

Jeb Bush  
Governor

# Department of Environmental Protection

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Struhs  
Secretary

June 29, 1999

## CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. James S. Jenkins III  
Vice President of Cement Operations  
Rinker Materials Corporation  
1200 Northwest 137th Avenue  
Miami, Florida 33182

Re: DEP File No. 0250014-002-AC  
Modernization Project, Permit Extension

Dear Mr. Jenkins:

The Department has reviewed the extension request received on June 23, 1999. The expiration date is hereby corrected to September 30, 2000 as requested in your original construction permit application. Any further extension beyond that date shall require submittal of an updated construction schedule.

A copy of this Permit Amendment shall be attached to the referenced construction permit and shall become part of the permit.

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

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

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*Printed on recycled paper.*

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, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action; (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 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.

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 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 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 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) 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 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.

This Permit Amendment constitutes final agency action unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition which conforms to Rule 62-110.106, F.A.C. Upon timely filing of a petition or a request for an extension of time this Notice will not be effective until further Order of the Department.

If either a petition for administrative hearing or a request for extension of time is not timely filed with the Department, then this Permit Amendment shall constitute final agency action. Any party to this order would then have the right to seek judicial review pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department of Environmental Protection in the Office of General Counsel, Mail Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000; 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 thirty days after this order is filed with the clerk of the Department.

Executed in Tallahassee, Florida.



Howard L. Rhodes, Director  
Division of Air Resources  
Management

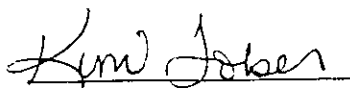
CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this Permit Amendment was sent by certified mail (\*) and copies were mailed by U.S. Mail before the close of business on 6-30-99 to the person(s) listed:

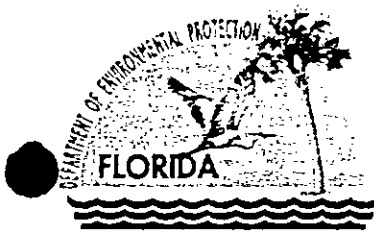
James S. Jenkins III,\* RMC  
H. Patrick Wong, Miami-Dade DERM  
John Koogler, P.E., K&A

Clerk Stamp

**FILING AND ACKNOWLEDGMENT FILED,**  
on this date, pursuant to §120.52, Florida Statutes,  
with the designated Department Clerk, receipt of  
which is hereby acknowledged.

  
(Clerk)

6-30-99  
(Date)



Jeb Bush  
Governor

# Department of Environmental Protection

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

David B. Struhs  
Secretary

June 29, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. James S. Jenkins III  
Vice President of Cement Operations  
Rinker Materials Corporation  
1200 Northwest 137th Avenue  
Miami, Florida 33182

Re: DEP File No. 0250014-002-AC  
Modernization Project, Permit Extension

Dear Mr. Jenkins:

On June 21, 1999, the Department received a request from your consultant, Koogler and Associates, to extend the May 30, 1999 expiration date of the Modernization Project Air Construction Permit. Please note that Rule 62-4.080(3) reads as follows:


*"A permittee may request that a permit be extended as a modification of the permit. Such a request must be submitted to the Department in writing before the expiration of the permit." (Emphasis added).*

Normally an extension following expiration would require re-issuance of the permit and a public notice. We note, however, that the original application did project a completion date "approximately 36 months after commencement of construction." The date to commence construction was estimated by Rinker at that time to be "upon Dade County and FDEP approval: expected April 1997." The State permit was actually issued in September of 1997. However the expiration date given in the issued permit was May 30, 1999 (only about 20 months).

We have extended the expiration date until September 30, 2000 as a "corrective amendment" to reflect the originally requested 36 month construction schedule. Upon submittal of your updated construction schedule, showing the status of the present project and expected milestones, we can further extend the expiration date as allowed under Rule 62-4.080, F.A.C.

If you have any questions regarding this matter, please contact me or Teresa Heron at 850/488-0114.

Sincerely,

  
A. A. Linero, P.E. Administrator  
New Source Review Section

AAL/aal

cc: John Koogler, P.E., K&A  
Patrick Wong, Miami-Dade DERM

"Protect, Conserve and Manage Florida's Environment and Natural Resources"



**KOOGLER & ASSOCIATES**  
**ENVIRONMENTAL SERVICES**  
4014 NW THIRTEENTH STREET  
GAINESVILLE, FLORIDA 32609  
352/377-5822 • FAX/377-7158

KA 263-94-04

June 18, 1999

**RECEIVED**

JUN 21 1999

BUREAU OF  
AIR REGULATION

VIA FEDEX

Mr. Al Linero  
Florida Department of  
Environmental Protection  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

Subject: Rinker Materials Corporation  
Dade County, Florida  
Cement Plant Modernization Project  
Permit 0250014-002-AC

Dear Mr. Linero:

As we discussed by telephone on this date, I am requesting that the subject air construction permit be extended for two additional years; through May 30, 2001. The subject permit was issued on September 11, 1997, and did not trigger PSD permitting requirements because of emission offsets from the existing wet process cement plant. The modernization project is well underway and the two year extension is requested to allow completion of the project and demonstration of compliance with all applicable Department rules and permit conditions.

I am enclosing a \$50 check to cover the permit amendment requested should a fee be required. If it is determined that a fee is not required (as a result of the Title V status of the facility), the enclosed check can either be returned or voided.

I appreciate your attention to this matter. If you have any questions, please do not hesitate to contact me at 352-377-5822.

Very truly yours,

KOOGLER & ASSOCIATES

  
John B. Koogler, Ph.D., P.E.

JBK:wa  
Enc.

c: Mr. Michael Vardeman, Rinker

JOHN B. KOOGLER, P.A.  
DBA KOOGLER & ASSOCIATES  
4014 N.W. 13TH ST PH (352) 377-5822  
GAINESVILLE, FL 32609

1525

63-139/631  
BRANCH 002

DATE June 18, 1999

PAY TO THE ORDER OF FDERP

\$ 50.00

Fifty and 00/100

DOLLARS

Security Inc. -  
patented  
Details on b...



NORTHWOOD OFFICE  
POST OFFICE BOX 4222  
GAINESVILLE, FL 32613

FOR Linker - 0250014-002-AC

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