it is impractical to test at permitted capacity, an emissions unit may be tested at less than the minimum permitted capacity; in this case, subsequent emissions unit operation is limited to 110 percent of the test load until a new test is conducted. Once the unit is so limited, operation at higher capacities is allowed for no more than 15 consecutive days for the purpose of additional compliance testing to regain the authority to operate at the permitted capacity.
[Rule 62-297.310(2), F.A.C.]

RECORDKEEPING AND DOCUMENT SUBMITTAL

6. The permittee shall maintain records to demonstrate that the sulfur content, by weight, of each shipment of fuel oil is 0.05 percent or less and that the sulfur content was determined in accordance with the methods listed in specific condition 7.
[Rule 62-210.300(3)(c)1.c., F.A.C.]
7. The fuel sulfur content, percent by weight, for liquid fuels shall be evaluated using ASTM methods ASTM D4057-88 and one of ASTM D2622-94, ASTM D4294-98, ASTM D1552-95 or ASTM D129-91 adopted and incorporated by reference in Rule 62-297.440(1), F.A.C. Alternately, after written notification to and approval by the Department, the permittee may use other DEP Air Program-approved methods, i.e. alternate sampling procedures, for sulfur in petroleum products.
[Rules 62-210.300(3)(c)1.c., F.A.C.]

SPECIFIC CONDITIONS:

8. In order to demonstrate compliance with operating condition number 1 and 6, the permittee shall maintain a log at the facility for a period of at least 5 years from the date the data is recorded. The log at a minimum shall contain the following:

Monthly

- a) designation of the month and year of operation for which the records are being tabulated
- b) consecutive 12 month total of fuel oil fired and the sulfur content of the fuel oil fired.

[Rule 62-4.070(3), F.A.C.]

Note: A consecutive 12 month total is equal to the total for the month in question plus the totals for the eleven months previous to the month in question. A consecutive 12-month total treats each month of the year as the end of a 12-month period. A 12-month total is not a year-to-date total. Facilities that have not been operating for 12 months should retain 12 month totals using whatever number of months of data are available until such a time as a consecutive 12 month total can be maintained each month.

9. The owner or operator shall submit a copy of the compliance test results to the air compliance section of this office within 45 days after the last sampling run of each test is completed.
[Rule 62-297.310(8)(b), F.A.C.]

10. The owner or operator shall complete DEP Form No. 62-210.900(5), F.A.C. "Annual Operating Report for Air Pollutant Emitting Facility", including the Emissions Report, for each calendar year and submit to the air compliance section of this office on or before March 1 of the following year.
[Rule 62-210.370(3), F.A.C.]

PERMIT APPLICATION

11. The construction shall reasonably conform to the plans and schedule submitted in the application. If the permittee is unable to complete construction on schedule, he must notify the Department in writing at least 90 days prior to the expiration of the construction permit and submit an application for an extension of the construction permit.

An operating permit revision is required for this source. To obtain a revised permit, the permittee must demonstrate compliance with the conditions of the construction permit and submit the compliance test results (if required), records and Application for Air Permit to the Department's Central Florida District office [Rule 62-4.220, F.A.C.]. **The application shall be submitted no later than 180 days after the permitted construction has been completed and placed in operation.** [Rule 62-4.055, F.A.C.]

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

L.T. Kozlov, P.E.
Program Administrator
Air Resources Management

Issued: _____