

Check Sheet

Company Name: *Ciba Geigy Corp*
Permit Number: *AC 13-186729*
PSD Number:
County: *Dade*
Permit Engineer:
Others involved:

Application:

- Initial Application
- Incompleteness Letters
- Responses
- Final Application (if applicable)
- Waiver of Department Action
- Department Response
- Other

withdraw

Intent:

- Intent to Issue
- Notice to Public
- Technical Evaluation
- BACT Determination
- Unsigned Permit
- Correspondence with:
 - EPA
 - Park Services
 - County
 - Other
- Proof of Publication
- Petitions - (Related to extensions, hearings, etc.)
- Other

Final Determination:

- Final Determination
- Signed Permit
- BACT Determination
- Other

Post Permit Correspondence:

- Extensions
- Amendments/Modifications
- Response from EPA
- Response from County
- Response from Park Services
- Other

P 832 538 681



PS Form 3800, June 1990

Sent to	Mr. Dean Bidle, CIBA-GEIGY
Street & No.	3550 N.W. 49th Street
P.O. State & Zip Code	Miami, FL 33142-3981
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Address of Delivery	
TOTAL Postage & Fees	\$
Postmark or Date	Mailed: 10-1-91 Permit: AC 13-186729

SENDER: <ul style="list-style-type: none"> • Complete items 1 and/or 2 for additional services. • Complete items 3, and 4a & b. • Print your name and address on the reverse of this form so that we can return this card to you. • Attach this form to the front of the mailpiece, or on the back if space does not permit. • Write "Return Receipt Requested" on the mailpiece next to the article number. 		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
3. Article Addressed to: Mr. Dean Bidle Plant Manager CIBA-GEIGY Corporation 3550 N.W. 49th Street Miami, FL 33142-3981	4a. Article Number P 832 538 681	
	4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise	
	7. Date of Delivery 10-2-91	
5. Signature (Addressee) 	8. Addressee's Address (Only if requested and fee is paid)	
6. Signature (Agent) 		



Florida Department of Environmental Regulation

Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400

Lawton Chiles, Governor

Carol M. Browner, Secretary

October 1, 1991

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Dean Bidle
Plant Manager
CIBA-GEIGY Corporation
3550 N.W. 49th Street
Miami, Florida 33142-3981

Dear Mr. Bidle:

Re: Request for Withdrawal of an Application for a Modification
of Existing Sources and Refund of the Associated Processing
Fee: AC 13-186729

The Department has reviewed your letter received on June 10, 1991, that requested the withdrawal of the application package for a modification of existing sources, which has been done, and a refund of the processing fee associated with the project. Pursuant to Florida Administrative Code Rule 17-4.050(5)(a), "the fee is non-refundable except as provided in Section 120.60, Florida Statutes (F.S.)." Pursuant to Section 120.60, F.S., "the agency shall notify the applicant if the activity for which a license is exempt from the licensing requirement and refund any tendered application fee." Since the request for a modification that was submitted and being processed by the Department's Bureau of Air Regulation was not exempt from licensing, then the request for a refund is denied.

If there are any questions, please call Mr. Bruce Mitchell at (904)488-1344 or write to me at the above address.

Sincerely,

C. H. Fancy, P.E.
Chief
Bureau of Air Regulation

CHF/BM/rbm

Enclosures

cc: I. Goldman, SE District
P. Wong, DERM
G. Smallridge, Esq., DER
D. Buff, P.E., KBN

DM
6-10-91
M.W. FL

CIBA-GEIGY

COMPOSITE MATERIALS

Composite Materials
CIBA-GEIGY Corporation
3550 N.W. 49th Street
Miami, Florida 33142-3981
305 633 9066
FAX 305 635 6079

RECEIVED

JUN 10 1991

Division of Air
Resources Management

June 5, 1991

Mr. C. H. Fancy, P.E.
Chief, Bureau of Air Regulation
Florida Department of Environmental Regulation
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: CIBA-GEIGY Corporation
Miami, FL
AC13-186729

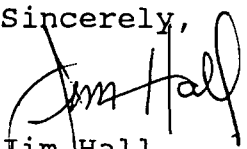
Dear Mr. Fancy:

This letter is in response to the Department's completeness letter dated April 24, 1991. Based on the Department's position regarding the requirement of new source review for nonattainment areas for the subject permit application, it is CIBA-GEIGY's desire to withdraw the permit application. Please withdraw the application and refund the application fee.

In regard to your question on the cost of retrofitting the three cure ovens with a VOC control system, this question is not considered relevant to the subject permit application. In any event, since CIBA-GEIGY is now withdrawing the application, this information is no longer necessary.

Thank you for your cooperation in this matter.

Sincerely,


Jim Hall
Plant Engineer

JH:on

cc: Stephanie Brooks
Patrick Wong
Eric Finkelman
BAICHP }
Bruce Mitchell } 6-10-91

C1/FANCY.LTR

CHAPTER 17-4

PERMITS

PART I

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- 17-4.021 Transferability of Definitions.
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- 17-4.040 Exemptions.
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(Transferred to 17-27.801.)
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- 17-4.810 General Permit for the Construction or Maintenance of Culverted Driveway or Roadway Crossings and Bridges of Artificial Waterways. (Transferred to 17-12.816.)
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PART I
GENERAL

17-4.001 Scope of Part I. This Part sets forth procedures on how to obtain a permit from the State of Florida Department of Environmental Regulation. This Part also provides requirements and procedures for the issuance, denial, renewal, extension, transfer, modification, suspension, and revocation of any permit required by the Department of Environmental Regulation. This Part shall not preclude the application of any other permit requirements or procedures for certain types of facilities as contained in other chapters of Title 17.
Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72, Amended 8-31-88. Previously numbered as 17-4.01.

17-4.020 Definitions. When used in this Chapter, unless the context clearly indicates otherwise, the following words shall:

(1) "Commission" is the State of Florida Environmental Regulation Commission.

(2) "Construction permit" is the legal authorization granted by the Department to construct, expand, modify, or make alterations to any installation and to temporarily operate and test such new or modified installations.

(3) "Department" is the State of Florida Department of Environmental Regulation.

(4) "Installation" is any structure, equipment, facility, or appurtenances thereto, operation or activity which is or may be a source of pollution as defined in Chapter 403, F.S. Installation includes dredging and filling as these terms are defined in Section 403.911, F.S.

(5) "Operation permit" is the legal authorization granted by the Department to operate or maintain any installation for a specified period of time.

(6) "Temporary operation permit" is the legal authorization limited to a specified time granted by the Department to operate, maintain, construct, modify, expand, or make alterations to any installation in accordance with section 403.088, F.S.

(7) "Permit condition" is a statement or stipulation which is issued with a permit and which must be complied with.

17-4.001 - 17-4.020(7)

(8) "Permit" is the legal authorization to engage in or conduct any construction, operation, modification, or expansion or any installation, structure, equipment, facility, or appurtenances thereto, operation, or activity which will reasonably be expected to be a source of pollution.

(9) "Secretary" is the Secretary of the Department.
Specific Authority: 403.061, 403.805, F.S.

Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, 403.802, 403.817, F.S.

History: New 3-4-72, Revised 5-17-72, Amended 6-10-75; Joint Administrative Procedures Committee Objection Filed - See FAW Vol. 1, No. 28, 1-12-76; Joint Administrative Procedures Committee Objection Withdrawn - See FAW Vol. 3, No. 30, 7-29-77, Amended 3-11-81, 12-10-84, 3-18-86, 8-31-88. Previously numbered as 17-4.02.

17-4.021 Transferability of Definitions. Definitions in other Chapters of the Department's rules may be used to clarify the meaning of terms used in this Chapter unless the terms are defined in Section 17-4.020, F.A.C., or unless transfer of such definition would defeat the purpose or alter the intended effect of the provisions of this Chapter.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S.

Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S.

History: New 3-1-79, Amended 8-31-88.

17-4.022 Determination of the Landward Extent of Surface Waters of the State.

Specific Authority: 403.061, 403.805, F.S.

Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, 403.802, 403.817, F.S.

History: Formerly 17-4.02(17), Amended 10-1-84, 10-16-84. Transferred to 17-3.022.

17-4.020(8) - 17-4.022(History)

17-4.030 General Prohibition. Any stationary installation which will reasonably be expected to be a source of pollution shall not be operated, maintained, constructed, expanded, or modified without the appropriate and valid permits issued by the Department, unless the source is exempted by Department rule. The Department may issue a permit only after it receives reasonable assurance that the installation will not cause pollution in violation of any of the provisions of Chapter 403, F.S., or the rules promulgated thereunder. A permitted installation may only be operated, maintained, constructed, expanded or modified in a manner that is consistent with the terms of the permit.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 3-4-70, Revised 5-17-72, Amended 8-31-88.
Previously numbered as 17-4.03.

17-4.040 Exemptions.

(1) The following installations are exempted from the permit requirements of this Chapter. The following exemptions do not relieve any installation from any other requirements of Chapter 403., F.S., or rules of the Department. Other installations may be exempted under other Chapters of Title 17.

(a) Structural changes which will not change the quality, nature or quantity of air and water contaminant emissions or discharges or which will not cause pollution.

(b) Any existing or proposed installation which the Department shall determine does not or will not cause the issuance of air or water contaminants in sufficient quantity, with respect to its character, quality or content, and the circumstances surrounding its location, use and operation, as to contribute significantly to the pollution problems within the State, so that the regulation thereof is not reasonably justified. Such a determination is agency action and is subject to Chapter 120, F.S. Such determination shall be made in writing and filed by the Department as a public record. Such determination may be revoked if the installation is substantially modified or the basis for the exemption is determined to be materially incorrect.

17-4.030 - 17-4.040(1)(b):

(2) These exemptions do not apply to the discharge to waters of the state from any article, machine, equipment, contrivance or their exhaust system, which contains water-borne radioactive material in concentrations above the natural radioactive background concentration in the receiving water.

Specific Authority: 403.061, 403.805, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, 403.802, 403.805, 403.813, F.S.
History: Formerly 17-4.03(2), F.A.C.; New 3-4-72; Revised 5-17-72; Amended 8-7-73, 6-10-75, 10-26-75, 7-8-76, 7-13-78, 3-1-79; Joint Administrative Procedures Committee Objection Withdrawn - See FAW Vol. 3, No. 30, 7-29-77; Amended 3-11-81, 7-8-82, 3-31-83, 3-15-84, 12-10-84, 5-8-85, 3-18-86, 8-31-88.
Previously numbered as 17-4.04.

17-4.050 Procedure to Obtain Permits; Application.

(1) Any person desiring to obtain a permit from the Department shall apply on forms prescribed by the Department and shall submit such additional information as the Department by law may require.

(2) All applications and supporting documents shall be filed in quadruplicate with the Department.

(3) To ensure protection of public health, safety, and welfare, any construction, modification, or operation of an installation which may be a source of pollution, or of a public drinking water supply, shall be in accordance with sound professional engineering practices pursuant to Chapter 471, F.S.; and all final geological papers or documents involving the practice of the profession of geology shall be in accordance with sound professional geological practices pursuant to Chapter 492, F.S. All applications for a Department permit shall be certified by a professional engineer registered in the State of Florida except when the applicant is a salaried officer of or a salaried engineer employed by the United States government engaged within the State in the practice of professional engineering solely for the United States government, when the application is for renewal of an air pollution operation permit at a minor facility as defined in Rule 17-2.100(120), F.A.C., or where professional engineering is not required by Chapter 471, F.S. Where required by Chapter 471 or 492, F.S., applicable portions of permit applications and supporting documents which are submitted to the Department for public record shall be signed and sealed by the professional(s) who prepared or approved them.

(4) Processing fees are as follows:

(a) Air Pollution Source Permits.

1. Construction Permits.

17-4.040(2) - 17-4.050(4)(a)1

a. Construction permit for a source having potential emissions of 100 or more tons per year of any single pollutant and requiring a Prevention of Significant Deterioration (PSD) or Nonattainment Area (NAA) new source review permit	\$ 5,000
b. Construction permit for a source having potential emissions of 100 or more tons per year of any single pollutant but not requiring a PSD or NAA new source review permit	\$ 5,000
c. Construction permit for a source having potential emissions of 50 or more tons per year, but less than 100 tons per year, of any single pollutant	\$ 4,500
d. Construction permit for a source having potential emissions of 25 or more tons per year, but less than 50 tons per year, of any single pollutant	\$ 2,000
e. Construction permit for a source having potential emissions of less than 25 tons per year of each pollutant	\$ 1,000
2. Operation permits.	
a. Operation permit for a major source required to measure actual emissions by stack sampling	\$ 2,000
b. Operation permit for a major source required to measure actual emission by any method other than stack sampling (such as visible emissions observation or continuous emissions monitoring)	\$ 2,000
c. Operation permit for any major source not required to measure actual emissions	\$ 2,000
d. Operation permit for a minor source required to measure actual emissions by stack sampling	\$ 2,000
e. Operation permit for a minor source required to measure actual emissions by any method other than stack sampling (such as visible emissions observation or continuous emissions monitoring)	\$ 750
f. Operation permit for any minor source not required to measure actual emissions	\$ 750

17-4.050(4)(a)1.a. - 17-4.050(4)(a)2.f.

3. Similar Source Fee - Where new or existing multiple air pollution sources located at the same facility are substantially similar in nature, the applicant may submit a single application and permit fee for construction or operation of the sources at the facility. To be considered substantially similar each of the sources must be substantially similar in regard to each of the following: nominal description or type of source; type of fuel burned; type of material processed, stored, or handled; type of air pollution control equipment; regulated pollutants emitted; applicable emissions standards; and applicable regulatory control criteria. For a construction permit, the single application fee shall be the fee that would apply for a single source with emissions that equal the total of the potential emissions of all of the substantially similar sources at the facility. The fee for an operation permit for a group of similar air sources at the same facility, submitted under the same application and with the same air emissions testing or monitoring requirements, shall be the fee that would apply to any source in the group if each source were being permitted singly.

(b) Domestic Wastewater Facility Permits.

1. Construction Permits for domestic wastewater facilities.

	Type I	Type II	Type III
a. Treatment plant with or without disposal system	\$2000	\$1500	\$1000
b. Reuse/land application system	\$2000	\$1000	\$ 500
c. Residuals management facility	\$2000	\$1500	\$1000
d. Limited wet weather discharge	\$1000	\$ 800	\$ 600
e. Minor modifications, excluding time extensions	\$ 400	\$ 300	\$ 250

2. Operation permits for domestic wastewater facilities.

	Type I	Type II	Type III
a. Treatment plant with or without disposal system	\$2000	\$1500	\$1000
b. Reuse/land application system	\$2000	\$1000	\$ 500
c. Residuals management facility	\$2000	\$1500	\$1000
d. Limited wet weather discharge	\$1000	\$ 800	\$ 600
e. Minor modifications, excluding time extensions	\$ 400	\$ 300	\$ 250

17-4.050(4)(a)3. - 17-4.050(4)(b)2.e.

	Type I	Type II	Type III
3. Temporary operation permits for domestic wastewater facilities.			
a. Treatment plant with or without disposal system	\$3000	\$2500	\$1500
b. Reuse/land application system	\$3000	\$1500	\$ 750
c. Residuals management facility	\$3000	\$2500	\$1500
d. Limited wet weather discharge	\$1000	\$ 800	\$ 600
e. Minor modifications, excluding time extensions	\$ 400	\$ 300	\$ 250
4. Permit for a surface water discharge, when applied for separately from the treatment facility.			
a. Type I facility			\$2000
b. Type II facility			\$1000
c. Type III facility			\$ 500
5. Construction Permit for domestic wastewater transmission/collection system.			
a. Domestic wastewater collection system serving 10 or more Equivalent Dwelling Units (EDUs). An EDU is equal to 3.5 persons.			\$ 500
b. Domestic wastewater collection system serving less than 10 EDUs			\$ 250
(c) Industrial Wastewater Facility Permits.			
1. Construction permit for an industrial wastewater treatment facility for which there is a technology based effluent limitation specified by Department rule.			\$5,000
2. Construction permit for all other industrial wastewater treatment facilities.			
a. Type I facility			\$5,000
b. Type II facility			\$3,000
c. Type III or smaller facility			\$2,000
3. Operation permit for an industrial wastewater treatment facility for which there is a technology based effluent limitation specified by Department rule.			\$2,000
4. Operation permit for all other industrial wastewater treatment facilities.			
a. Type I facility			\$2,000
b. Type II facility			\$1,500
c. Type III facility or smaller			\$1,000
5. Temporary operation permit for an industrial wastewater treatment facility for which there is a technology based effluent limitation specified by Department rule.			\$4,000

17-4.050(4)(b)3. - 17-4.050(4)(c)5.

6. Temporary operation permit for all other industrial wastewater treatment facilities.			
a. Type I facility			\$4,000
b. Type II facility			\$3,000
c. Type III or smaller facility			\$2,000
7. Collection systems for industrial wastewater treatment facilities.			\$ 500
(d) Wetland Resource Management (Dredge and Fill) Permits.			
1. Standard form dredge and fill construction projects up to and including 5 years duration that affect 10 or more acres of jurisdictional area pursuant to Rule 17-312.070(2), F.A.C.			\$3,000
2. Short form dredge and fill construction projects up to and including 5 years duration that affect 0 - 9.99 acres.			\$ 500
3. Standard form marina construction projects up to and including 5 years duration that involve the construction of:			
a. 100 or more boat slips			\$3,000
b. 26 - 99 boat slips			\$2,000
c. 0 - 25 boat slips			\$1,000
4. Short form marina construction projects involving construction of up to 10 boat slips and up to and including 5 years duration.			\$ 500
5. 25-year permits pursuant to Chapter 17-45, F.A.C.			\$5,000
6. Modifications to 25-year permits pursuant to Chapter 17-45, F.A.C.			\$1,000
7. 10 year permits pursuant to Section 403.813(2)(f), F.S., which are not located within river channels, except river channels within a deep water port			\$2,500
8. 5 year permits pursuant to Section 403.813(2)(f), 403.816, F.S.			\$1,250
9. Short form permits from 6 years up to and including 10 years duration			\$1,250
10. Standard form permits from 6 years up to and including 10 years duration			\$5,000
11. Permits for 11 years			\$11,000
12. Permits for 12 years			\$12,000
13. Permits for 13 years			\$13,000
14. Permits for 14 years			\$14,000
15. Permits for 15 years			\$15,000
16. Permits for 16 years			\$16,000
17. Permits for 17 years			\$17,000
18. Permits for 18 years			\$18,000

17-4.050(4)(c)6. - 17-4.050(4)(d)18.

19. Permits for 19 years	\$19,000
20. Permits for 20 years	\$20,000
21. Permits for 21 years	\$21,000
22. Permits for 22 years	\$22,000
23. Permits for 23 years	\$23,000
24. Permits for 24 years	\$24,000
25. Permits for 25 years	\$25,000
26. Mangrove alternation permits	\$ 100
27. For the purposes of determining the fee for wetlands resource management permits the term of duration for the permit shall be reduced by the period of time (in yearly increments) during which no dredging or filling activity occurs or no reclamation, restoration, or mitigation occurs and only minor monitoring and maintenance activities are required. The fee for the full term shall be submitted with the application and after the Department determines the period of time that the term of the permit can be reduced the excess fee shall be returned.	
(e) Stormwater Permits.	
1. Construction Permit for Stormwater facilities	\$ 100
2. Operation Permit for a stormwater facility	\$ 100
3. Temporary operation permit for a stormwater facility.	\$ 100
(f) Solid Waste Permits.	
1. Construction permit for a Class I facility.	\$5,000
2. Construction permit for a Class II facility.	\$5,000
3. Construction permit for a Class III facility.	\$3,000
4. Construction permit for a waste-to-energy facility not covered by the Electric Power Plant Siting Act.	\$5,000
5. Construction permit for other resource recovery facilities.	\$2,000
6. Construction permit for an incinerator.	\$3,000
7. Construction permit for a yard trash composting facility.	\$1,000
8. Construction permit for a manure composting facility.	\$1,000
9. Construction permit for a solid waste composting facility.	\$5,000
10. Construction/operation permit for a waste tire processing facility.	\$1,250
11. Construction permit for all other solid waste facilities.	\$ 500
12. Operation permit for a Class I facility.	\$3,000
13. Operation permit for a Class II facility.	\$3,000
14. Operation permit for a Class III facility.	\$1,000
15. Operation permit for a waste-to-energy facility.	\$3,000

174.050(4)(d)19. - 17-4.050(4)(f)15.

16. Operation permit for other resource recovery facilities.	\$1,000
17. Operation permit for an incinerator.	\$1,000
18. Operation permit for a yard trash composting facility.	\$1,000
19. Operation permit for a manure composting facility	\$1,000
20. Operation permit for a solid waste composting facility.	\$3,000
21. Operation permit for all other solid waste facilities.	\$ 500
22. Solid waste general permits.	\$ 100
a. Transfer station	
b. Construction & demolition debris disposal facility	
c. Compost ($\leq 3000 \text{ yd}^3/\text{yr}$. yard trash and /or manure processed)	
d. Biohazardous waste storage facility	
e. Used oil recycling facility	
f. Waste tire collection center	
g. Waste tire small processing facility	
h. Waste tire mobile processing equipment	
23. Closure permit for a Class I facility.	\$3,000
24. Closure permit for a Class II facility.	\$3,000
25. Closure permit for a Class III facility.	\$1,000
26. Closure permit for a waste tire processing facility.	\$ 250
27. Closure permit for all other solid waste facilities.	\$1,000
(g) Petroleum Cleanup General Permits.	
1. Soil thermal treatment - mobile.	\$ 100
2. Soil thermal treatment - stationary.	\$ 100
(h) Hazardous Waste Permits.	
1. Construction permit for a hazardous waste facility.	
a. Treater of waste	\$5,000
b. Storer of waste	\$5,000
c. Disposer of waste	\$5,000
d. Incinerator of waste	\$5,000
e. Other waste facilities	\$5,000
2. Operation permit for a hazardous waste facility.	\$2,000
3. Temporary operation permit for a hazardous waste facility.	\$1,000
4. Closure permit for a hazardous waste facility.	\$5,000
5. Construction and operation of a research and development hazardous waste facility.	\$3,000
(i) Underground Injection Control Permits.	
1. Construction permit for each Class I well.	\$5,000
2. Operation permit for each Class I well.	\$3,000
3. Abandonment permit for each Class I well.	\$ 100

17-4.050(4)(f)16. - 17-4.050(4)(i)3.

4.	Construction permit for each Class III well.	\$ 500
5.	Operation permit for each Class III well.	\$ 500
6.	Abandonment permit for each Class III well.	\$ 100
7.	Construction permit for each Class V well.	\$ 400
8.	Operation permit for each Class V well.	\$ 400
9.	Abandonment permit for each Class V well.	\$ 50
10.	General permit for each Class V well.	\$ 25
(j)	Drinking Water (Public Water Supply) Permits.	
1.	Construction permit for a Category I through IV treatment plant with treatment other than disinfection only.	
a.	Treatment plant - 5 MGD and above	\$1000
b.	Treatment plant - 1 MGD up to 5 MGD	\$ 800
c.	Treatment plant - 0.25 MGD up to 1 MGD	\$ 600
d.	Treatment plant - up to 0.25 MGD	\$ 400
2.	Construction permit for a Category V treatment plant - Disinfection only.	
a.	Treatment plant - 5 MGD and above	\$ 800
b.	Treatment plant - 1 MGD up to 5 MGD	\$ 600
c.	Treatment plant - 0.25 MGD up to 1 MGD	\$ 500
d.	Treatment plant - up to 0.25 MGD	\$ 300
3.	Distribution and transmission systems except those under general permit.	
a.	Community system	\$ 500
b.	Non-transient non-community system	\$ 350
c.	Non-community system	\$ 250
4.	Construction permit for a public water supply well.	
a.	Wells located in delineated areas pursuant to Chapter 17-524, F.A.C.	\$ 500
b.	Any other public water supply well.	\$ 200
(k)	General Permit fee for any General Permit not specifically listed in subsections (a) through (j)	\$ 100
(l)	Permits to construct or operate any other type of facility or stationary installation not specifically listed in (a) through (k)	\$ 100
(m)	Minor modifications to permits, other than Domestic Wastewater Facility Permits, that do not require a construction permit.	\$ 250
(n)	For purposes of requiring a permit application and fee for the following facility types, each non-contiguous project shall be considered a stationary installation and shall require a separate application and fee.	
1.	Domestic wastewater collection system.	
2.	Drinking water distribution system.	

17-4.050(4)(i)4. -- 17-4.050(4)(n)2.

(o) If the department requires by rule or permit condition that any specific permit be renewed more frequently than once every five years, the permit fee shall be prorated based upon the permit fee schedule in effect at the time of permit renewal. Upon issuance of such a permit, a prorated refund of the fee shall be returned to the applicant. This provision does not apply to permits issued for less than five years which could be extended to five years without the filing of an application for renewal. However, applications for permits to continue operation of a facility where and existing permit has or is about to expire in accordance with Section 403.087(1), F.S., shall be accompanied by the appropriate processing fee.

(p) This fee schedule does not apply to applications for certification pursuant to Sections 288.501-288.518, F.S., Florida Industrial Siting Act; Sections 341.321 - 341.386, F.S., the High Speed Rail Transportation Commission, except that fees may be assessed for the permitting of Ancillary Facilities under the Act for which a master plan approval was granted under the Act; to Sections 403.501-403.519, F.S., Florida Electrical Power Plant Siting Act; or to Sections 403.52-403.539, F.S., the Transmission Line Siting Act.

(q) This fee schedule will supersede all other references to fees in Department rules or forms, where in conflict except as noted in Rule 17-4.050(4)(m), F.A.C.

(r) The fee for renewal of an existing operation or closure permit where there has been no significant change in the authorized activity shall be 50% of the fee specified in this rule. However, the full fee shall be submitted with the application for renewal, and after the Department determines that there were no significant changes in the authorized activity, the excess fee shall be returned. This reduction of fees does not apply to a wetland resource management permit, stormwater permit, temporary operation permit, construction permit, abandonment permit, general permit, or renewal of an air permit where the Similar Source Fee provision applies.

(s) The total fees for all operation permits and renewals thereof for sources existing at a single facility on the commencement of a five year period shall not exceed \$50,000 for that five year period.

(t) In the jurisdiction of an approved local program which in accordance with an interagency agreement assists the Department in the processing of permits the fee paid to the Department shall be reduced by the amount specified in the agreement. That amount shall be commensurate with the savings to the Department resulting from the assistance of the local program.

17-4.050(4)(o) - 17-4.050(4)(t)

(5) (a) To be considered by the Department, each application must be accompanied by the proper processing fee, except for applications filed by state agencies created pursuant to Chapter 20, F.S., water management districts created pursuant to Chapter 373, F.S., and the U.S. Army Corps of Engineers. The fee shall be paid by check, payable to the Department of Environmental Regulation. The fee is non-refundable except as provided in Section 120.60, F.S., and in this section.

(b) When an application is received without the required fee, the Department shall acknowledge receipt of the application and shall immediately notify the applicant by certified mail that the required fee was not received and advise the applicant of the correct fee. The Department shall take no further action until the correct fee is received. If a fee was received by the Department which is less than the amount required, the Department shall return the fee along with the written notification.

(c) Upon receipt of the proper application fee, the permit processing time requirements of Sections 120.60(2) and 403.0876, F.S., shall begin.

(d) If the applicant does not submit the required fee within ten days of receipt of written notification, the Department shall either return the unprocessed application or arrange with the applicant for the pick up of the application.

(e) If an applicant submits an application fee in excess of the required fee, the permit processing time requirements of Sections 120.60(2) and 403.0876, F.S. shall begin upon receipt, and the Department shall refund to the applicant the amount received in excess of the required fee.

(6) Any substantial modification to a complete application shall require an additional processing fee determined pursuant to the schedule set forth in Section 17-4.050, F.A.C., and shall restart the time requirements of Sections 120.60 and 403.0876, F.S. For purposes of this Subsection, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different environmental impacts which require a detailed review.

(7) Modifications to existing permits proposed by the permittee which require substantial changes in the existing permit or require substantial evaluation by the Department of potential impacts of the proposed modifications shall require the same fee as a new application for the same time duration except for modification under chapter 17-45, F.A.C.

Specific Authority: 403.061, 403.087, F.S.
Law Implemented: 373.309, 403.021, 403.031, 403.061, 403.087, 403.0877, 403.088, 403.722, 403.861(7), 403.921, 471.003, 492.102, F.S.

History: New 5-17-72, Amended 6-19-74, 7-8-82, Formerly 17-4.05, Amended 11-15-87, 8-31-88, 10-3-88, 4-4-89, 3-19-90, 6-11-90, 3-7-91, 3-18-91, 5-30-91.

17-4.050(5)(a) - 17-4.050(History)

17-4.053 Permit Processing.

(1) Within 30 days after receipt of an application for a permit and the correct processing fee the Department shall review the application and shall request submittal of additional information the Department is authorized by law to request.

(2) If the applicant believes any Department request for additional information is not authorized by law or rule, the applicant may request a hearing pursuant to Section 120.57, Florida Statutes.

(3) Within 30 days after receipt of such additional information, the Department shall review it and may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information.

(4) If the applicant believes the request of the Department for such additional information is not authorized by law or rule, the Department, at the applicant's request, shall begin to process the permit application. Such a request by the applicant shall be in writing and shall be clearly labeled as a request for the Department to process the application. The applicant's request shall state the reasons why the applicant believes the Department's request for additional information is not authorized by law or rule. The applicant shall clearly state that the applicant requests the Department to process the application without that information. The applicant's request shall be submitted to the Department office which made the request.

(5) Permits shall be approved or denied within 90 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application, whichever occurs last.

(6) The procedures in this section do not apply to hazardous waste facility permitting under Florida Administrative Code Rule 17-30, or to other permitting for which there are other specific procedures.

Specific Authority: 403.161, 403.087, F.S.

Law Implemented: 403.021, 403.061, 403.062, 403.087, 403.0876, F.S.

History: New 12-3-84, Amended 8-31-88.

17-4.055(1) - 17-4.055(History)

17-4.060 Consultation. The Applicant, or his engineer, is encouraged to consult with Department personnel before submitting an application, or at any other time concerning the operation, construction, expansion, or modification of any installation or concerning the required pollution control devices or system, the efficiency of such devices or system, or the pollution problem related to the installation. However, any representation by the Department shall not relieve any person from any requirement of Florida law.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.

History: New 5-17-72, Amended 8-31-88. Previously numbered as 17-4.06.

17-4.070 Standards of Issuing or Denying Permits; Issuance; Denial.

(1) A permit shall be issued to the applicant upon such conditions as the Department may direct, only if the applicant affirmatively provides the Department with reasonable assurance based on plans, test results, installation of pollution control equipment, or other information, that the construction, expansion, modification, operation, or activity of the installation will not discharge, emit, or cause pollution in contravention of Department standards or rules. However, for discharges of wastes to water, the Department may issue temporary operation permits under the criteria set forth in Section 403.088(3), F.S.

(2) If, after review of the application and all the information, the Department determines that the applicant has not provided reasonable assurance that the construction, modification, expansion, or operation of the installation will be in accord with applicable laws or rules, including rules of approved local programs, the Department shall deny the permit.

(3) The Department may issue any permit with specific conditions necessary to provide reasonable assurance that Department rules can be met.

(4) No Department permits shall be issued for a term of more than five (5) years unless otherwise specified by statute, rule, or order of the Department. However, construction permits for air pollution sources may be issued for a period of time as necessary.

(5) The Department shall take into consideration a permit applicant's violation of any Department rules at any installation when determining whether the applicant has provided reasonable assurances that Department standards will be met.

(6) The applicant shall be promptly notified if the Department intends to deny the application, and shall be informed of the reasons for the intended denial, and of the right to request an administrative hearing.

17-4.060 - 17-4.070(6)

(7) The issuance of permit does not relieve any person from complying with the requirements of Chapter 403, F.S., or Department rules.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.

History: New 5-17-72, Amended 7-8-82, 2-1-83, 12-3-84, 8-31-88, 3-28-91. Previously numbered as 17-4.07.

17-4.080 Modification of Permit Conditions.

(1) For good cause and after notice and an administrative hearing, if requested, the Department may require the permittee to conform to new or additional conditions. The Department shall allow the permittee a reasonable time to conform to the new or additional conditions and on application of the permittee the Department may grant additional time.

For the purpose of this section, good cause shall include, but not be limited to, any of the following:

(a) A showing that an improvement in effluent or emission quality or quantity can be accomplished because of technological advances without unreasonable hardship.

(b) A showing that a higher degree of treatment is necessary to effect the intent and purpose of Chapter 403, F.S.

(c) A showing of any change in the environment or surrounding conditions that requires a modification to conform to applicable air or water quality standards.

(d) For discharges into State waters, a showing that new or changed classification of the water requires a modification of the discharge.

(e) Adoption or revision of Florida Statutes, rules, or standards which require the modification of a permit condition for compliance.

(2) A permittee may request a modification of a permit by applying to the Department.

17-4.070(7) - 17-4.080(2)

(3) 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. Upon timely submittal of a request for extension, unless the permit automatically expires by statute or rule, the permit will remain in effect until final agency action is taken on the request. For construction permits, an extension shall be granted if the applicant can demonstrate reasonable assurances that, upon completion, the extended permit will comply with the standards and conditions required by applicable regulation. For all other permits, an extension shall be granted if the applicant can demonstrate reasonable assurances that the extended permit will comply with the standards and conditions applicable to the original permit. A permit for which the permit application fee was prorated in accordance with Subsection 17-4.050(4)(1), F.A.C., shall not be extended. In no event shall a permit be extended or remain in effect longer than the time limits established by statute or rule.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72, Amended 8-31-88, 3-19-90. Previously numbered as 17-4.08.

17-4.090 Renewals.

(1) Renewals. Prior to sixty days before the expiration of any Department operation permit, the permittee shall apply for a renewal of a permit on forms and in a manner prescribed by the Department. A renewal application shall be timely and sufficient. If the application is submitted prior to sixty days before expiration of the permit, it will be considered timely and sufficient. If the renewal application is submitted at a later date, it will not be considered timely and sufficient unless it is submitted and made complete prior to the expiration of the operation permit. When the application for renewal is timely and sufficient, the existing permit shall remain in effect until the renewal application has been finally acted upon by the Department or, if there is court review of the Department's final agency action, until a later date is required by Section 120.60, F.S.

Specific Authority: 120.60, 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 120.60, 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72, Amended 8-31-88, 3-19-20. Previously numbered as 17-4.09.

17-4.080(3) - 17-4.090(History)

17-4.100 Suspension and Revocation.

(1) Permits shall be effective until suspended, revoked, surrendered, or expired and shall be subject to the provisions of Chapter 403, F.S., and rules of the Department.

(2) Failure to comply with pollution control laws and rules shall be grounds for suspension or revocation.

(3) A permit issued pursuant to this Chapter shall not become a vested property right in the permittee. The Department may revoke any permit issued by it if it finds that the permit holder or his agent:

(a) Submitted false or inaccurate information in his application or operational reports.

(b) Has violated law, Department orders, rules or permit conditions.

(c) Has failed to submit operational reports or other information required by Department rules.

(d) Has refused lawful inspection under Section 403.091, F.S.

(4) No revocation shall become effective except after notice is served by personal service, certified mail, or newspaper notice pursuant to Section 120.60(7), F.S., upon the person or persons named therein and a hearing held if requested within the time specified in the notice. The notice shall specify the provision of the law, or rule alleged to be violated, or the permit condition or Department order alleged to be violated, and the facts alleged to constitute a violation thereof.

Specific Authority: 120.60, 403.061, (7), F.S.

Law Implemented: 120.60, 403.021, 403.031, 403.061, 403.087, 403.088, F.S.

History: Formerly 17-4.07 FAC, New 3-4-70, Revised 5-17-72, Amended 8-7-73, 8-31-88. Previously numbered as 17-4.10.

17-4.110 Financial Responsibility. The Department may require an applicant to submit proof of financial responsibility and may require the applicant to post an appropriate bond to guarantee compliance with the law and Department rules.

Specific Authority: 403.061, (7), F.S.

Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.

History: New 5-17-72, Amended 8-7-73, and 8-31-88. Previously numbered as 17-4.11.

17-4.120 Transfer of Permits.

(1) Within 30 days after the sale or legal transfer of a permitted facility, an "Application for Transfer of Permit" (DER Form 17-1.201(1)) must be submitted to the Department. This form must be completed with the notarized signatures of both the permittee and the proposed new permittee.

17-4.100(1) - 17-4.120(1)

(2) The Department shall approve the transfer of a permit unless it determines that the proposed new permittee cannot provide reasonable assurances that conditions of the permit will be met. The determination shall be limited solely to the ability of the new permittee to comply with the conditions of the existing permit, and it shall not concern the adequacy of these permit conditions. If the Department proposes to deny the transfer, it shall provide both the permittee and the proposed new permittee a written objection to such transfer together with notice of a right to request a Chapter 120, F.S., proceeding on such determination.

(3) Within 30 days of receiving a properly completed Application for Transfer of Permit form, the Department shall issue a final determination. The Department may toll the time for making a determination on the transfer by notifying both the permittee and the proposed new permittee that additional information is required to adequately review the transfer request. Such notification shall be served within 30 days of receipt of an Application for Transfer of Permit form, completed pursuant to subsection (1). If the Department fails to take action to approve or deny the transfer within 30 days of receipt of the completed Application for Transfer of Permit form, or within 30 days of receipt of the last item of timely requested additional information, the transfer shall be deemed approved.

(4) The permittee is encouraged to apply for a permit transfer prior to the sale or legal transfer of a permitted facility. However, the transfer shall not be effective prior to the sale or legal transfer.

(5) Until this transfer is approved by the Department, the permittee and any other person constructing, operating, or maintaining the permitted facility shall be liable for compliance with the terms of the permit. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations occurring prior to the sale or legal transfer of the facility.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.

History: New 3-4-70, Revised 5-17-72, 8-31-88, 3-19-90.
Previously numbered as 17-4.12.

17-4.120(2) - 17-4.120(History)

17-4.130 Plant Operation - Problems. If the permittee is temporarily unable to comply with any of the conditions of the permit due to breakdown of equipment or destruction by hazard of fire, wind or by other cause, the permittee shall immediately notify the Department. Notification shall include pertinent information as to the cause of the problem, and what steps are being taken to correct the problem and to prevent its recurrence, and where applicable, the owner's intent toward reconstruction of destroyed facilities. Such notification does not release the permittee from any liability for failure to comply with Department rules.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.

History: New 3-4-70, Revised 5-17-72, Amended 8-31-88.
Previously numbered as 17-4.13.

17-4.140 Reports.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.

History: New 3-4-70, Revised 5-17-72, Amended 7-20-76.
Previously numbered as 17-4.14, Repealed 8-31-88.

17-4.150 Review.

Failure to request a hearing within 14 days of receipt of notice of proposed or final agency action on a permit application or as otherwise required in Chapter 17-103 F.A.C., shall be deemed a waiver of the right to an administrative hearing.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.

History: New 5-17-72, Amended 8-31-88. Previously numbered as 17-4.15.

17-4.160 Permit Conditions. All permits issued by the Department shall include the following 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, 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.

17-4.130 - 17-4.160(1)

(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, are required by Department rules. This provision includes the operation of backup or 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 the permit;

(b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and

17-4.160(2) - 17-4.160(7)(b)

(c) Sample or monitor any substances or parameters at any location reasonable 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 educe, 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.

(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. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 17-3.051, shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard.

(11) This permit is transferable only upon Department approval in accordance with Rule 17-4.120 and 17-730.300 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:

(a.) Determination of Best Available Control Technology (BACT)

(b.) Determination of Prevention of Significant Deterioration (PSD)

17-4.160(7)(c) - 17-4.160(13)(b)

(c.) Certification of compliance with state Water Quality Standards (Section 401, PL 92-500)

(d.) 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 instrumentation) 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.

(16) In the case of an underground injection control permit, the following permit conditions also shall apply:

(a) All reports or information required by the Department shall be certified as being true, accurate and complete.

(b) Reports of compliance or noncompliance with, or any progress reports on, requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(c) Notification of any noncompliance which may endanger health or the environment shall be reported verbally to the Department within 24 hours and again within 72 hours, and a final written report provided within two weeks.

17-4.160(13)(c) - 17-4.160(16)(c)

1. The verbal reports shall contain any monitoring or other information which indicate that any contaminant may endanger an underground source of drinking water and any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between underground sources of drinking water.

2. The written submission shall contain a description of and a discussion of the cause of the noncompliance and, if it has not been corrected, the anticipated time the noncompliance is expected to continue, the steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance and all information required by Rule 17-28.230(4)(b), F.A.C.

(d) The Department shall be notified at least 180 days before conversion or abandonment of an injection well, unless abandonment within a lesser period of time is necessary to protect waters of the state.

(17) The following conditions also shall apply to a hazardous waste facility permit.

(a) The following reports shall be submitted to the Department:

1. Manifest discrepancy report. If a significant discrepancy in a manifest is discovered, the permittee shall attempt to rectify the discrepancy. If not resolved within 15 days after the waste is received, the permittee shall immediately submit a letter report, including a copy of the manifest, to the Department.

2. Unmanifested waste report. The permittee shall submit an unmanifested waste report to the Department within 15 days of receipt of unmanifested waste.

3. Annual report. An annual report covering facility activities during the previous calendar year shall be submitted pursuant to Chapter 17-30, F.A.C.

(b) Notification of any noncompliance which may endanger health or the environment, including the release of any hazardous waste that may endanger public drinking water supplies or the occurrence of a fire or explosion from the facility which could threaten the environment or human health outside the facility, shall be reported verbally to the Department within 24 hours, and a written report shall be provided within 5 days. The verbal report shall include the name, address, I.D. number, and telephone number of the facility, its owner or operator, the name and quantity of materials involved, the extent of any injuries, an assessment of actual or potential hazards, and the estimated quantity and disposition of recovered material. The written submission shall contain:

1. A description and cause of the noncompliance.

17-4.160(16)(c)1. - 17-4.160(17)(b)1.

2. If not corrected, the expected time of correction, and the steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

(c) Reports of compliance or noncompliance with, or any progress reports on, requirements in any compliance schedule shall be submitted no later than 14 days after each schedule date.

(d) All reports or information required by the Department by a hazardous waste permittee shall be signed by a person authorized to sign a permit application.
Specific Authority: 403.061, 403.087, 403.088, F.S. Law Implemented: 403.061, 403.087, 403.088, F.S. History: New 8-31-88, 10-4-89.

17-4.160(17)(b)2. - 17-4.160(History)

Part II
SPECIFIC PERMITS; REQUIREMENTS

17-4.200 Scope of Part II. This Part sets forth additional requirements for certain Department permits, exemptions from permitting, requirements for mixing zones and zones of discharge, and related requirements.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.

History: New 5-17-72, Amended 8-31-88. Previously numbered as 17-4.20.

17-4.210 Construction Permits.

(1) No person shall construct any installation or facility which will reasonably be expected to be a source of air or water pollution without first applying for and receiving a construction permit from the Department unless exempted by statute or Department rule. In addition to the requirements of Part I of this Chapter, applicants for a Department Construction Permit shall submit the following as applicable:

(a) A completed application on forms furnished by the Department.

(b) An engineering report covering:

1. plant description and operations,
2. types and quantities of all waste material to be generated whether liquid, gaseous or solid,
3. proposed waste control facilities,
4. the treatment objectives,
5. the design criteria on which the control facilities are based, and
6. other information deemed relevant.

Design criteria submitted pursuant to subparagraph 5. shall be based on the results of laboratory and pilot-plant scale studies whenever such studies are warranted. The design efficiencies of the proposed waste treatment facilities and the quantities and types of pollutants in the treated effluents or emissions shall be indicated. Work of this nature shall be subject to the requirements of Chapter 471, F.S. Where confidential records are involved, certain information may be kept confidential pursuant to s. 403.111, F.S.

17-4.200 - 17-4.210(1)(b)

(c) The owners' written guarantee to meet the design criteria as accepted by the Department and to abide by Chapter 403, F.S. and the rules of the Department as to the quantities and types of materials to be discharged from the installation. The owner may be required to post an appropriate bond or other equivalent evidence of financial responsibility to guarantee compliance with such conditions in instances where the owner's financial resources are inadequate or proposed control facilities are experimental in nature.

(2) The construction permit may contain conditions and an expiration date as determined by the Secretary or his designee.

(3) When the Department issues a permit to construct, the permittee shall be allowed a period of time, specified in the permit, to construct, and to operate and test to determine compliance with Chapter 403, FS, and the rules of the Department and, where applicable, to apply for and receive an operation permit. The Department may require tests and evaluations of the treatment facilities by the permittee at his expense.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.

History: New 5-17-72, Amended 8-31-88. Previously numbered as 17-4.21.

17-4.220 Operation Permit for New Sources.

In addition to the provisions of Parts I and II of this Chapter, to properly apply for an operation permit for new sources the applicant shall submit the appropriate fee and certification that of construction was completed noting any deviations from the conditions in the construction permit and test results where appropriate.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.

History: Formerly 17-4.05, New 3-4-70, Revised 5-17-72, Amended 8-31-88. Previously numbered as 17-4.22.

17-4.230 Operation Permits for Air Pollution Sources.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72. Previously numbered as 17-4.23, Repealed 10-20-86.

17-5.210(1)(c) - 17-4.230(History)

17-4.240 Operation Permits for Water Pollution Sources.

(1) Any person intending to discharge wastes into the waters of the State shall make application to the Department for an operation permit. Application shall be made in accordance with Part I of Chapter 17-4, Florida Administrative Code, and shall include:

(a) The total daily flow and the average daily concentration and weight of each appropriate pollutant parameter contained in the discharge

(b) The temperature of the discharge

(c) Any additional information reasonably necessary to evaluate treatment efficiency and the effect of such discharges upon the receiving waters.

(2) An operation permit shall be issued only if all Department requirements are met, including the provisions of Section 17-3.041 and Section 17-4.242, F.A.C.

(3) A permit issued pursuant to this section shall:

(a) Specify the manner, nature, volume and frequency of the discharge permitted;

(b) Require proper operation and maintenance of any pollution abatement facility by qualified personnel in accordance with standards established by the Department; and

(c) Contain such additional conditions, requirements and restrictions as the Department deems necessary to preserve and protect the quality of the receiving waters and to ensure proper operation of the pollution control facilities.

(4) An operation permit may be renewed upon application to the Department. No renewal permit shall be issued if the Department finds that the proposed discharge will reduce the quality of the receiving waters below the classification established for them.

Specific Authority: 403.061, 403.088, F.S.

Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, 403.101, F.S.

History: New 5-17-72, Amended 8-31-88. 10-4-89. Previously numbered as 17-4.23.

17-4.242 Antidegradation Permitting Requirements; Outstanding Florida Waters; Outstanding National Resource Waters; Equitable Abatement.

(1) Antidegradation Permitting Requirements.

(a) Permits shall be issued when consistent with the antidegradation policy set forth in Section 17-3.041.

(b) In determining whether a proposed discharge which results in water quality degradation is necessary or desirable under federal standards and under circumstances which are clearly in the public interest, the department shall consider and balance the following factors:

17-4.240(1) - 17-4.242(1)(b)

1. Whether the proposed project is important to and is beneficial to the public health, safety, or welfare (taking into account the policies set forth in Sections 17-3.011 and 17-3.041); and

2. Whether the proposed discharge will adversely affect conservation of fish and wildlife, including endangered or threatened species, or their habitats; and

3. Whether the proposed discharge will adversely affect the fishing or water-based recreational values or marine productivity in the vicinity of the proposed discharge; and

4. Whether the proposed discharge is consistent with any applicable Surface Water Improvement and Management Plan that has been adopted by a Water Management District and approved by the Department.

(c) In addition to subsection (b) above, in order for a proposed discharge (other than stormwater discharges meeting the requirements of Chapter 17-25, F.A.C.), to be necessary or desirable under federal standards and under circumstances which are clearly in the public interest, the permit applicant must demonstrate that neither of the following is economically and technologically reasonable:

1. Reuse of domestic reclaimed water.

2. Use of other discharge locations, the use of land application, or reuse that would minimize or eliminate the need to lower waterquality.

(2) Standards Applying to Outstanding Florida Waters

(a) No Department permit or water quality certification shall be issued for any proposed activity or discharge within an Outstanding Florida Waters, or which significantly degrades, either alone or in combination with other stationary installations, any Outstanding Florida Waters, unless the applicant affirmatively demonstrates that:

1. With respect to blowdown from a recirculated cooling water system of a steam electrical generating plant, that the discharge:

a. Meets the applicable limitations of Subsection 17-3.050(1)(d), F.A.C., at the point of discharge; or,

b. Has a mixing zone established pursuant to Subsection 17-3.050(1)(f)ii., F.A.C., which assures the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife in and on the Outstanding Florida Water, and which is established taking into account the recreational or ecological significance of such water; and,

c. Meets the temperature limits of Subsection 17-3.050(1)(d), F.A.C., at the boundary of the mixing zone established pursuant to Subsection 17-3.050(1)(f)ii., F.A.C.; or,

2. The proposed activity or discharge is clearly in the public interest; and either

17-4.242(1)(b)1. - 17-4.242(2)(a)2.

a. A Department permit for the activity has been issued or an application for such permit was complete on the effective date of the Outstanding Florida Water designation; or,

b. The existing ambient water quality within Outstanding Florida Waters will not be lowered as a result of the proposed activity or discharge, except on a temporary basis during construction for a period not to exceed thirty days; lowered water quality would occur only within a restricted mixing zone approved by the Department; and, water quality criteria would not be violated outside the restricted mixing zone. The Department may allow an extension of the thirty-day time limit on construction-caused degradation for a period demonstrated by the applicant to be unavoidable and where suitable management practices and technology approved by the Department are employed to minimize any degradation of water quality.

(b) The Department recognizes that it may be necessary to permit limited activities or discharges in Outstanding Florida Waters to allow for or enhance public use or to maintain facilities that existed prior to the effective date of the Outstanding Florida Water designation or facilities permitted after adoption of the Outstanding Florida Water designation. However, such activities or discharges will only be permitted if:

1. The discharge or activity is in compliance with the provisions specified in subparagraph (2)(a)2. of this Section; or,

2. Management practices and suitable technology approved by the Department are implemented for all stationary installations including those created for drainage, flood control, or by dredging or filling; and,

3. There is no alternative to the proposed activity, including the alternative of not undertaking any change, except at an unreasonably higher cost.

(c) For the purpose of this section the term "existing ambient water quality" shall mean (based on the best scientific information available) the better water quality of either (1) that which could reasonably be expected to have existed for the baseline year of an Outstanding Florida Water designation, or (2) that which existed during the year prior to the date of a permit application. It shall include daily, seasonal, and other cyclic fluctuations, taking into consideration the effects of allowable discharges for which Department permits were issued or applications for such permits were filed and complete on the effective date of designation.

17-4.242(2)(a)2.a. - 17-4.242(2)(c)

(d) Subsection 17-4.242(2) shall not apply to any dredge or fill activity or any discharge to an Outstanding Florida Water permitted by the Department on, or for which a complete permit application was filed on, the effective date of an Outstanding Florida Water designation; nor shall it apply to any renewal of a Department permit where there is no modification in the dredge or fill activity or discharge which would necessitate a permit review.

(e) Any activity that is exempted from permit programs administered by the Department, is not subject to the requirements of Section 17-4.242.

(f) For the Apalachicola River north of Gulf County, this section shall not apply in the federally-authorized nine-foot navigation project, as follows:

1. Maintenance dredging and disposal and snag removal by the Army Corps of Engineers as presently performed pursuant to existing permits and its continuation under renewals thereof; or

2. Class A and B emergencies as defined in Section 17-312.150(5), F.A.C.; or

3. Exemptions to permitting specified in Section 403.813, F.S. and Department rules; or

4. Any other permissible project of the Army Corps of Engineers deemed necessary by the Department pursuant to the considerations referenced in subsection 17-3.011(12)(c), F.A.C.

(3) Standards Applying to Outstanding National Resource Waters:

(a) All discharges or activities that may cause degradation of water quality in Outstanding National Resource Waters are prohibited, other than:

1. Discharges or activities that are exempted by statute from Department permitting or regulation;

2. Those discharges or activities described in Rule 17-4.242(1)(a)1. and 17-4.242(1)(a)2., F.A.C.

(b) Discharges or activities that would have the result of clearly enhancing the water quality of Outstanding National Resource Waters are not prohibited.

(c) In addition, the following restrictions apply in Outstanding National Resource Waters. Each is listed below, followed by a reference to DER rules or Florida Statutes:

1. Water quality reclassification to a class with less stringent criteria is not allowed (Section 17-3.081, F.A.C.).

2. New or expanded mixing zones can not be issued other than those for thermal discharges as allowed in Rule 17-4.242(1)(a)1.

3. Temporary Operation Permits can not be renewed (Section 17-4.250, F.A.C.)

4. General Permits can not be used.

17-4.242(2)(d) - 17-4.242(3)(c)4.

5. Exemptions from water quality criteria can not be issued (17-4.243; 17-6.020(5), (6), and (7); 17-25.030(3); and 17-28.130, F.A.C.).

6. Variances shall not be issued (Sections 403.201 and 403.938, F.S.)

7. Any special restrictions for water quality protection in Outstanding Florida Waters, whether in Department rules or Florida Statutes, also apply in Outstanding National Resource Waters.

(d) This subsection shall not apply to any existing activity permitted, exempted, or for which a completed application for permit was filed, on or before the effective date of the Outstanding National Resource Water designation; nor shall it apply to any renewal of a Department permit where there is no modification of the activity which would necessitate a permit review.

(4) Equitable Abatement.

(a) It shall be Department policy to further protect and enhance the quality of those surface waters whose quality has been artificially lowered below the quality necessary to support their designated uses. For such waters, no new activity or discharge shall be issued a Department license to construct unless the applicant affirmatively demonstrates that:

1. Water quality standards once achieved would not be violated as a result of the proposed activity or discharge;

2. The proposed activity or discharge is necessary or desirable under federal standards; and

3. The proposed activity or discharge is clearly in the public interest.

(b) To allocate equitably the relative levels of responsibility for abatement among persons directly discharging significant amounts of pollutants into waters which fail to meet one or more of the water quality criteria applicable to those waters, it is necessary to determine the amounts of those pollutants contributed by each of those persons and to consider all factors relevant to the equitable allocation of that responsibility. The following provisions of this section prescribe the means by which the Department, upon the petition of a license applicant, will equitably allocate among such persons the relative levels of abatement responsibility of each for abatement of those pollutants and by which it will establish for each of those persons, if necessary, an abatement program and schedule to accomplish any abatement determined necessary under the provisions of this Section.

17-4.242(3)(c)5. - 17-4.242(4)(b)

(c)1. For a surface water body, or portion thereof, which is determined by the Department to fail to meet one or more of the water quality criteria applicable to that water body, an applicant for a license to construct or operate a stationary installation to discharge wastes which contributes, or will contribute, to that failure may petition the Department in writing for an equitable allocation of the relative levels of responsibility for abatement among the stationary installations which discharge significant amounts of one or more of the pollutants which contribute to the failure of those waters to meet the water quality criterion (a) specified in the petition.

2. The applicant shall identify in the petition the location of each of the existing stationary installations which it wishes the Department to consider and the legal name and mailing address of the owners of each of those stationary installations.

3. The county government within which each stationary installation identified under subparagraphs 1. and 2. of this paragraph is located shall be given notice of the proceeding, as shall the municipality, if the stationary installation is located within a municipality.

4. The Department may identify any other owners of existing stationary installations which it deems necessary to allocate equitably the relative levels of responsibility for abatement of pollutants which contribute to the failure of those waters to meet any criterion specified in the petition.

5. Those owners identified by the petitioner and the Department shall be joined as parties in the licensing proceeding. Nothing shall preclude any party from requiring the joinder, as a party to the proceeding, of the owner of any other existing stationary installation upon written motion and an affirmative demonstration that such stationary installation is discharging significant amounts of one or more pollutants which contribute to the failure of the subject water body to meet any criterion specified in the petition. A motion for joinder shall be filed within 20 days of receipt by the movant of notice that it has been joined in the proceeding.

(d) License applications filed by the petitioner, or any other party, for waste discharges which are identified pursuant to Subsection paragraph (2)(c) above in the equitable allocation process under this Section shall be deemed incomplete or the subject of a dispute of material fact for purposes of Chapter 120, F.S. However, if an application for renewal of an existing license has been timely filed with the Department, the existing license shall remain in full force and effect until such time as a new or modified license has been issued pursuant to paragraph (2)(k).

17-4.242(4)(c)1. - 17-4.242(4)(d)

(e) Prior to determining the most equitable allocation of responsibility for abatement under subparagraph (f), the Department shall determine the percentage and quantification of the total contribution and the contribution by each of the stationary installations identified under paragraph (c) of the pollutants identified under paragraph (c) which contributes to the failure of the subject waters to meet the water quality criterion specified in the petition. Provided, however, that the Department, upon petition by an affected party pursuant to Section 17-3.031, F.A.C., may establish more appropriate less stringent criteria upon which to base quantification calculations. For the purpose of performing quantification calculations, the Department shall assume waste discharges entering the water body from an adjacent state as a separate point source of pollution.

(f) The following factors shall be considered by the Department in determining the most equitable allocation among the parties identified pursuant to paragraph (c) of the relative levels of responsibility of each for abatement of the pollutants with which the petition is concerned:

1. The percentage and quantification of the abatement achieved by abatement techniques previously undertaken, if any, by each of those stationary installations and the costs previously incurred, if any, with respect to each, along with any economic or production benefits gained from said abatement techniques.

2. The identification and estimated cost of alternative abatement techniques available for each stationary installation. Identified techniques shall include:

(i) Those techniques which would abate the level of pollutants to the degree required by the quantities of contributed pollutants determined under paragraph (e), or the maximum degree possible, if the degree required is not presently attainable.

(ii) Those techniques which would abate additional quantities of pollutants beyond the quantities determined under paragraph (e) and the approximate percentage of additional abatement which could be provided.

3. The economic and production impacts of additional abatement on each party, if any.

4. Other environmental impacts of available abatement techniques.

(g) In determining the percentages and quantities under paragraph (e), the Department shall use the best scientific and technical information, methods, and data in the possession of the Department.

17-4.242(4)(e) - 17-4.242(4)(g)

(h) Each party to the licensing proceeding shall provide the Department, and each other party except as provided by Section 403.111, F.S., with any information which is requested by the Department and necessary for the determination under paragraphs (e) and (f). With regard to the determination under subparagraph (f)2.(ii), however, parties shall only be required to provide that information within their possession at the time of the Department's request. The Department shall make available to a party any information in its possession, and shall provide reasonable assistance to any party in identifying that information which would assist the party in complying with the Department's request.

(i) Each party shall undertake a program approved by the Department to abate the quantity of contributed pollutants for which it is determined responsible under Subsection (e). Such abatement program shall include but not be limited to, a quantified effluent limitation, best management practices or specific techniques for abatement, and a schedule for commencement and completion of the required abatement. In establishing an abatement schedule, the Department shall consider the previous abatement efforts and their costs, the reasonable remaining usable life of the discharge facility, and any commitments for phasing out the discharge from the facility.

(j) An abatement program required under paragraph (i) may include the agreement of one owner to undertake additional abatement on behalf of another owner. When such an agreement has been executed fully and filed in writing with the Department within a reasonable period of time set by the Department, the agreement shall be recognized in the licenses of the signatory parties to the extent that it satisfies the levels of abatement, determined for those parties under paragraph (e).

(k) Each party shall be issued an appropriate license of modified license, which shall include any abatement program required of the party and approved under paragraph (i), as well as any other conditions authorized by Chapter 403, F.S.
 Specific Authority: 373.016, 373.171, 403.061, 403.062, 403.087, 403.088, 403.504, 403.704, 403.804, 403.805, F.S.
 Law Implemented: 373.016, 373.171, 403.021, 403.061, 403.087, 403.088, 403.101, 403.111, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, F.S.
 History: New 3-1-79, Amended 5-14-81, 9-30-82, 3-31-83, 4-9-84, 11-29-84, 12-11-84, 5-8-85, 7-22-85, 8-31-88, 10-4-89.

17-4.243 Exemptions from Water Quality Criteria.

(1) Exemptions for artificial water bodies classified for agricultural water supplies.

17-4.242(4)(h) - 17-4.243(1)

(a) The Secretary shall, upon the petition of an affected person or permit applicant, and after public notice in the Florida Administrative Weekly and in a newspaper of general circulation in the area of the waters affected, and after opportunity for public hearing pursuant to Chapter 120, Florida Statutes, issue an Order for the duration of the permit specifically exempting a source of pollution from the Class IV water quality criteria contained in Section 17-3.131, F.A.C., for wholly artificial bodies of water upon affirmative demonstration by the Petitioner of the following:

1. granting the exemption is in the public interest; and,
2. the public has limited access to the waters under consideration; and,
3. the waters are not used for recreation; and,
4. compliance with presently specified criteria is unnecessary for the protection of potable water supplies and animals, plants, or aquatic life using the waters; and,
5. granting the exemption will not interfere with existing uses or the designated use of the waters; or contiguous waters and, the economic, environmental and social costs of compliance with the existing criteria outweigh the social, environmental, economic and social benefits of compliance; and additionally,
7. the presently specified water quality criteria cannot be met with currently available technology; or,
8. the costs of compliance with the presently specified criteria involved are so high that they must be spread over a considerable period of time; or,
9. some other type of hardship will occur.

(b) The Petitioner shall affirmatively demonstrate those criteria which the petitioner believes more appropriately apply to the waters for which the exemption is sought.

(c) The Secretary shall specify, by Order, only those criteria which the Secretary determines to have been demonstrated by the preponderance of competent substantial evidence to be more appropriate.

(d) The Department shall modify the Petitioner's permit consistent with the Secretary's Order.

(2) Exemptions for Water Bodies Classified for Navigation, Utility and Industrial Use.

17-4.243(1)(a) - 17-4.243(2)

(a) The Secretary shall, upon the petition of an affected person or permit applicant, and after public notice in the Florida Administrative Weekly and in a newspaper of general circulation in the area of the waters affected, and after opportunity for public hearing pursuant to Chapter 120, Florida Statutes, issue an Order for the duration of the permit specifically exempting sources of pollution from the Class V water quality criteria contained in Section 17-3.141, F.A.C., upon affirmative demonstration by the petitioner of the following:

1. Granting the exemption is in the public interest; and,
2. Compliance with presently specified criteria is unnecessary for the protection of potable water supplies and animals, plants, or aquatic life utilizing the waters; and,
3. Granting the exemption will not interfere with existing uses or the designated use of the waters, or of contiguous waters; and,
4. The economic, environmental and social costs of compliance with the existing criteria outweigh the social, environmental and economic benefits of compliance; and additionally,
5. The present specific water quality criteria cannot be met with currently available technology; or,
6. The costs of compliance with the presently specified criteria involved are so high that they must be spread over a considerable period of time; or,
7. Some other type of hardship will occur.

(b) The Petitioner shall affirmatively demonstrate those criteria which the Petitioner believes more appropriately apply to the waters for which the exemption is sought.

(c) The Secretary shall specify, by Order, only those criteria which the Secretary determines to have been demonstrated by the preponderance of competent substantial evidence to be more appropriate.

(d) The Department shall modify the Petitioner's permit consistent with the Secretary's Order.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S.

Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.101, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.702, 403.708, F.S.

History: New 3-1-79, Amended 1-1-83, 2-1-83, 8-31-88.

17-4.244 Mixing Zones: Surface Waters.

(1) Zones of mixing for non-thermal components of discharges.

17-4.243(2)(a) - 17-4.244(1)

(a) The Department may allow the water quality adjacent to a point of discharge to be degraded to the extent that only the minimum conditions described in Section 17-3.051(1), Florida Administrative Code, apply within a limited, defined region known as the mixing zone. Under the circumstances defined elsewhere in this section, a mixing zone may be allowed so as to provide an opportunity for mixing and thus to reduce the costs of treatment. However, no mixing zone or combination of mixing zones shall be allowed to significantly impair any of the designated uses of the receiving body of water.

(b) A zone of mixing shall be determined based on the following:

1. The condition of the receiving body of water including present and future flow conditions and present and future sources of pollutants.
2. The nature, volume and frequency of the proposed discharge including any possible synergistic effects with other pollutants or substances which may be present in the receiving body of water.
3. The cumulative effect of the proposed mixing zone and other mixing zones in the vicinity.

(c) Except for the thermal component of discharges and nitrogen and phosphorus acting as nutrients, mixing zones which do not adhere to all of provisions (1)(d) through (1)(i) below shall be presumed to constitute a significant impairment of the designated uses of surface waters of Classes I, II and III. An applicant for a mixing zone may obtain an exemption from these limitations as follows:

1. The applicant shall provide public notice, which shall be prepared or approved by the Department, in a newspaper of general circulation in the area in which the mixing zone is proposed. The notice shall identify the specific exemption it is seeking and notice the time, date and place of a public meeting at which, if the meeting is requested, the Department will consider comments to the requested exemption. The notice shall allow a person to request such a public meeting by contacting the Department within 14 days of the publication of the notice. If there is no such request, a public meeting is not required.

2. The applicant shall arrange for a public meeting which will be held if requested at which the Department will consider public comments on the exemption that is being sought. The Department shall also provide for public notice of the meeting in the Florida Administrative Weekly.

3. The applicant shall affirmatively demonstrate to the Department that the mixing zone exemption will not produce a significant adverse effect on the established community of organisms in the receiving body of water or otherwise significantly impair any of the designated uses of the receiving body of water.

17-4.244(1)(a) - 17-4.244(1)(c)3.

4. The applicant shall affirmatively demonstrate to the Department the requirements of paragraph (5)(c) of this section will be met.

(d) A mixing zone shall not include an existing drinking water supply intake or any other existing water supply intake if the constituents of such mixing zone would significantly impair the purposes for which the supply is used.

(e) A mixing zone shall not include a nursery area of indigenous aquatic life or any area approved by the Department of Natural Resources for shellfish harvesting.

(f) In canals, rivers, streams, and other similar water bodies, the maximum length of a mixing zone shall be no more than 800 meters. In no case, shall a mixing zone be larger than is necessary for the discharge to completely mix with the receiving water to meet water quality standards, and in no case shall a mixing zone significantly impair the designated use of the water body other than within the boundaries of the mixing zone.

(g) In lakes, estuaries, bays, lagoons, bayous, sounds, and coastal waters, the area of a mixing zone shall be 125,600 square meters unless a lesser area is necessary to prevent significant impairment of a designated use. In no case shall a mixing zone be larger than is necessary to meet water quality standards.

(h) In open ocean waters, the area of a mixing zone shall be 502,655 square meters unless a lesser area is necessary to prevent significant impairment of a designated use. In no case shall a mixing zone be larger than is necessary to meet water quality standards.

(i) The mixing zones in a given water body shall not cumulatively exceed the limits described below:

1. In rivers, canals, and streams, and tributaries thereto and other similar water bodies: 10% of the total length;

2. In lakes, estuaries, bays, lagoons, bayous and sounds: 10% of the total area.

(j) Additional standards which apply within mixing zones in Class I, II and Class III waters are as follows:

1. The dissolved oxygen shall not average less than 4.0 milligrams per liter; and,

2. The turbidity shall not average greater than 41 Nephelometric Turbidity Units above natural background.

(k) Mixing zones in Class IV and V waters are subject only to the provisions of (d) above and of Section 17-3.051, F.A.C., and shall not significantly impair the designated uses of the receiving body of water.

(2) There shall be no mixing zone for any component of any discharge unless a Department permit containing a description of its boundaries has been issued for that component of the discharge.

17-4.244(1)(c)4. - 17-4.244(2)

(3)(a) Waters within mixing zones shall not be degraded below the minimum standards prescribed for all waters at all times in Section 17-3.051, F.A.C. In determining compliance with the provisions of 17-3.051(1), F.A.C., the average concentration of the wastes in the mixing zone shall be measured or computed using scientific techniques approved by the Department; provided that, the maximum concentration of wastes in the mixing zone shall not exceed the amount lethal to 50% of the test organisms in 96 hours (96 hr LC₅₀) for a species significant to the indigenous aquatic community, except as provided in paragraphs (b) or (c) below. The dissolved oxygen value within any mixing zone shall not be less than 1.5 milligrams per liter at any time or place.

(b) The maximum concentration of wastes in the mixing zone (except for open ocean discharges) may exceed the 96 hr. LC₅₀ only when all of the following conditions are satisfied.

1. Dilution ratio of the effluent exceeds 100:1 under critical conditions. That is, flow in the receiving waters exceeds 100 units for every unit of effluent flow under critical conditions. Critical conditions are defined as those under which least dilution of the effluent is expected, e.g., maximum effluent flow and minimum receiving stream flow.

2. High rate diffusers or other similar means are used to induce rapid initial mixing of the effluent with the receiving waters such that exposure of organisms to lethal concentrations is minimized.

3. Toxicity must be less than acute (as defined in Rule 17-3.021(1), F.A.C.) no more than a distance of 50 times the discharge length scale in any spatial direction. The discharge length scale is defined as the square-root of the cross-sectional area of any discharge outlet. In the case of a multiport diffuser, this requirement must be met for each port using the appropriate discharge length scale of that port. This restriction will ensure a dilution factor of at least 10 within this distance under all possible circumstances, including situations of severe bottom interaction, surface interaction, or lateral merging.

4. The effluent when diluted to 30% of full strength, shall not cause more than 50% mortality in 96 hours (95 hr. LC₅₀) in a species significant to the indigenous aquatic community.

17-4.244(3)(a) - 17-4.244(3)(b)4.

5. If the following pollutants are present in the effluent, their concentrations (in the effluent) shall not exceed the values listed:

Acrylonitrile	65 ug/l
Aldrin	7.5 ng/l
Dieldrin	7.5 ng/l
Benzene	4 mg/l
Benzidine	53 ng/l
Beryllium	6.4 ug/l
Cadmium	100 ug/l
Carbon Tetrachloride	694 ug/l
Chlordane	48 ng/l
Hexachlorobenzene	74 ng/l
Chlorinated ethanes:	
1,2-dichloroethane	24.3 mg/l
1,1,2-trichloroethane	4.2 mg/l
1,1,2,2-tetrachloroethane	1 mg/l
Hexachloroethane	874 ug/l
Chloroalkyl Ethers:	
bis(chloromethyl) ether	184 ng/l
bis(2-chloroethyl) ether	136 ug/l
Chloroform	1.57 mg/l
Chromium (hexavalent)	0.5 mg/l
DDT	2.4 ug/l
Dichlorobenzidine	2 ug/l
1,1-Dichloroethylene	185 ug/l
Dinitrotoluene	11 ug/l
Diphenylhydrazine	56 ug/l
Ethylbenzene	33 mg/l
Fluoranthene	540 ug/l
Halomethanes	1.6 mg/l
Heptachlor	29 ng/l
Hexachlorocyclohexane	
a Hexachlorocyclohexane	310 ng/l
B Hexachlorocyclohexane	547 ng/l
Y Hexachlorocyclohexane	625 ng/l
Lead	0.5 mg/l
Mercury	1.5 ug/l
Nickel	1 mg/l
Nitrosamines	124 ug/l
Polynuclear aromatic hydrocarbons	3 ug/l
Polychlorinated biphenyls (PCBs)	8 ng/l
Selenium	100 ug/l
Tetrachloroethylene	885 ug/l
Thallium	480 ug/l
Toxaphene	73 ng/l
Trichloroethylene	8 mg/l
Vinyl Chloride	52 mg/l

17-4.244(3)(b)5. - 17-4.244(3)(b)5.

(c) For open ocean discharges, the effluent when diluted to 30% full strength, shall not cause more than 50% mortality in 96 hours (96-hr. LC₅₀) in a species significant to the indigenous aquatic community. Rapid dilution shall be ensured by use of multiport diffusers, or a single port outfall designed (by a professional engineer registered in Florida) to achieve a minimum of 20:1 dilution of the effluent prior to reaching the surface. This dilution shall be determined using the plume model described in the EPA document, "Initial Mixing Characteristics of Municipal Ocean Discharges: Volume 1. Procedures and Applications," using the "Single plume, stagnant ambient" procedures, or as established by field measurements, or an equivalent method previously approved by the Department. The discharge shall otherwise comply with federal law.

(4) Except for the minimum conditions of waters as specified in Section 17-3.051, F.A.C., and the provisions of Section 17-4.244, F.A.C., no other water quality criteria apply within a mixing zone.

(5) Mixing zones for dredge and fill permits shall not be subject to provisions (1)(c) through (1)(j), (2), (3), or (4) of this section, provided that applicable water quality standards are met at the boundary and outside the mixing zone.

(a) The dimensions of dredge and fill mixing zones shall be proposed by the applicant and approved, modified or denied by the Department.

(b) Criteria for departmental evaluation of a proposed mixing zone shall include site-specific biological and hydrographic or hydrological considerations.

(c) In no case shall the boundary of a dredge and fill mixing zone be more than 150 meters downstream in flowing streams or 150 meters in radius in other bodies of water, where these distances are measured from the cutterhead, return flow discharge, or other points of generation of turbidity or other pollutants.

(6) Where a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam electric generating plant discharge of pollutants that existed or was licensed on July 1, 1984, may be granted a mixing zone, provided that:

(a) The standard would not be met in the water body in the absence of the discharge; and

(b) The discharge is in compliance with all applicable technology-based effluent limitations; and

(c) The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

17-4.244(3)(c) - 17-4.244(6)(c)

(d) The discharge otherwise complies with the mixing zone provisions specified in this section.

(7) Additional relief from mixing zone restrictions necessary to prevent significant impairment of a designated use is through:

(a) Reclassification of the water body pursuant to Section 17-3.081, Florida Administrative Code;

(b) Variance granted pursuant to s. 403.201, and Rule 17-103.100.

(c) Modification of the requirements of this section for specific criteria by the Secretary upon compliance with the notice and hearing requirements for mixing zones set forth in (1)(c) above and upon affirmative demonstration by an applicant the applicant's discharge from a source existing on the effective date of this rule complies with best technology economically achievable, best management practices, or other requirements set forth in Chapter 17-6, F.A.C., and the economic, environmental and social costs of compliance with the existing criteria outweigh the social, environmental, and economic benefits of compliance with more stringent discharge limitations necessary to comply with mixing zone requirements of Subsection 17-4.244(1), F.A.C., and the provisions relating to dissolved oxygen in section 17-4.244, F.A.C.

1. No discharger may be issued more than one permit or permit modification or renewal which allows a modification pursuant to this subsection unless the applicant affirmatively demonstrates that it has undertaken a continuing program, approved by the Department, designed to consider water quality conditions and review or develop any reasonable means of achieving compliance with the water quality criteria from which relief has been granted pursuant to this subsection.

2. With respect to paragraphs 17-4.244(1)(c), F.A.C., and 17-4.244(6)(c), F.A.C., the applicant must affirmatively demonstrate the minimum area of the water body necessary to achieve compliance with either subsection. Within a minimum area determined by the Secretary to be necessary to achieve compliance, the discharger shall be exempt from the criterion for which a demonstration has been made.

17-4.244(6)(d) - 17-4.244(7)(c)2.

(d) Whenever site specific alternative criteria are established pursuant to Section 17-3.031, or Subsection 17-3.061(3)(g), Florida Administrative Code, a mixing zone may be issued for dissolved oxygen if all provisions of Section 17-4.244, Florida Administrative Code are met with the exception of Subparagraph 17-4.244(1)(j)1., or Subsection 17-4.244(4) Florida Administrative Code.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S.

Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.101, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.702, 403.708, F.S.

History: Formerly part of 17-3.05, Revised and Renumbered 3-1-79, Amended 10-2-80, 1-1-83, 2-1-83, 12-19-84, 4-26-87, 8-31-88, 10-17-90.

17-4.245 Installations Discharging to Ground Water; Permitting and Monitoring Requirements.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S.

Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.101, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.504, 403.702, 403.708, F.S.

History: New 3-1-79, Amended 1-1-83, 7-18-85, 7-9-87, 2-11-88, Transferred to 17-28.700, F.A.C.

17-4.246 Sampling and Testing Methods for Water Pollution Sources.

(1) With regard to monitoring requirements imposed upon persons subject to this Chapter, the Department may require monitoring and sampling, including monitoring and sampling for background conditions, only for pollutants that may reasonably be expected to be generated by and contained in the permitted discharge or result from the permitted activity and for standards which may be violated as a result and in amounts which may reasonably be expected to violate water quality standards.

(2) Field testing, sample collection and preservation and laboratory testing, including quality control procedures, shall be in accordance with methods approved by the Department. Approved methods as published by the Department or as published in Standard Methods, A.S.T.M. or EPA Methods shall be used. Approved methods for chemical analyses are summarized in the Federal Register, October 26, 1984 (40CFR136).

17-4.244(7)(d) - 17-4.246(2)

(3) Equivalent, alternative methods may be approved by the Secretary. Such approval of alternate methods shall be based upon a technical demonstration, through comparison of analyses of replicate samples, that the proposed alternate method measures the relevant parameters with the same degree of accuracy as the approved method. The written approval and the technical justification upon which it is based shall be executed by the Secretary, filed, and shall be available for public inspection at the Department's Tallahassee, district and subdistrict offices.

(4) As a quality control procedure, the Department may require persons who submit test data to the Department to analyze a reasonable number of reference samples, not to exceed one percent of the tests performed on an annual basis, for parameters tested by those persons. These samples shall be provided by the Department.

(5) Either of the following conditions may be grounds for determining that monitoring data do not meet the requirements of this section:

(a) Failure to maintain the laboratory test records commonly maintained by other laboratories conducting the same tests; or

(b) Failure to maintain quality assurance records which shall include information on instrument calibration and maintenance, sample collection and analysis times, and test results for duplicate, spiked, and split or reference samples.

(6) Using generally accepted scientific procedures, the Department shall establish detection limits for each parameter for which a test method has been approved. When properly conducted testing procedures using an approved method show a parameter to be below the detection limit, its value shall be assumed to be zero for the purpose of that test if the measurement is not to be averaged with other values. If the measurement is to be averaged with other values, the calculated average thus obtained shall be compared to the detection limit. If the calculated average is less than the detection limit, the value shall be assumed to be zero. However, nothing shall preclude the use of other scientific procedures acceptable to the Department for the purpose of establishing concentrations.

(7) The submission of fraudulent data to the Department by any person may subject such person to the imposition of sanctions pursuant to Section 403.087(6) or Section 403.161, F.S.
 Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S.
 Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.091, 403.101, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S.
 History: Formerly 17-3.03, Amended and Renumbered 3-1-79, Amended 4-26-87, 8-31-88.

17-4.246(3) - 17-4.246(History)

17-4.247 Pollution Surveys.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S.

Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.091, 403.101, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S.

History: Formerly 28-5.20, 17-3.20, Amended and Renumbered 3-1-79. Transferred to 17-19.090, F.A.C.

17-4.248 Stormwater.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S.

Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.091, 403.101, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S.

History: New 3-1-79, Transferred to Chapter 17-25, F.A.C., and Amended 2-1-82.

17-4.249 Preservation of Rights.

(1) In the event any of the moderating provisions described in 17-3.011(18)(b), F.A.C., are declared invalid by a court of competent jurisdiction or a hearing officer pursuant to Section 120.56, Florida Statutes, then the Environmental Regulation Commission shall, at the earliest opportunity, reconsider the affected provisions and all other relevant portions of this rule to determine if alternative provisions should be adopted in order to resolve issues resulting from such decision or action and to assure that the intent expressed in 17-3.011(18), F.A.C., is fully implemented.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S.

Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.091, 403.101, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S.

History: New 3-1-79; Amended 8-31-88.

17-4.250 Water Pollution Temporary Operation Permits; Conditions.

(1) A person who does not qualify for a water pollution operation permit or has been denied such permit may apply to the Department for a water pollution temporary operation permit. Application shall be made in accordance with Part I of Chapter 17-4, Florida Administrative Code.

(2) The Department shall give notice to residents in the drainage area affected by the proposed discharge informing them when they may present objections to the proposed discharge.

17-4.247(History) - 17-4.250(2)

(3) No water pollution temporary permit shall be granted until all requirements of subsection (3) of 403.088, F.S., are fulfilled.

(4) If the Department deems such action is necessary or desirable to protect the quality of the receiving waters and promotes the public interest, it may issue a Temporary Operation Permit which places restrictions or limitations on increasing the flows of sewage through or additional connections to the sewage treatment facility involved.

(5) No Temporary Operation Permit may be issued or renewed for a direct discharge to an Outstanding Florida Water or Outstanding National Resource Water.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087,
403.088(5)(c), F.S.

History: New 5-17-72, Amended 3-26-74, 8-31-88, 10-4-89.
Previously numbered as 17-4.25.

17-4.260 Permits Required for Sewage Works.

Specific Authority: 403.061, F.S.

Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088,
F.S.

History: New 5-17-72, Amended 8-7-73, 5-14-81, 7-8-82.
Previously numbered as 17-4.26. Repealed

17-4.270 Drainage Wells; Permits.

Specific Authority: 403.021, 403.031, 403.061, 403.087, 403.088,
F.S.

Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088,
403.101, 403.182, F.S.

History: Formerly 17-3.12, 17-3.13, 17-3.14, 17-3.15, 17-3.16,
17-3.19 FAC, Revised 5-17-72, Transferred to 17-28.52 and
17-28.62, FAC, 5-8-85.

17-4.280 Dredging or Filling; Permits, Certifications.

Specific Authority: 403.061, 403.805, F.S.

Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.802,
403.813, 403.817, F.S.

History: New 6-10-75; Amended 10-26-75, 7-8-76; Joint
Administrative Procedures Committee Objection, Filed 1-12-76, See
FAW Vol. 1, No. 28; Amended 7-19-77; Joint Administrative
Procedures Committee Objection Withdrawn See Vol. 3, No. 30,
7-29-77; Amended 2-6-78, 2-18-79, 3-11-81, 7-8-82, 3-15-84,
10-16-84. Previously numbered as 17-4.28. Transferred to
17-12.150, F.A.C.

17-4.250(3) - 17-4.280(History)

17-4.290 Construction, Dredging or Filling in, on or over
Navigable Waters; Permits Required Pursuant to Chapter 253, F.S.
Specific Authority: 253.03(7), 403.805, F.S.

Law Implemented: 253.03, 253.123, 253.124, 403.813, F.S.

History: New 10-26-75, Amended 7-19-77, 2-18-79, 3-11-81, 7-8-82,
3-15-84, 10-16-84. Previously numbered as 17-4.29. Transferred
to 17-12.160

17-4.300 All Other Permits.

Specific Authority: 403.061, 403.087, F.S.

Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.101,
F.S.

History: New 5-17-72. Previously numbered as 17-4.30. Repealed.

17-4.310 Application Forms for Permit to Dredge and Fill.

Specific Authority: 403.061, 403.087, 253.03(7), F.S.

Law Implemented: 403.021(2), 403.087(6), 403.061(16),
403.061(18), 403.088(3)(b), 403.087(2), 403.813, 253.123,
253.124, F.S.

History: New 10-26-75, Amended 7-8-76, Transferred to
17-1.1221(15), Amended 2-18-79.

17-4.320 Certification and Acceptance.

Specific Authority: 253.031(7), 403.061, 403.805, F.S.

Law Implemented: 253.123, 253.124, 253.126(1)(2),
403.061(14)(a)(b), 403.087, 403.088, 403.802, 403.813, F.S.

History: New 7-12-79, Amended 3-11-81.

17-4.290(History) - 17-4.320(History)

PART III

17-4.510 Scope of Part III. This part defines general permits and establishes the procedures for persons who may wish to use a general permit.

Specific Authority: 403.814(1), F.S.

Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.814, 403.702-403.73, 403.851-403.864, F.S.

History: New 7-8-82. Amended 8-31-88. Previously numbered as 17-4.51.

17-4.520 Definition. A general permit is a permit issued by rule of the Department pursuant to Section 403.814(1), Florida Statutes, which authorizes persons to undertake certain activities which cause minimal adverse environmental impact when performed in accordance with specific requirements and practices set forth in the general permit. A general permit also constitutes water quality certification pursuant to Section 401, Public Law 92-500, 33 USC Section 1341, for the activity described in the general permit when the activity is performed in accordance with all applicable rules of the Department.

Specific Authority: 403.814, F.S.

Law Implemented: 403.061, 403.087, 403.088, 403.814, 403.702-403.73, 403.851-403.864, 403.91 - 403.938, F.S.

History: New 7-8-82. Amended 8-31-88, 7-11-90. Previously numbered as 17-4.52.

17-4.530 Procedures.

(1) Persons wishing to use one or more of the general permits set forth in the Department's Rules shall, at least 30 days before beginning any work, notify the Department in writing or on forms adopted by the Department. They shall describe the proposed project, and include supporting documents depicting the proposed project, its location, and other pertinent information as required by Rule to demonstrate that they qualify for the requested general permit. Persons wishing to use a general permit shall notify the appropriate office of the Department in writing. Persons wishing to use a general permit are hereby placed on notice that projects undertaken without proof of notice to the Department shall be considered as being undertaken without a permit and shall be subject to enforcement pursuant to Section 403.161, F.S.

(2) A proposed project which may be reasonably expected to violate air quality standards, water quality standards, or drinking water standards or which will not meet the public interest requirements set forth in Chapter 403, F.S., shall not be entitled to use of a general permit.

17-4.510 - 17-4.530(2)

(3) Pursuant to s. 258.397, F.S., no project which is located in the Biscayne Bay Aquatic Preserve is eligible for a general permit.

(4) Suspension or revocation of the use of a general permit shall be in accordance with Chapter 120, F.S. Good cause for the suspension or revocation shall include:

(a) Submission of false or inaccurate information in the notification for use of a general permit or in the required reports;

(b) Violation of law, Department orders, rules or permit conditions;

(c) Refusal of lawful inspection under Section 403.091, F.S.; or

(d) Any other act on the part of the permittee in the use of the general permit which results or may result in harm or injury to human health or welfare or which causes harm or injury to animal, plant or aquatic life, or to property.

(5) Unless otherwise required below as part of a specific category of general permit, persons qualifying for the use of a general permit are not required to, but may, publish in a newspaper of general circulation in the area affected by the proposed project a notice of intent to use a general permit. The notice, if published, shall follow substantially the format in Fla. Admin. Code Rule 17-103.150 and shall be published within 14 days of the date when the Department receives notification pursuant to Rule 17-4.530(1). No person who has published notice shall begin work until after the 21 days for requesting a hearing has passed or a hearing is held and a decision is rendered.

(6) Any person complying with the requirements of a general permit may use the permit 30 days after giving notice to the Department without any agency action. When no agency action is taken, unless the Department or the applicant publishes notice of the application, the provisions of Chapter 120, Florida Statutes, granting to affected parties the right to an administrative hearing do not apply.

Specific Authority: 403.814(1), F.S.

Law Implemented: 253.123, 253.124, 258.165, 403.061, 403.087, 403.088, 403.702-403.73, 403.814, 403.851-403.864, F.S.

History: New 7-8-82, Amended 6-16-84, 8-31-88, 3-19-90. Previously numbered as 17-4.53.

17-4.540 General Conditions for All General Permits.

(1) The terms, conditions, requirements, limitations, and restrictions set forth in this Part are "general permit conditions" and are binding upon the permittee. The conditions are enforceable under Chapter 403, F.S.

17-4.530(3) - 17-4.540(1)

(2) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit. The permittee is placed on notice that violation of the permit may result in suspension or revocation of the permittee's use of the general permit and may cause the Department to begin legal proceedings.

(3) The general permit does not convey any vested rights or any exclusive privileges. It does not authorize any injury to public or private property nor any invasion of personal rights. It does not authorize any infringement of federal, state or local laws or regulations. It does not eliminate the necessity for obtaining any other federal, state or local permits that may be required, or allow the permittee to violate any more stringent standards established by federal or local law.

(4) The general permit does not relieve the permittee from liability and penalties when the construction or operation of the permitted activity causes harm or injury to human health or welfare; causes harm or injury to animal, plant or aquatic life; or causes harm or injury to property. It does not allow the permittee to cause pollution in contravention of Florida Statutes and Department rules.

(5) The general permit conveys no title to land or water, nor does it constitute State recognition or acknowledgment of title. It does not constitute authority for reclamation of submerged lands. Only the Board of Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

(6) No general permit shall authorize the use of state owned land without the prior consent of the Board of Trustees of the Internal Improvement Trust Fund pursuant to Section 253.77, F.S.

(7) The general permit may be modified, suspended or revoked in accordance with Chapter 120, Florida Statutes, if the Secretary determines that there has been a violation of any of the terms or conditions of the permit, there has been a violation of state water quality standards or state air quality standards, or the permittee has submitted false, incomplete or inaccurate data or information.

(8) The general permit shall not be transferred to a third party except pursuant to Fla. Admin. Code Rule 17-4.120.

(9) The general permit authorizes construction and where applicable operation of the permitted facility.

(10) The permittee agrees in using the general permit to make every reasonable effort to conduct the specific activity or construction authorized by the general permit in a manner that will minimize any adverse effects on adjacent property or on public use of the adjacent property, where applicable, and on the environment, including fish, wildlife, natural resources of the area, water quality or air quality.

17-4.540(2) - 17-4.540(10)

(11) The permittee agrees in using the general permit to allow a duly authorized representative of the Department access to the permitted facility or activity at reasonable times to inspect and test upon presentation of credentials or other documents as may be required by law to determine compliance with the permit and the Department rules.

(12) The permittee agrees to maintain any permitted facility, or activity in good condition and in accordance with the plans submitted to the department under Rule 17-4.530(1).

(13) A permittee's use of a general permit is limited to five years. However, the permittee may request continued use of the general permit by notifying the Department pursuant to Rule 17-4.530(1). However, the permittee shall give notice of continued use of a general permit thirty days before it expires. Specific Authority: 403.814(1), F.S.
Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.702-403.73, 403.814, 403.851-403.864, F.S.
History: New 7-8-82. Amended 8-31-88. Previously numbered as 17-5.54.

17-4.550 General Permit to U.S. Forest Service for Minor Works within National Forests in Florida.

Specific Authority: 403.814(1), F.S.
Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S.
History: New 7-8-82. Previously numbered as 17-4.55.
Transferred to 17-12.801, F.A.C.

17-4.560 General Permit to Florida Game and Fresh Water Fish Commission for use of Rotenone.

Specific Authority: 403.814(1), F.S.
Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, F.S.
History: New 7-8-82. Previously numbered as 17-4.56. Transferred to 17-12.802, F.A.C.

17-4.570 General Permit for Installation or Maintenance of Boat Ramps.

Specific Authority: 403.814(1), F.S.
Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S.
History: New 7-8-82. Previously numbered as 17-4.57.
Transferred to 17-12.803, F.A.C.

17-4.540(11) - 17-4.570(History)

17-4.580 General Permit for Rip Rap.
 Specific Authority: 403.814(1), F.S.
 Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088,
 403.813, 403.814, 403.817, F.S.
 History: New 7-8-82. Previously numbered as 17-4.58.
 Transferred to 17-12.804, F.A.C.

17-4.590 General Permit for Headwalls, and Culverts
 Associated with a Stormwater Discharge Facility.
 Specific Authority: 403.814(1), F.S.
 Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088,
 403.813, 403.814, 403.817, F.S.
 History: New 7-8-82. Previously numbered as 17-4.59.
 Transferred to 17-12.805, F.A.C.

17-4.600 General Permit for Wastewater Disposal System for a
 Laundromat.
 Specific Authority: 403.814(1), F.S.
 Law Implemented: 403.061, 403.087, 403.088, 403.814, F.S.
 History: New 7-8-82. Previously numbered as 17-4.60.
 Transferred to 17-6.801, F.A.C.

17-4.610 General Permit for Solid Waste Transfer Station.
 Specific Authority: 403.814(1), F.S.
 Law Implemented: 403.061, 403.087, 403.088, 403.702-403.73,
 403.814, F.S.
 History: New 7-8-82. Previously numbered as 17-4.61.
 Transferred to 17-7.801, F.A.C.

17-4.620 General Permit for Wastewater Collection Systems.
 Specific Authority: 403.814(1), F.S.
 Law Implemented: 403.061, 403.087, 403.088, 403.814, F.S.
 History: New 7-8-82. Previously numbered as 17-4.62.
 Transferred to 17-6.802, F.A.C.

17-4.630 General Permit for the Construction of an Extension
 to a Public Water Supply Distribution System.
 Specific Authority: 403.814(1), F.S.
 Law Implemented: 373.016(3), 373.046, 373.309(2), 403.852(12),
 403.053(1)(3), 403.861(2), 403.861(6)(8)(9), F.S.
 History: New 7-8-82. Previously numbered as 17-4.63. Transferred
 to 17-22.801, F.A.C.

17-4.580(History) - 17-4.630(History)

17-4.640 General Permit for Land Application of Grade II
 Domestic Wastewater Treatment Sludge.
 Specific Authority: 403.814, F.S.
 Law Implemented: 403.061, 403.087, 403.702, through 403.715,
 403.814, F.S.
 History: New 6-16-84. Previously numbered as 17-4.64.
 Transferred to 17-7.802, F.A.C.

17-4.650 (Reserved).

17-4.660 General Permit to the Florida Department of
 Transportation for Minor Works Within Existing FDOT Rights-of-Way
 or Easements.
 Specific Authority: 403.814(1), F.S.
 Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088,
 403.813, 403.814, 403.817, F.S.
 History: New 4-26-84. Previously numbered as 17-4.66.
 Transferred to 17-12.806, F.A.C.

17-4.67 General Permit for Certain Silviculture Operations.
 Specific Authority: 403.814(1), F.S.
 Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088,
 403.813, 403.814, 403.817, F.S.
 History: New 4-26-84, Repealed 8-28-85.

17-4.680 General Permit for the Construction of Artificial
 Reefs.
 Specific Authority: 403.814(1), F.S.
 Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088,
 403.813, 403.814, 403.817, F.S.
 History: New 4-26-84. Previously numbered as 17-4.68.
 Transferred to 17-12.807, F.A.C.

17-4.690 General Permit for Certain Piers and Associated
 Structures.
 Specific Authority: 403.814(1), F.S.
 Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088,
 403.813, 403.814, 403.817, F.S.
 History: New 4-26-84. Previously numbered as 17-4.69.
 Transferred to 17-12.808, F.A.C.

17-4.70 General Permit for Certain Agricultural Operations.
 Specific Authority: 403.814(1), F.S.
 Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088,
 403.813, 403.814, 403.817, F.S.
 History: New 4-26-84, Repealed 8-28-85.

17-4.640(History) - 17-4.70(History)

17-4.710 General Permit for New Stormwater Discharge Facilities.

Specific Authority: 403.814(1), 403.912, F.S.
 Law Implemented: 403.061, 403.087, 403.088, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 403.908, 403.814, F.S.
 History: New 5-8-85. Previously numbered as 17-4.71. Transferred to 17-25.801, F.A.C.

17-4.720 General Permit for Limited Alteration of Mangroves.

Specific Authority: 403.814(1), 403.931(3), F.S.
 Law Implemented: 403.061, 403.814, 403.931, F.S.
 History: New 5-21-85. Previously numbered as 17-4.72. Transferred to 17-27.801, F.A.C.

17-4.730 General Permit for the Construction of a Closed Loop Air Conditioning Return Flow Well.

Specific Authority: 373.309, 403.061, 403.087, 403.101, F.S.
 Law Implemented: 373.309, 373.313, 403.021, 403.031, 403.062, 403.087, 403.101, 403.813, F.S.
 History: New 5-8-85. Previously numbered as 17-4.73. Transferred to 17-28.801, F.A.C.

17-4.740 General Permit for the Construction of a Swimming Pool Drainage Well.

Specific Authority: 373.309, 403.061, 403.087, 403.101, F.S.
 Law Implemented: 373.309, 373.313, 403.021, 403.031, 403.062, 403.087, 403.101, 403.813, F.S.
 History: New 5-8-85. Previously numbered as 17-4.74. Transferred to 17-28.802, F.A.C.

17-4.750 General Permit to Perform Prospecting Activities for Phosphate Minerals

Specific Authority: 403.814, F.S.
 Law Implemented: 403.061, 403.087, 403.088, 403.814, 403.912, 403.913, 403.918, 403.919, F.S.
 History: New 9-3-86. Transferred to 17-12.810, F.A.C.

17-4.760 General Permit for Temporary Dragline Crossings of Waterways

Specific Authority: 403.814, F.S.
 Law Implemented: 403.061, 403.087, 403.088, 403.814, 403.912, 403.913, 403.918, 403.919, F.S.
 History: New 9/3/86. Transferred to 17-12.811, F.A.C.

17-4.710(History) - 17-4.760(History)

17-4.770 General Permit for Low Water Crossings

Specific Authority: 403.814, F.S.
 Law Implemented: 403.061, 403.087, 403.088, 403.814, 403.912, 403.913, 403.918, 403.919, F.S.
 History: New 9-3-86. Transferred to 17-12.812, F.A.C.

17-4.780 General Permit for the Installation of Fences

Specific Authority: 403.814, F.S.
 Law Implemented: 403.061, 403.087, 403.088, 403.813, 403.814, 403.912, 403.913, 403.918, 403.919, F.S.
 History: New 9-3-86. Transferred to 17-12.813, F.A.C.

17-4.790 General Permit to Florida Game and Fresh Water Fish Commission, U.S. Forest Service, and County and Municipal Governments for the Construction of Freshwater Fish Attractors

Specific Authority: 403.814, F.S.
 Law Implemented: 403.061, 403.087, 403.088, 403.813, 403.814, 403.912, 403.913, 403.918, 403.919, F.S.
 History: New 9-3-86. Transferred to 17-12.814, F.A.C.

17-4.800 General Permit for Ski Jumps and Slalom Courses

Specific Authority: 403.814, F.S.
 Law Implemented: 403.061, 403.087, 403.088, 403.813, 403.814, 403.912, 403.913, 403.918, 403.919, F.S.
 History: New 9-3-86. Amended 10-28-87. Transferred to 17-12.815, F.A.C.

17-4.810 General Permit for the Construction or Maintenance of Culverted Driveway or Roadway Crossings and Bridges of Artificial Waterways

Specific Authority: 403.814, F.S.
 Law Implemented: 403.061, 403.087, 403.088, 403.814, 403.912, 403.913, 403.918, 403.919, F.S.
 History: New 9-3-86. Transferred to 17-12.816, F.A.C.

17-4.820 General Permit for the Construction of Aerial Pipeline Crossings of Certain Waters

Specific Authority: 403.814, F.S.
 Law Implemented: 403.061, 403.087, 403.088, 403.814, 403.912, 403.913, 403.918, 403.919, F.S.
 History: New 9-3-86. Transferred to 17-12.817, F.A.C.

17-4.830 General Permit for the Alteration of Mangroves in Man-Made Residential Canals Not Directly Connected to Class II Waters or to Outstanding Florida Waters.

Specific Authority: 403.814(1)1, 403.931(3), F.S.
 Law Implemented: 403.061, 403.814, 403.931, F.S.
 History: New 11-16-86. Transferred to 17-27.802, F.A.C.

17-4.770(History) - 17-4.830(History)

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ADMINISTRATIVE PROCEDURE ACT
CHAPTER 120

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CHAPTER 120
ADMINISTRATIVE PROCEDURE ACT

120.50 Exception to application of chapter.--This chapter shall not apply to:

- (1) The Legislature.
- (2) The courts.

History.--s. 1, ch. 74-310; s. 3, ch. 77-468; s. 1, ch. 78-162.

120.51 Short title.--This chapter may be known and cited as the "Administrative Procedure Act."

History.--s. 1, ch. 74-310.

120.52 Definitions.--As used in this act:

(1) "Agency" means:

(a) The Governor in the exercise of all executive powers other than those derived from the constitution.

(b) Each other state officer and each state department, departmental unit described in s. 20.04, commission, regional planning agency, board, district, and authority, including, but not limited to, those described in chapters 163, 298, 373, 380, and 582 and s. 186.504, except any legal entity or agency created in whole or in part pursuant to chapter 361, part II.

(c) Each other unit of government in the state, including counties and municipalities, to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

A judge of compensation claims shall not, in the adjudication of workers' compensation claims, be considered an agency or part of an agency for the purposes of this act.

(2) "Agency action" means the whole or part of a rule or order, or the equivalent, or the denial of a petition to adopt a rule or issue an order. The term also includes any denial of a request made under s. 120.54(5).

(3) "Agency head" means the person or collegial body in a department or other governmental unit statutorily responsible for final agency action.

(4) "Committee" means the Administrative Procedures Committee.

(5) "Communications media technology" means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

(6) "Division" means the Division of Administrative Hearings of the Department of Administration.

(7) "Educational unit" means a local school district, a community college district, the Florida School for the Deaf and the Blind, or a unit of the State University System other than the Board of Regents.

(8) "Invalid exercise of delegated legislative authority" means

action which goes beyond the powers, functions, and duties delegated by the Legislature. A proposed or existing rule is an invalid exercise of delegated legislative authority if any one or more of the following apply:

(a) The agency has materially failed to follow the applicable rulemaking procedures set forth in s. 120.54;

(b) The agency has exceeded its grant of rulemaking authority, citation to which is required by s. 120.54(7);

(c) The rule enlarges, modifies, or contravenes the specific provisions of law implemented, citation to which is required by s. 120.54(7);

(d) The rule is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency; or

(e) The rule is arbitrary or capricious.

(9) "License" means a franchise, permit, certification, registration, charter, or similar form of authorization required by law, but it does not include a license required primarily for revenue purposes when issuance of the license is merely a ministerial act.

(10) "Licensing" means the agency process respecting the issuance, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license or imposition of terms for the exercise of a license.

(11) "Order" means a final agency decision which does not have the effect of a rule and which is not excepted from the definition of a rule, whether affirmative, negative, injunctive, or declaratory in form. An agency decision shall be final when reduced to writing and filed with the person designated by the agency as clerk. The clerk shall indicate the date of filing on the order. This subsection is not applicable to an assessment of tax, penalty, or interest by the Department of Revenue. Assessments by the Department of Revenue shall be deemed final as provided in the statutes and rules governing the assessment and collection of taxes.

(12) "Party" means:

(a) Specifically named persons whose substantial interests are being determined in the proceeding.

(b) Any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.

(c) Any other person, including an agency staff member, allowed by the agency to intervene or participate in the proceeding as a party. An agency may by rule authorize limited forms of participation in agency proceedings for persons who are not eligible to become parties.

(d) Any county representative, agency, department, or unit funded and authorized by state statute or county ordinance to represent the interests of the consumers of a county, when the proceeding involves the substantial interests of a significant number of residents of the county and the board of county commissioners has, by resolution, authorized the representative, agency, department, or unit to represent the class of interested persons. The authorizing resolution shall apply to a specific

proceeding and to appeals and ancillary proceedings thereto, and it shall not be required to state the names of the persons whose interests are to be represented.

Prisoners as defined in s. 944.02(5) may obtain or participate in proceedings under s. 120.54(3), (4), (5), or (9) or s. 120.56 and may be parties under s. 120.68 to seek judicial review of those proceedings. Prisoners shall not be considered parties in any other proceedings and may not seek judicial review under s. 120.68 of any other agency action. Parolees shall not be considered parties for purposes of agency action or judicial review when the proceedings relate to the rescission or revocation of parole.

(13) "Person" means any person described in s. 1.01, any unit of government in or outside the state, and any agency described in subsection (1).

(14) "Proposed order" means the advance text, under s. 120.58(1)(e), of the order which a collegial agency head plans to enter as its final order. When a hearing officer assigned by the division conducts a hearing, the recommended order is the proposed order.

(15) "Recommended order" means the official recommendation of a hearing officer assigned by the division to an agency or of any other duly authorized presiding officer, other than an agency head or member thereof, for the final disposition of a proceeding under s. 120.57.

(16) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(a) Internal management memoranda which do not affect either the private interests of any person or any plan or procedure important to the public and which have no application outside the agency issuing the memorandum.

(b) Legal memoranda or opinions issued to an agency by the Attorney General or agency legal opinions prior to their use in connection with an agency action.

(c) The preparation or modification of:

1. Agency budgets.
2. Statements, memoranda, or instructions to state agencies issued by the Comptroller as chief fiscal officer of the state and relating or pertaining to claims for payment submitted by state agencies to the Comptroller.
3. Contractual provisions reached as a result of collective bargaining.
4. Agricultural marketing orders under chapter 573 or chapter 601.
5. Curricula by an educational unit.

(d) Agency action which has the effect of altering established hunting or fishing seasons, or altering established annual harvest limits for saltwater fishing if the procedure for altering such harvest limits is set out by rule of the Marine Fisheries

Commission, provided such action is adequately noticed in the area affected through publishing in a newspaper of general circulation or through notice by broadcasting in an electronic media.

(e) Any tests, test scoring criteria, or testing procedures relating to student assessment which are developed or administered by the Department of Education pursuant to s. 229.57, s. 232.245, s. 232.246, or s. 232.247 or any other statewide educational test required by law.

(f) Law enforcement policies and procedures of the Department of Law Enforcement which relate to:

1. The collection, management, and dissemination of active criminal intelligence information and active criminal investigative information; management of criminal investigations; and management of undercover investigations and the selection, assignment, and fictitious identity of undercover personnel.

2. The recruitment, management, identity, and remuneration of confidential informants or sources.

3. Surveillance techniques, the selection of surveillance personnel, and electronic surveillance including court-ordered and consensual interceptions of communication conducted pursuant to chapter 934.

4. The safety and release of hostages.

5. The provision of security and protection to public figures.

6. The protection of witnesses.

(g) The enlistment, organization, administration, equipment, maintenance, training, and discipline of the militia, National Guard, Organized Militia, and unorganized militia, as provided in s. 2, Art. X of the State Constitution.

History.--s. 1, ch. 74-310; s. 1, ch. 75-191; s. 1, ch. 76-131; s. 1, ch. 77-174; s. 12, ch. 77-290; s. 2, ch. 77-453; s. 1, ch. 78-28; s. 1, ch. 78-425; s. 1, ch. 79-20; s. 55, ch. 79-40; s. 1, ch. 79-299; s. 2, ch. 81-119; s. 1, ch. 81-180; s. 7, ch. 82-180; s. 1, ch. 83-78; s. 2, ch. 83-273; s. 10, ch. 84-170; s. 15, ch. 85-80; s. 1, ch. 85-168; s. 2, ch. 87-385; s. 1, ch. 88-367; s. 1, ch. 89-147.

120.53 Adoption of rules of procedure and public inspection.--

(1) In addition to other requirements imposed by law, each agency shall:

(a) Adopt as a rule a description of its organization stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

(b) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures.

(c) Adopt rules of procedure appropriate for the presentation of arguments concerning issues of law or policy, and for the presentation of evidence on any pertinent fact that may be in dispute.

(d) Adopt rules for the scheduling of meetings, hearings, and workshops, one of which shall be that an agenda shall be prepared by the agency in time to ensure that a copy of the agenda may be

received at least 7 days before the event by any person in the state who requests a copy and who pays the reasonable cost of the copy. The agenda shall contain the items to be considered in the order of presentation. After the agenda has been made available change shall be only for good cause, as determined by the person designated to preside, and stated in the record. Notification of such change shall be at the earliest practicable time. The agenda for a special meeting of a district school board under authority of s. 230.16 shall be prepared upon the calling of the meeting, but not less than 48 hours prior to such meeting. In addition, each agency shall give notice of meetings, hearings, and workshops in the same manner as that prescribed for rulemaking in s. 120.54(1), except that the notice requirement does not apply to emergency meetings. The notice shall include a statement of the general subject matter to be considered and shall be given not less than 7 days before the event.

(2) Each agency shall make available for public inspection and copying, at no more than cost:

(a) All rules formulated, adopted, or used by the agency in the discharge of its functions.

(b) All agency orders.

(c) A current subject-matter index, identifying for the public any rule or order issued or adopted after January 1, 1975.

All rules adopted pursuant to this act shall be indexed within 90 days. The Department of State shall by rule establish uniform indexing procedures.

(3) No agency rule or order is valid for any purpose until it has been made available for public inspection as herein required unless the person or party against whom enforcement is sought has actual knowledge of it.

(4) An agency may comply with paragraphs (2)(b) and (c) by designating by rule an official reporter which publishes and indexes by subject matter each agency order rendered after a proceeding which affects substantial interests has been held.

(5) An agency which enters into a contract pursuant to the provisions of ss. 282.301-282.313, chapter 255, chapter 287, or chapters 334-349 shall adopt rules specifying procedures for the resolution of protests arising from the contract bidding process. Such rules shall at least provide that:

(a) The agency shall provide notice of its decision or intended decision concerning a bid solicitation or a contract award as follows:

1. For a bid solicitation, notice of a decision or intended decision shall be given by United States mail or by hand delivery.

2. For any decision of the Division of Purchasing of the Department of General Services concerning a request by an agency for approval of an exceptional purchase under part I of chapter 287 and the rules of the Division of Purchasing, notice of a decision or intended decision shall be given by posting such notice in the office of the Division of Purchasing.

3. For any other agency decision, notice of a decision or intended decision shall be given either by posting the bid tabulation at the location where the bids were opened or by certified United States mail or other express delivery service,

return receipt requested.

The notice required by this paragraph shall contain the following statement: "Failure to file a protest within the time prescribed in s. 120.53(5), Florida Statutes, shall constitute a waiver of proceedings under chapter 120, Florida Statutes."

(b) Any person who is affected adversely by the agency decision or intended decision shall file with the agency a notice of protest in writing within 72 hours after the posting of the bid tabulation or after receipt of the notice of the agency decision or intended decision and shall file a formal written protest within 10 days after the date he filed the notice of protest. With respect to a protest of the specifications contained in an invitation to bid or in a request for proposals, the notice of protest shall be filed in writing within 72 hours after the receipt of notice of the project plans and specifications or intended project plans and specifications in an invitation to bid or request for proposals, and the formal written protest shall be filed within 10 days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. The formal written protest shall state with particularity the facts and law upon which the protest is based.

(c) Upon receipt of the formal written protest which has been timely filed the agency shall stop the bid solicitation process or the contract award process until the subject of the protest is resolved by final agency action, unless the agency head sets forth in writing particular facts and circumstances which require the continuance of the bid solicitation process or the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

(d) The agency, on its own initiative or upon the request of a protestor, shall provide an opportunity to resolve the protest by mutual agreement between the parties within 7 days, excluding Saturdays, Sundays, and legal holidays, of receipt of a formal written protest.

1. If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and legal holidays, of receipt of the formal written protest, and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to s. 120.57(2) and applicable agency rules before a person whose qualifications have been prescribed by rules of the agency.

2. If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and legal holidays, of receipt of the formal written protest, and if there is a disputed issue of material fact, the agency shall refer the protest to the division for proceedings under s. 120.57(1).

(e) Upon receipt of a formal written protest referred pursuant to this subsection, the division director shall expedite the hearing and assign a hearing officer who shall conduct a hearing within 15 days of the receipt of the formal written protest by the division and render a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the

hearing officer, whichever is later. The provisions of this paragraph may be waived upon stipulation by all parties.

(f) The Administration Commission shall promulgate model rules of procedure pursuant to the provisions of s. 120.54(10) for the filing of notice of protests and formal written protests.

(6) Each state agency, as defined in s. 216.011, shall adopt rules providing a procedure for conducting meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such meetings, hearings, and workshops, by means of communications media technology. The rules shall provide that all evidence, testimony, and argument presented shall be afforded equal consideration, regardless of the method of communication. If a meeting, hearing, or workshop is to be conducted by means of communications media technology, or if attendance may be provided by such means, the notice shall so state. The notice for meetings, hearings, and workshops utilizing communications media technology shall state how persons interested in attending may do so and shall name locations, if any, where communications media technology facilities will be available. Nothing in this subsection shall be construed to diminish the right to inspect public records under chapter 119. Limiting points of access to meetings, hearings, and workshops subject to the provisions of s. 286.011 to places not normally open to the public shall be presumed to violate the right of access of the public; and any official action taken under such circumstances is void and of no effect. Other laws relating to public meetings, hearings, and workshops, including penal and remedial provisions, shall apply to meetings, hearings, and workshops conducted by means of communications media technology and shall be liberally construed in their application to such meetings, hearings, and workshops.

History.--s. 1, ch. 74-310; s. 2, ch. 75-191; s. 2, ch. 76-131; s. 2, ch. 79-299; s. 1, ch. 81-296; s. 2, ch. 81-309; s. 8, ch. 83-92; s. 34, ch. 83-217; s. 3, ch. 83-273; s. 1, ch. 84-203; s. 77, ch. 85-180; s. 2, ch. 87-100; s. 2, ch. 88-384; s. 44, ch. 90-136; s. 35, ch. 90-302.

Note.--Sections 282.301 and 282.302 were repealed by s. 31, ch. 87-137. Note, however, that generally a specific cross-reference is unaffected by subsequent amendments to or repeal of the statute. See Preface.

Note.--Chapter 343, relating to public transit, was created by ch. 89-351 and falls within the range of chapters referenced.

120.54 Rulemaking; adoption procedures.--

(1) Prior to the adoption, amendment, or repeal of any rule not described in subsection (9), an agency shall give notice of its intended action, setting forth a short and plain explanation of the purpose and effect of the proposed rule, the specific legal authority under which its adoption is authorized, and a summary of the estimate of the economic impact of the proposed rule on all persons affected by it.

(a) Except as otherwise provided in this paragraph, the notice shall be mailed to the committee, to all persons named in the proposed rule, and to all persons who have made requests of the

agency for advance notice of its proceedings at least 14 days prior to such mailing. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed. Notice of intent by an educational unit to adopt, amend, or repeal any rule not described in subsection (9) shall be made:

1. By publication in a newspaper of general circulation in the affected area;

2. By mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and

3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

Such publication, mailing, and posting of notice shall occur at least 21 days prior to the intended action.

(b) The notice shall be published in the Florida Administrative Weekly not less than 28 days prior to the intended action, except that notice of actions proposed by educational units or units of government with jurisdiction in only one county or a part thereof need not be published in the Florida Administrative Weekly or transmitted to the committee. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

(2)(a) Each agency, prior to the adoption, amendment, or repeal of any rule, shall consider the impact of such proposed action on small business as defined in the Florida Small and Minority Business Assistance Act of 1985 and, whenever possible, shall tier such rule to reduce disproportionate impacts on small business and to avoid regulating businesses which do not contribute significantly to the problem the rule is designed to regulate. An agency may define "small business" to include more than 25 persons if it finds that such a definition is necessary to adapt any rule to the needs and problems of small business. The agency shall consider each of the following methods for reducing the impact of the proposed rule on small business:

1. Establishing less stringent compliance or reporting requirements in the rule for small business.

2. Establishing less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.

3. Consolidating or simplifying the rule's compliance or reporting requirements for small business.

4. Establishing performance standards to replace design or operational standards in the rule for small business.

5. Exempting small business from any or all requirements of the rule.

(b) Each agency shall provide information on its proposed action by preparing a detailed economic impact statement. The economic impact statement shall include:

1. An estimate of the cost to the agency of the implementation of the proposed action, including the estimated amount of paperwork;

2. An estimate of the cost or the economic benefit to all

persons directly affected by the proposed action;

3. An estimate of the impact of the proposed action on competition and the open market for employment, if applicable;

4. A detailed statement of the data and method used in making each of the above estimates; and

5. An analysis of the impact on small business as defined in the Florida Small and Minority Business Assistance Act of 1985.

(c) If an economic impact statement is required before an agency takes action on an application or petition by any person, the statement shall be prepared within a reasonable time after the application is made or the petition is filed.

(d) The failure to provide an adequate statement of economic impact is a ground for holding the rule invalid; however, beginning October 1, 1978, no rule shall be declared invalid for want of an adequate statement of economic impact unless the issue is raised in an administrative or judicial proceeding within 1 year of the effective date of the rule to which the statement applies.

(3)(a) If the intended action concerns any rule other than one relating exclusively to organization, procedure, or practice, the agency shall, on the request of any affected person received within 21 days after the date of publication of the notice, give affected persons an opportunity to present evidence and argument on all issues under consideration appropriate to inform it of their contentions. Prisoners, as defined in s. 944.02(5), may be limited by the Department of Corrections to an opportunity to submit written statements concerning intended action on any department rule. The agency may schedule a public hearing on the rule and, if requested by any affected person, shall schedule a public hearing on the rule. Any material pertinent to the issues under consideration submitted to the agency within 21 days after the date of publication of the notice or submitted at a public hearing shall be considered by the agency and made a part of the record of the rulemaking proceeding.

(b) If the agency determines that the proposed action will affect small business as defined by the agency as provided in paragraph (2)(a), the agency shall send written notice of such rule to the Small and Minority Business Advocate, the Minority Business Enterprise Assistance Office, and the Division of Economic Development of the Department of Commerce not less than 21 days prior to the intended action.

1. Within the 21-day period after written notice has been sent and the day on which the intended action is to take place, the agency shall give the Small and Minority Business Advocate, the Minority Business Enterprise Assistance Office, and the Division of Economic Development of the Department of Commerce an opportunity to present evidence and argument and to offer alternatives regarding the impact of the rule on small business.

2. Each agency shall adopt those alternatives offered pursuant to this subsection which it finds are feasible and consistent with the stated objectives of the proposed rule and which would reduce the impact on small business.

3. If an agency does not adopt all alternatives offered pursuant to this subsection, it shall, prior to rule adoption or amendment and pursuant to subsection (1), file a detailed written statement with the committee explaining the reasons for failure to adopt such

alternatives. Within 3 working days of the filing of such notice, the agency shall send a copy of such notice to the Small and Minority Business Advocate, the Minority Business Enterprise Assistance Office, and the Division of Economic Development of the Department of Commerce.

(4)(a) Any substantially affected person may seek an administrative determination of the invalidity of any proposed rule on the ground that the proposed rule is an invalid exercise of delegated legislative authority.

(b) The request seeking a determination under this subsection shall be in writing and must be filed with the division within 21 days after the date of publication of the notice. It must state with particularity the provisions of the rule or economic impact statement alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging the proposed rule would be substantially affected by it.

(c) Immediately upon receipt of the petition, the division shall forward copies of the petition to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director, if he determines that the petition complies with the above requirements, shall assign a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn. Within 30 days after conclusion of the hearing, the hearing officer shall render his decision and state the reasons therefor in writing. The division shall forthwith transmit copies of the hearing officer's decision to the Department of State and to the committee. The hearing officer may declare the proposed rule wholly or partly invalid. The proposed rule or provision of a proposed rule declared invalid shall be withdrawn from the committee by the adopting agency and shall not be adopted. No rule shall be filed for adoption until 28 days after the notice required by subsection (1) or until the hearing officer has rendered his decision, as the case may be. However, the agency may proceed with all other steps in the rulemaking process, including the holding of a factfinding hearing pursuant to subsection (3). In the event part of a proposed rule is declared invalid, the adopting agency may, in its sole discretion, withdraw the proposed rule in its entirety. The agency whose proposed rule has been declared invalid in whole or part shall give notice of the decision in the first available issue of the Florida Administrative Weekly.

(d) Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57 except that the hearing officer's order shall be final agency action. The agency proposing the rule and the person requesting the hearing shall be adversary parties. Other substantially affected persons may join the proceeding as parties or intervenors on appropriate terms which will not substantially delay the proceedings. Failure to proceed under this subsection shall not constitute failure to exhaust administrative remedies.

(5) Any person regulated by an agency or having a substantial interest in an agency rule may petition an agency to adopt, amend, or repeal a rule or to provide the minimum public information

required by s. 120.53. The petition shall specify the proposed rule and action requested. Not later than 30 calendar days after the date of filing a petition, the agency shall initiate rulemaking proceedings under this act, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

(6) In rulemaking proceedings, the agency may recognize any material which may be judicially noticed, and it may provide that materials so recognized be incorporated into the record of the proceeding. Before the record of any proceeding is completed, all parties shall be provided a list of such materials and given a reasonable opportunity to examine them and offer written comments thereon or written rebuttal thereto.

(7) Each rule adopted shall be accompanied by a reference to the specific rulemaking authority pursuant to which the rule was adopted and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented, interpreted, or made specific.

(8) Each rule adopted shall contain only one subject and shall be preceded by a concise statement of the purpose of the rule and reference to the rules repealed or amended, which statement need not be printed in the Florida Administrative Code. Pursuant to rule of the Department of State, a rule may incorporate material by reference but only as such material exists on the date the rule is adopted. For purposes of such rule, changes in such material shall have no effect with respect to the rule unless the rule is amended to incorporate such material as changed. No rule shall be amended by reference only. Amendments shall set out the amended rule in full in the same manner as required by the constitution for laws.

(9)(a) If an agency finds that an immediate danger to the public health, safety, or welfare requires emergency action, the agency may adopt any rule necessitated by the immediate danger by any procedure which is fair under the circumstances and necessary to protect the public interest, provided that:

1. The procedure provides at least the procedural protection given by other statutes, the Florida Constitution, or the United States Constitution.

2. The agency takes only that action necessary to protect the public interest under the emergency procedure.

3. The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. In any event, notice of emergency rules, other than those of educational units or units of government with jurisdiction in only one county or a part thereof, including the full text of the rules, shall be published in the first available issue of the Florida Administrative Weekly. The agency's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable.

(b) Rules pertaining to the public health, safety, or welfare shall include, but not be limited to, those rules pertaining to perishable agricultural commodities.

(c) An emergency rule adopted under this subsection may not be effective for a period longer than 90 days and shall not be

renewable, except during the pendency of a challenge to proposed rules addressing the subject of the emergency rule. However, the agency may take identical action by normal rulemaking procedures.

(d) Subject to applicable constitutional and statutory provisions, an emergency rule becomes effective immediately on filing, or at a date less than 20 days thereafter if specified in the rule, if the adopting agency finds that such effective date is necessary because of an immediate danger to the public health, safety, or welfare.

(10) The Administration Commission shall promulgate one or more sets of model rules of procedure which shall be reviewed by the committee and filed with the Department of State. On filing with the department, the appropriate model rules shall be the rules of procedure for each agency subject to this act to the extent that each agency does not adopt a specific rule of procedure covering the subject matter contained in the model rules applicable to that agency. An agency may seek modification of the model rules of procedure to the extent necessary to conform to any requirement imposed as a condition precedent to receipt of federal funds or permit persons in this state to receive tax benefits under federal law or as required for the most efficient operation of the agency as determined by the Administration Commission. The reasons for the modification shall be published in the Florida Administrative Weekly. Agency rules adopted to comply with ss. 120.53 and 120.565 must be in substantial compliance with the model rules.

(11)(a) The adopting agency shall file with the committee, at least 21 days prior to the proposed adoption date, a copy of each rule it proposes to adopt; a detailed written statement of the facts and circumstances justifying the proposed rule; a copy of the estimate of economic impact required by subsection (2); a statement of the extent to which the proposed rule establishes standards more restrictive than federal standards or a statement that the proposed rule is no more restrictive than federal standards or that a federal rule on the same subject does not exist; and the notice required by subsection (1). After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, the adopting agency shall file any changes in the proposed rule and the reasons therefor with the committee or advise the committee that there are no changes. In addition, when any change is made in a proposed rule, other than a technical change, the adopting agency shall provide a detailed statement of such change by certified mail or actual delivery to any person who requests it in writing at the public hearing. The agency shall file the change with the committee, and provide the statement of change to persons requesting it, at least 7 days prior to filing the rule for adoption. Educational units, other than units of the State University System and the Florida School for the Deaf and the Blind, and local units of government with jurisdiction in only one county or part thereof shall not be required to make filings with the committee. This paragraph does not apply to emergency rules adopted pursuant to subsection (9). However, agencies, other than those listed herein, adopting emergency rules shall file a copy of each emergency rule with the committee.

(b) If the adopting agency is required to publish its rules in

the Florida Administrative Code, it shall file with the Department of State three certified copies of the rule it proposes to adopt, a summary of the rule, a summary of any hearings held on the rule, and a detailed written statement of the facts and circumstances justifying the rule. Agencies not required to publish their rules in the Florida Administrative Code shall file one certified copy of the proposed rule, and the other material required above, in the office of the agency head; and such rules shall be open to the public pursuant to s. 120.53(2). Filings shall be made no less than 28 days or more than 90 days after the notice required by subsection (1). If a public hearing is held, the 90-day limit is extended to 21 days after adjournment of the final hearing on the rule, 21 days after receipt of all material authorized to be submitted at the hearing, or 21 days after receipt of the transcript, if one is made, whichever is latest. For purposes of this paragraph, the term "public hearing" includes any public meeting held by any agency at which the rule is considered. The filing of a petition for an administrative determination under the provisions of subsection (4) will toll the 90-day period during which a rule must be filed for adoption until the hearing officer has filed his order with the clerk. At the time a rule is filed, the agency shall certify that the time limitations prescribed by this subsection have been complied with and that there is no administrative determination pending on the rule. The department shall reject any rule not filed within the prescribed time limits or upon which an administrative determination is pending. If a rule has not been adopted within the time limits imposed by this section, the agency proposing the rule shall withdraw the rule and give notice of its action in the same manner as is prescribed in paragraphs (1)(a) and (b).

(12) Whenever an act of the Legislature is enacted which requires implementation of the act by rules of an agency within the executive branch of state government, such rules shall be drafted and formally proposed as provided herein within 180 days of the effective date of the act unless the provisions of the act provide otherwise.

(13)(a) The proposed rule shall be adopted on being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the rule, or on a date required by statute. Rules not required to be filed with the Department of State shall become effective when adopted by the agency head or on a later date specified by rule or statute.

(b) After the notice required in subsection (1) and prior to adoption, the agency may withdraw the rule in whole or in part or may make such changes in the rule as are supported by the record of public hearings held on the rule, technical changes which do not affect the substance of the rule, changes in response to written material relating to the rule received by the agency within 21 days after the notice and made a part of the record of the proceeding, or changes in response to a proposed objection by the committee. After adoption and before the effective date, a rule may be modified or withdrawn only in response to an objection by the committee or may be modified to extend the effective date by not more than 60 days when the committee has notified the agency that an objection to the rule is being considered. The agency shall give notice of its

decision to withdraw or modify a rule in the first available issue of the publication in which the original notice of rulemaking was published and shall notify the Department of State if the rule is required to be filed with the Department of State. After a rule has become effective, it may be repealed or amended only through regular rulemaking procedures.

(14) If the committee disapproves a proposed rule and the agency does not modify the rule, the committee shall file with the Department of State a notice of the disapproval detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule when it is published in the Florida Administrative Code, a reference to the committee's disapproval and to the issue of the weekly in which the full text thereof appears.

(15) No agency has inherent rulemaking authority; nor has any agency authority to establish penalties for violation of a rule unless the Legislature, when establishing a penalty, specifically provides that the penalty applies to rules. However, an agency may adopt rules necessary to the proper implementation of a statute prior to the effective date of the statute, but the rules may not be enforced until the statute upon which they are based is effective.

(16) The rulemaking provisions of this chapter do not apply to compensation appeals referees.

(17) Rulemaking proceedings shall be governed solely by the provisions of this section unless a person timely asserts that his substantial interests will be affected in the proceeding and affirmatively demonstrates to the agency that the proceeding does not provide adequate opportunity to protect those interests. If the agency determines that the rulemaking proceeding is not adequate to protect his interests, it shall suspend the rulemaking proceeding and convene a separate proceeding under the provisions of s. 120.57. Similarly situated persons may be requested to join and participate in the separate proceeding. Upon conclusion of the separate proceeding, the rulemaking proceeding shall be resumed.

History.--s. 1, ch. 74-310; s. 3, ch. 75-191; s. 3, ch. 76-131; ss. 1, 2, ch. 76-276; s. 1, ch. 77-174; s. 13, ch. 77-290; s. 3, ch. 77-453; s. 2, ch. 78-28; s. 2, ch. 78-425; s. 7, ch. 79-3; s. 3, ch. 79-299; s. 69, ch. 79-400; s. 5, ch. 80-391; s. 1, ch. 81-309; s. 2, ch. 83-351; s. 1, ch. 84-173; s. 2, ch. 84-203; s. 7, ch. 85-104; s. 1, ch. 86-30; s. 3, ch. 87-385; s. 36, ch. 90-302.

Note.--As reenacted by s. 36, ch. 90-302, applicable to invitations to bid or requests for proposals issued on or after October 1, 1990.

120.545 Committee review of agency rules.--

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.54(1)(a), and its accompanying material, and may examine any existing rule, for the purpose of determining whether:

(a) The rule is an invalid exercise of delegated legislative authority;

- (b) The statutory authority for the rule has been repealed;
- (c) The rule reiterates or paraphrases statutory material;
- (d) The rule is in proper form;
- (e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule; and
- (f) The economic impact statement accompanying the rule is adequate to accurately inform the public of the economic effect of the rule.

If the committee objects to a proposed or existing rule, it shall, within 5 days of the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity.

(2) Within 30 days of receipt of the objection, if the agency is headed by an individual, or within 45 days of receipt of the objection, if the agency is headed by a collegial body, the agency shall:

- (a) If the rule is a proposed rule:
 1. Modify the rule to meet the committee's objection;
 2. Withdraw the rule in its entirety; or
 3. Refuse to modify or withdraw the rule.
- (b) If the rule is an existing rule:
 1. Notify the committee that it has elected to amend the rule to meet the committee's objection and initiate the amendment procedure;
 2. Notify the committee that it has elected to repeal the rule and initiate the repeal procedure; or
 3. Notify the committee that it refuses to amend or repeal the rule.

(c) If the rule is either an existing or a proposed rule and the objection is to the economic impact statement:

1. Prepare a corrected economic impact statement, give notice of the availability of the corrected economic impact statement in the first available issue of the Florida Administrative Weekly, and file copies of the corrected statement with the committee and the Department of State; or
2. Notify the committee that it refuses to prepare a corrected economic impact statement.

(3) If the agency elects to modify a proposed rule to meet the committee's objection, it shall make only such modifications as are necessary to meet the objection and shall resubmit the rule to the committee. The agency shall give notice of its election to modify a proposed rule to meet the committee's objection in the first available issue of the Florida Administrative Weekly, but shall not be required to conduct a public hearing. If the agency elects to amend an existing rule to meet the committee's objection, it shall notify the committee in writing and shall initiate the amendment procedure by giving notice in the next available issue of the Florida Administrative Weekly. The committee shall give priority to rules so modified or amended when setting its agenda.

(4) If the agency elects to withdraw a proposed rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall give notice of the withdrawal in the next available issue of the Florida Administrative Weekly. The rule shall be withdrawn without a public hearing, effective upon

publication of the notice in the Florida Administrative Weekly. If the agency elects to repeal an existing rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall initiate rulemaking procedures for that purpose by giving notice in the next available issue of the Florida Administrative Weekly.

(5) If an agency elects to amend or repeal an existing rule as a result of a committee objection, it shall complete the process within 90 days after giving notice in the Florida Administrative Weekly.

(6) Failure of the agency to respond to a committee objection to a proposed rule within the time prescribed in subsection (2) shall constitute withdrawal of the rule in its entirety. In this event, the committee shall notify the Department of State that the agency, by its failure to respond to a committee objection, has elected to withdraw the proposed rule. Upon receipt of the committee's notice, the Department of State shall publish a notice to that effect in the next available issue of the Florida Administrative Weekly. Upon publication of the notice, the proposed rule shall be stricken from the files of the Department of State and the files of the agency.

(7) Failure of the agency to respond to a committee objection to an existing rule within the time prescribed in subsection (2) shall constitute a refusal to repeal the rule.

(8) If the committee objects to a proposed or existing rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Weekly in which the full text thereof appears.

History.--s. 4, ch. 76-131; s. 1, ch. 77-174; s. 6, ch. 80-391; s. 3, ch. 81-309; s. 4, ch. 87-385.

120.55 Publication.--

(1) The Department of State shall:

(a)1. Publish in a permanent compilation entitled "Florida Administrative Code" all rules adopted by each agency, citing the specific rulemaking authority pursuant to which each rule was adopted, all history notes as authorized in s. 120.545(8), and complete indexes to all rules contained in the code. Supplementation shall be made as often as practicable, but at least monthly. The department shall contract with a publishing firm for the publication, in a timely and useful form, of the Florida Administrative Code; however, the department shall retain responsibility for the code as provided in this section. This publication shall be the official compilation of the administrative rules of this state.

2. Rules general in form but applicable to only one school district, community college district, or county, or a part thereof, or university rules relating to internal personnel or business and finance shall not be published in the Florida Administrative Code.

Exclusion from publication in the Florida Administrative Code shall not affect the validity or effectiveness of such rules.

3. At the beginning of the section of the code dealing with an agency that files copies of its rules with the department, the department shall publish a summary or listing of all rules of that agency excluded from publication in the code and a statement as to where those rules may be inspected or examined and shall also publish any exemptions granted that agency pursuant to s. 120.63, including the termination date of the exemption and a statement whether the exemption can be renewed pursuant to s. 120.63(2)(b).

4. Forms shall not be published in the Florida Administrative Code; but any form which an agency uses in its dealings with the public, along with any accompanying instructions, shall be filed with the committee before it is used. Any form or instruction which meets the definition of "rule" provided in s. 120.52(15) shall be incorporated by reference into the appropriate rule. The reference shall specifically state that the form is being incorporated by reference and shall include the number, title, and effective date of the form and an explanation of how the form may be obtained.

(b) Publish a weekly publication entitled the "Florida Administrative Weekly," which shall contain:

1. Notice of adoption of, and an index to, all rules filed during the preceding week.

2. All hearing notices required by s. 120.54(1), showing the time, place, and date of the hearings and the text of all rules proposed for consideration or a reference to the location in the Florida Administrative Weekly where the text of the proposed rules is published.

3. All notices of meetings, hearings, and workshops conducted in accordance with the provisions of s. 120.53(1)(d), including a statement of the manner in which a copy of the agenda may be obtained.

4. A notice of each request for authorization to amend or repeal an existing model rule or for the adoption of new model rules.

5. A notice of each request for exemption from any provision of this chapter.

6. Notice of petitions for declaratory statements or administrative determinations.

7. A summary of each objection to any rule filed by the Administrative Procedures Committee during the preceding week.

8. Any other material required or authorized by law or deemed useful by the department.

The department may contract with a publishing firm for publication of the Florida Administrative Weekly.

(c) Prescribe by rule the style and form required for rules submitted for filing and establish the form for their certification.

(d) Correct grammatical, typographical, and like errors not affecting the construction or meaning of the rules, after having obtained the advice and consent of the appropriate agency, and insert history notes.

(e) Make copies of the Florida Administrative Weekly available on an annual subscription basis computed to cover a pro rata share

of 50 percent of the costs related to the publication of the Florida Administrative Weekly.

(f) Charge each agency using the Florida Administrative Weekly a space rate computed to cover a pro rata share of 50 percent of the costs related to the Florida Administrative Weekly.

(2) Each agency shall print or distribute copies of its rules, citing the specific rulemaking authority pursuant to which each rule was adopted.

(3) Any publication of a proposed rule promulgated by an agency, whether published in the Florida Administrative Code or elsewhere, shall include, along with the rule, the name of the person or persons originating such rule, the name of the supervisor or person who approved the rule, and the date upon which the rule was approved.

(4)(a) Each year the Department of State shall furnish the Florida Administrative Weekly, without charge and upon request, as follows:

1. One subscription to each federal and state court having jurisdiction over the residents of the state; the Legislative Library; each state university library; the State Library; each depository library designated pursuant to s. 257.05; and each standing committee of the Senate and House of Representatives and each state legislator upon request of the Senate President's or House Speaker's Office.

2. Two subscriptions to each state department.

3. Three subscriptions to the library of the Supreme Court of Florida, the library of each state district court of appeal, the division, the library of the Attorney General, each law school library in Florida, the Secretary of the Senate, and the Clerk of the House.

4. Ten subscriptions to the committee.

(b) The Department of State shall furnish one copy of the Florida Administrative Weekly, at no cost, to each clerk of the circuit court and each state department, for posting for public inspection.

(5)(a) There is hereby created in the State Treasury a revolving fund to be known as the "Publication Revolving Trust Fund" of the Department of State.

(b) All fees and moneys collected by the Department of State under this chapter shall be deposited in the revolving trust fund for the purpose of paying for the publication and distribution of the Florida Administrative Code and the Florida Administrative Weekly and for associated costs incurred by the department in carrying out this chapter.

(c) The unencumbered balance in the revolving trust fund at the beginning of each fiscal year shall not exceed \$100,000, and any excess shall be transferred to the General Revenue Fund.

(d) It is the intent of the Legislature that the Florida Administrative Weekly be supported entirely from funds collected for subscriptions to and advertisements in the Florida Administrative Weekly. To that end, the Department of State is authorized to add a surcharge of 10 percent to any charge relating to the Florida Administrative Weekly until such time as the Publication Revolving Trust Fund has transferred to the General Revenue Fund an amount

equal to all funds appropriated to the trust fund.

History.--s. 1, ch. 74-310; s. 1, ch. 75-107; s. 4, ch. 75-191; s. 5, ch. 76-131; s. 1, ch. 77-174; s. 4, ch. 77-453; s. 3, ch. 78-425; s. 4, ch. 79-299; s. 7, ch. 80-391; s. 4, ch. 81-309; s. 1, ch. 82-19; s. 1, ch. 82-47; s. 3, ch. 83-351; s. 3, ch. 84-203; s. 17, ch. 87-224; s. 1, ch. 87-322.

Note.--Section 2, ch. 87-385, added a new subsection (8) resulting in the renumbering of subsection (15) as subsection (16).

120.56 Administrative determination of rule by hearing officer.--

(1) Any person substantially affected by a rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of delegated legislative authority.

(2) The petition seeking an administrative determination under this section shall be in writing and shall state with particularity facts sufficient to show the person seeking relief is substantially affected by the rule and facts sufficient to show the invalidity of the rule. The petition shall be filed with the division which shall, immediately upon filing, forward copies of the petition to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director shall, if he determines that the petition complies with the above requirements, assign a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn.

(3) Within 30 days after the hearing, the hearing officer shall render his decision and state the reasons therefor in writing. The division shall forthwith transmit copies of the hearing officer's decision to the Department of State and to the committee. The hearing officer may declare all or part of a rule invalid. The rule or part thereof declared invalid shall become void when the time for filing an appeal expires or at a later date specified in the decision. The agency whose rule has been declared invalid in whole or part shall give notice of the decision in the Florida Administrative Weekly in the first available issue after the rule has become void.

(4) Challenges to the validity of an emergency rule shall be subject to the following time schedules. Within 7 days after receiving the petition, the division director shall, if he determines that the petition complies with subsection (2), assign a hearing officer who shall conduct a hearing within 14 days thereafter, unless the petition is withdrawn. Within 14 days after the hearing, the hearing officer shall render his decision and otherwise comply with the provisions of subsection (3) not inconsistent herewith.

(5) Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57 except that the hearing officer's order shall be final agency action. The petitioner and the agency whose rule is attacked shall be adversary parties. Other substantially affected persons may join the proceedings as parties

or intervenors on appropriate terms which shall not unduly delay the proceedings. Failure to proceed under this section shall not constitute failure to exhaust administrative remedies.

History.--s. 1, ch. 74-310; s. 5, ch. 75-191; s. 6, ch. 76-131; s. 1, ch. 77-174; s. 4, ch. 78-425.

120.565 Declaratory statement by agencies.--Each agency shall provide by rule the procedure for the filing and prompt disposition of petitions for declaratory statements. A declaratory statement shall set out the agency's opinion as to the applicability of a specified statutory provision or of any rule or order of the agency as it applies to the petitioner in his particular set of circumstances only. The agency shall give notice of each petition and its disposition in the Florida Administrative Weekly, except that educational units shall give notice in the same manner as provided for rules in s. 120.54(1)(a), and transmit copies of each petition and its disposition to the committee. Agency disposition of petitions shall be final agency action.

History.--s. 6, ch. 75-191; s. 7, ch. 76-131; s. 5, ch. 78-425; s. 5, ch. 79-299.

120.57 Decisions which affect substantial interests.--The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency, unless such proceedings are exempt pursuant to subsection (5). Unless waived by all parties, subsection (1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) applies in all other cases.

(1) FORMAL PROCEEDINGS.--

(a) A hearing officer assigned by the division shall conduct all hearings under this subsection, except for:

1. Hearings before agency heads or a member thereof other than an agency head or a member of an agency head within the Department of Professional Regulation;
2. Hearings before the Unemployment Appeals Commission in unemployment compensation appeals, unemployment compensation appeals referees, and special deputies pursuant to s. 443.141;
3. Hearings regarding drivers' licensing pursuant to chapter 322;
4. Hearings conducted within the Department of Health and Rehabilitative Services in the execution of those social and economic programs administered by the former Division of Family Services of said department prior to the reorganization effected by chapter 75-48, Laws of Florida;
5. Hearings in which the division is a party, in which case an attorney assigned by the Administration Commission shall be the hearing officer;
6. Hearings which involve student disciplinary suspensions or expulsions and which are conducted by educational units;
7. Hearings of the Public Employees Relations Commission in which a determination is made of the appropriateness of the bargaining unit, as provided in s. 447.307;

8. Hearings held by the Department of Agriculture and Consumer Services pursuant to chapter 601; and

9. Hearings held by the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles to deny, suspend, or remove a wrecker operator from participating in the wrecker rotation system established by s. 321.051. Such hearings shall be held by a hearing officer appointed by the director of the Division of Florida Highway Patrol.

(b) In any case to which this subsection is applicable, the following procedures apply:

1. A request for a hearing shall be granted or denied within 15 days of receipt.

2. All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. In a preliminary hearing for the revocation of parole, no less than 7 days' notice shall be given. In a hearing involving a student disciplinary suspension or expulsion conducted by an educational unit, the 14-day notice requirement may be waived by the agency head or the hearing officer without the consent of the parties. The notice shall include:

a. A statement of the time, place, and nature of the hearing.

b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. Except for any hearing before an unemployment compensation appeals referee, a short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, upon timely written application, a more definite and detailed statement shall be furnished not less than 3 days prior to the date set for the hearing.

3. Except for any proceeding conducted as prescribed in s. 120.54(4), s. 120.56, or s. 120.575(1)(b), a petition or request for a hearing under this section shall be filed with the agency. If the agency elects to request a hearing officer from the division, it shall so notify the division within 15 days of receipt of the petition or request. When the Florida Land and Water Adjudicatory Commission receives a notice of appeal pursuant to s. 380.07, the commission shall notify the division within 60 days of receipt of the notice of appeal if the commission elects to request the assignment of a hearing officer. On the request of any agency, the division shall assign a hearing officer with due regard to the expertise required for the particular matter. The referring agency shall take no further action with respect to the formal proceeding, except as a party litigant, as long as the division has jurisdiction over the formal proceeding. Any party may request the disqualification of the hearing officer by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

4. All parties shall have an opportunity to respond, to present

evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing officer's recommended order, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it.

5. All pleadings, motions, or other papers filed in the proceeding must be signed by a party, the party's attorney, or the party's qualified representative. The signature of a party, a party's attorney, or a party's qualified representative constitutes a certificate that he has read the pleading, motion, or other paper and that, to the best of his knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the hearing officer, upon motion or his own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

6. The record in a case governed by this subsection shall consist only of:

a. All notices, pleadings, motions, and intermediate rulings;

b. Evidence received or considered;

c. A statement of matters officially recognized;

d. Questions and proffers of proof and objections and rulings thereon;

e. Proposed findings and exceptions;

f. Any decision, opinion, proposed or recommended order, or report by the officer presiding at the hearing;

g. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under s. 120.66(1), if such communications are public records;

h. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and

i. The official transcript.

7. The agency shall accurately and completely preserve all testimony in the proceeding, and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost. In any proceeding before a hearing officer initiated by a consumptive use permit applicant pursuant to subparagraph 14., the applicant shall bear the cost of accurately and completely preserving all testimony and providing full or partial transcripts to the water management district. At the request of any other party, full or partial transcripts shall be provided at no more than cost.

8. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

9. Except as provided in subparagraph 13., the hearing officer shall complete and submit to the agency and all parties a recommended order consisting of his findings of fact, conclusions of law, interpretation of administrative rules, and recommended penalty, if applicable, and any other information required by law or agency rule to be contained in the final order. The agency shall allow each party at least 10 days in which to submit written exceptions to the recommended order.

10. The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order, but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action. When there is an appeal, the court in its discretion may award reasonable attorney's fees and costs to the prevailing party if the court finds that the appeal was frivolous, meritless, or an abuse of the appellate process or that the agency action which precipitated the appeal was a gross abuse of the agency's discretion.

11. If the hearing officer assigned to a hearing becomes unavailable, the division shall assign another hearing officer who shall use any existing record and receive any additional evidence or argument, if any, which the new hearing officer finds necessary.

12. A hearing officer who is a member of an agency head may participate in the formulation of the final order of the agency, provided he has completed all his duties as hearing officer.

13. In any application for a license or merger pursuant to title XXXVIII which is referred by the agency to the division for hearing pursuant to this section, the hearing officer shall complete and submit to the agency and to all parties a written report consisting of findings of fact and rulings on evidentiary matters. The agency shall allow each party at least 10 days in which to submit written exceptions to the report.

14. In any application for a consumptive use permit pursuant to part II of chapter 373, the water management district on its own motion may, or, at the request of the applicant for the permit, shall, refer the matter to the division for the appointment of a hearing officer to conduct a hearing under this section.

(2) **INFORMAL PROCEEDINGS.**--In any case to which subsection (1) does not apply:

(a) The agency shall, in accordance with its rules of procedure:

1. Give reasonable notice to affected persons or parties of the action of the agency, whether proposed or already taken, or of its decision to refuse action, together with a summary of the factual, legal, and policy grounds therefor.

2. Give affected persons or parties or their counsel an opportunity, at a convenient time and place, to present to the

agency or hearing officer written or oral evidence in opposition to the action of the agency or of its refusal to act, or a written statement challenging the grounds upon which the agency has chosen to justify its action or inaction.

3. If the objections of the persons or parties are overruled, provide a written explanation within 7 days.

(b) The record shall only consist of:

1. The notice and summary of grounds;

2. Evidence received or considered;

3. All written statements submitted by persons and parties;

4. Any decision overruling objections;

5. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and

6. The official transcript.

(3) Unless precluded by law, informal disposition may be made of any proceeding by stipulation, agreed settlement, or consent order.

(4) This section does not apply to agency investigations preliminary to agency action.

(5) This section does not apply to any proceeding in which the substantial interests of a student are determined by the State University System. The Board of Regents shall establish a committee, at least half of whom shall be appointed by the Council of Student Body Presidents, which shall establish by January 1, 1985, rules and guidelines ensuring fairness and due process in judicial proceedings involving students in the State University System. This section shall not become effective until January 1, 1985.

(6) In cases where a conceptual review permit has been issued by a water management district, petitions challenging the issuance of a construction or operating permit implementing the conceptual review permit, upon a motion of a party, shall be subject to expedited review. Within 15 days of filing a motion for expedited review by the district or the applicant, the hearing officer shall, by order, establish a schedule for the proceedings, including discovery, which provides for a final hearing within 60 days of the issuance of the order. Proposed recommended orders must be submitted to the hearing officer, if at all, within 10 days of the filing of the hearing transcript. Recommended orders shall be submitted to the district within 30 days of the last day for the filing of the proposed recommended order. The district shall issue its final order within 45 days of the receipt of the recommended order. If the district grants the construction or operating permit, the permittee may proceed unless judicial review of final agency action is sought pursuant to s. 120.68 and a stay is applied for and issued.

History.--s. 1, ch. 74-310; s. 7, ch. 75-191; s. 8, ch. 76-131; s. 1, ch. 77-174; s. 5, ch. 77-453; ss. 6, 11, ch. 78-95; s. 6, ch. 78-425; s. 8, ch. 79-7; s. 7, ch. 80-95; s. 4, ch. 80-289; s. 57, ch. 81-259; s. 2, ch. 83-78; s. 9, ch. 83-216; s. 2, ch. 84-173; s. 4, ch. 84-203; ss. 1, 2, ch. 86-108; s. 44, ch. 87-6; ss. 1, 2, ch. 87-54; s. 5, ch. 87-385; s. 1, ch. 90-283.

120.575 Taxpayer contest proceedings.--

(1)(a) In any administrative proceeding brought pursuant to

chapter 120 as authorized in s. 72.011(1), the taxpayer or other substantially affected party shall be designated the "petitioner" and the Department of Revenue shall be designated the "respondent," except that for actions contesting an assessment under chapter 207 the Department of Highway Safety and Motor Vehicles shall be designated the "respondent."

(b) In any such administrative proceeding brought pursuant to s. 120.57(1) as authorized in s. 72.011(1) to contest the legality of any assessment of tax imposed for the sale or use of services as provided in chapter 212, or interest thereon or penalty therefor, the following procedures shall apply, any provisions of this chapter to the contrary notwithstanding:

1. The petition shall be filed with the division, which shall forward a copy to the department immediately upon receipt of the petition.

2. The hearing officer or panel provided in s. 120.65(5) shall conduct all proceedings under this paragraph.

3. Within 10 days after receiving the petition, the hearing officer or panel shall accept or deny the petition.

4. Within 30 days after the hearing or receipt of the hearing transcript, whichever is later, the hearing officer or panel shall issue an order, which shall consist of findings of fact, conclusions of law, interpretation of administrative rules, and any other information required by law or rule to be contained in the final order. Such order shall affirm or deny the assessment, interest, or penalty and shall determine the amount of any assessment, interest, or penalty.

5. The order of the hearing officer or panel shall be final agency action.

(2) In any administrative proceeding brought pursuant to s. 120.57, the applicable department's burden of proof, except as otherwise specifically provided by general law, shall be limited to a showing that an assessment has been made against the taxpayer and the factual and legal grounds upon which the applicable department made the assessment.

(3)(a) Before a taxpayer may file a petition under this chapter, he shall pay to the applicable department the amount of taxes, penalties, and accrued interest assessed by that department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty of 25 percent of the amount taxed.

(b) The requirements of s. 72.011(2) and (3)(a) are jurisdictional for any action under this chapter to contest an assessment by the Department of Revenue or by the Department of Highway Safety and Motor Vehicles.

History.--s. 12, ch. 81-178; s. 35, ch. 85-342; s. 45, ch. 87-6; s. 24, ch. 87-101; s. 4, ch. 87-198.

120.58 Agency action; evidence, record and subpoenas.--

(1) In agency proceedings for a rule or order:

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon

by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. This paragraph applies only to proceedings under s. 120.57.

(b) An agency or its duly empowered presiding officer or a hearing officer has the power to swear witnesses and take their testimony under oath, to issue subpoenas upon the written request of any party or upon its own motion, and to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure, including the imposition of sanctions, except contempt. However, no agency or its duly empowered presiding officer or any hearing officer has the authority to issue any subpoena or order directing discovery to any member or employee of the Legislature when the subpoena or order commands the production of documents or materials or compels testimony relating to the legislative duties of the member or employee. Any subpoena or order directing discovery directed to a member or an employee of the Legislature shall show on its face that the testimony sought does not relate to legislative duties.

(c) Any public employee subpoenaed to appear at an agency proceeding is entitled to per diem and travel expenses at the same rate as that provided for state employees under s. 112.061 if travel away from such public employee's headquarters is required. All other witnesses appearing pursuant to a subpoena shall be paid such fees and mileage for their attendance as is provided in civil actions in circuit courts of this state. In the case of a public employee, such expenses shall be processed and paid in the manner provided for agency employee travel expense reimbursement; and, in the case of a witness who is not a public employee, payment of such fees and expenses shall accompany the subpoena.

(d) Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(e) If a majority of those who are to render the final order have not heard the case or read the record, a decision adverse to a party other than the agency itself shall not be made until a proposed order is served upon the parties and they are given an opportunity to file exceptions and present briefs and oral arguments to those who are to render the decision. The proposed order shall contain necessary findings of fact and conclusions of law and a reference to the source of each. The proposed order shall be prepared by the individual who conducted the hearing, if available, or by one who has read the record. The parties by written stipulation may waive compliance with this paragraph. The provisions of this paragraph do not apply in the granting of parole or preliminary hearings for the revocation of parole.

(f) A party shall be permitted to conduct cross-examination when

testimony is taken or documents are made a part of the record.

(2) Any person subject to a subpoena may, before compliance and on timely petition, request the agency or hearing officer having jurisdiction of the dispute to invalidate the subpoena on the ground that it was not lawfully issued, is unreasonably broad in scope, or requires the production of irrelevant material, but the decision of the agency or hearing officer on any such request will not be proposed agency action governed by s. 120.57.

(3) A party may seek enforcement of a subpoena, order directing discovery, or order imposing sanctions issued under the authority of this act by filing a petition for enforcement in the circuit court of the judicial circuit in which the person failing to comply with the subpoena or order resides. A failure to comply with an order of the court shall result in a finding of contempt of court. However, no person shall be in contempt while a subpoena is being challenged under subsection (2). The court may award to the prevailing party all or part of the costs and attorney's fees incurred in obtaining the court order whenever the court determines that such an award should be granted under the Florida Rules of Civil Procedure.

History.--s. 1, ch. 74-310; s. 8, ch. 75-191; s. 9, ch. 76-131; s. 7, ch. 78-425; s. 3, ch. 84-173.

120.59 Orders.--

(1) The final order in a proceeding which affects substantial interests shall be in writing or stated in the record and include findings of fact and conclusions of law separately stated, and it shall be rendered within 90 days:

(a) After the hearing is concluded, if conducted by the agency,

(b) After a recommended order is submitted to the agency and mailed to all parties, if the hearing is conducted by a hearing officer, or

(c) After the agency has received the written and oral material it has authorized to be submitted, if there has been no hearing.

The 90-day period may be waived or extended with the consent of all parties.

(2) Findings of fact, if set forth in a manner which is no more than mere tracking of the statutory language, shall be accompanied by a concise and explicit statement of the underlying facts of record which support the findings. If, in accordance with agency rules, a party submitted proposed findings of fact or filed any written application or other request in connection with the proceeding, the order shall include a ruling upon each proposed finding and a brief statement of the grounds for denying the application or request.

(3) If an agency head finds that an immediate danger to the public health, safety, or welfare requires an immediate final order, it shall recite with particularity the facts underlying such finding in the final order, which shall be appealable or joinable from the date rendered.

(4) Parties shall be notified either personally or by mail of any order; and, unless waived, a copy of the final order shall be delivered or mailed to each party or to his attorney of record.

Each notice shall inform the recipient of any administrative hearing or judicial review that is available under s. 120.57 or s. 120.68, shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply.

(5) If a recommended order is submitted to an agency, the agency shall return a copy of its final order to the division within 15 days after the order is filed with the agency clerk.

(6)(a) In any proceeding pursuant to s. 120.57(1), a prevailing party shall be entitled to recover costs from the nonprevailing adverse party, and shall also be entitled to recover a reasonable attorney fee, as provided herein. The provisions of this subsection shall not apply to a prevailing or nonprevailing party that is an agency.

(b) The final order in a proceeding pursuant to s. 120.57(1) shall award costs and a reasonable attorney fee to the prevailing party only where the nonprevailing adverse party has been determined by the hearing officer to have participated in the proceeding for an improper purpose.

(c) In all proceedings pursuant to s. 120.57(1), the hearing officer shall determine whether any party, other than a party that is an agency, participated in the proceeding for an improper purpose as defined in this subsection. In making such determination, the hearing officer shall consider whether the nonprevailing adverse party has participated in two or more other such proceedings involving the same nonagency prevailing party and the same project as an adverse party and in which such two or more proceedings the nonprevailing adverse party did not establish either the factual or legal merits of its position and shall consider whether the factual or legal position asserted in the instant proceeding would have been cognizable in the previous proceedings. In such event, it shall be rebuttably presumed that the nonprevailing adverse party participated in the pending proceeding for an improper purpose.

(d) In any proceeding in which the hearing officer determines that a party participated in the proceeding for an improper purpose, the recommended order shall so designate and shall recommend the award of costs and attorney fees.

(e) For the purpose of this subsection:

1. "Improper purpose" means participation in a proceeding pursuant to s. 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of licensing or securing the approval of an activity.

2. "Costs" shall have the same meaning as the costs allowed in civil actions in this state as provided in chapter 57.

3. "Nonprevailing adverse party" shall mean a party that has failed to have substantially changed the outcome of the proposed or final agency action which is the subject of a proceeding. In the event that a proceeding results in any substantial modification or condition intended to resolve the matters raised in a party's petition, it shall be determined that the party having raised the issue addressed is not a "nonprevailing adverse party." The recommended order shall state whether the change is substantial for purposes of this subsection. In no event shall the term "nonprevailing party" or "prevailing party" be deemed to include any

party that has intervened in a previously existing proceeding to support the position of an agency.

History.--s. 1, ch. 74-310; s. 1, ch. 77-174; s. 5, ch. 84-203; ss. 1, 6, ch. 87-385.

120.60 Licensing.--

(1) Unless otherwise provided by statute enacted subsequent to the effective date of this act, licensing is subject to the provisions of s. 120.57.

(2) When an application for a license is made as required by law, the agency shall conduct the proceedings required with reasonable dispatch and with due regard to the rights and privileges of all affected parties or aggrieved persons. Within 30 days after receipt of an application for a license, the agency shall examine the application, notify the applicant of any apparent errors or omissions, and request any additional information the agency is permitted by law to require. Failure to correct an error or omission or to supply additional information shall not be grounds for denial of the license unless the agency timely notified the applicant within this 30-day period. **The agency shall notify the applicant if the activity for which he seeks a license is exempt from the licensing requirement and return any tendered application fee within 30 days after receipt of the original application or within 10 days after receipt of the timely requested additional information or correction of errors or omissions. Every application for license shall be approved or denied within 90 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions unless a shorter period of time for agency action is provided by law. The 90-day or shorter time period will be tolled by the initiation of a proceeding under s. 120.57 and will resume 10 days after the recommended order is submitted to the agency and the parties. Any application for a license which is not approved or denied within the 90-day or shorter time period, within 15 days after conclusion of a public hearing held on the application, or within 45 days after the recommended order is submitted to the agency and the parties, whichever is latest, shall be deemed approved; and, subject to the satisfactory completion of an examination, if required as a prerequisite to licensure, the license shall be issued. The Public Service Commission, when issuing a license, and any other agency, if specifically exempted by law, shall be exempt from the time limitations within this subsection. Each agency, upon issuing or denying a license, shall state with particularity the grounds or basis for the issuance or denial of the license, except when issuance is a ministerial act. On denial of a license application on which there has been no hearing, the denying agency shall inform the applicant of any right to a hearing pursuant to s. 120.57.**

(3) Each applicant shall be given written notice either personally or by mail that the agency intends to grant or deny, or has granted or denied, the application for license. Unless waived, a copy of the notice shall be delivered or mailed to each party's attorney of record and to each person who has requested notice of agency action. Each notice shall inform the recipient of any

administrative hearing or judicial review which may be available to him, shall indicate the procedure which must be followed, and shall state the applicable time limits. The issuing agency shall certify that the notice was given. The certification shall show the time and date the notice was mailed or delivered and shall be filed with the agency clerk.

(4) The provisions of subsection (2) notwithstanding, every application for a certificate of authority as required by s. 624.401 shall be approved or denied within 180 days after receipt of the original application. Any application for such a certificate of authority which is not approved or denied within the 180-day period, or within 30 days after conclusion of a public hearing held on the application, shall be deemed approved, subject to the satisfactory completion of conditions required by statute as a prerequisite to license.

(5) In proceedings for the issuance, denial, renewal, or amendment of a license or approval of a merger pursuant to title XXXVIII:

(a)1. The Department of Banking and Finance shall have published in the Florida Administrative Weekly notice of the application within 21 days of receipt.

2. Within 21 days of publication of notice, any person may request a hearing, which upon request shall be conducted pursuant to s. 120.57 except that the Department of Banking and Finance shall by rule provide for participation by the general public; however, the failure to request a hearing within 21 days of publication of notice shall constitute waiver of any right to a hearing, except that the Department of Banking and Finance or an applicant may request a hearing at any time prior to the issuance of a final order.

(b) Should a hearing be requested pursuant to subparagraph 2. of paragraph (a), the applicant or licensee shall publish at his own cost a notice of the hearing in a newspaper of general circulation in the area affected by the application. The Department of Banking and Finance may by rule specify the format and size of such notice.

(c) Notwithstanding subsection (2), and except as provided in paragraph (d), every application for license for a new bank, new trust company, new credit union, or new savings and loan association shall be approved or denied within 180 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. Any application for such a license or for acquisition of such control which is not approved or denied within the 180-day period or within 30 days after conclusion of a public hearing on the application, whichever is the latest, shall be deemed approved subject to the satisfactory completion of conditions required by statute as a prerequisite to license and approval of insurance of accounts for a new bank, a new savings and loan association, or a new credit union by the appropriate insurer.

(d) In the case of every application for license to establish a new bank, trust company, or capital stock savings association in which a foreign national proposes to own or control 10 percent or more of any class of voting securities, and in the case of every application by a foreign national for approval to acquire control of a bank, trust company, or capital stock savings association, the

Department of Banking and Finance shall request that a public hearing be conducted pursuant to s. 120.57. Notice of such hearing shall be published by the applicant as provided in paragraph (b). The failure of any such foreign national to appear personally at the hearing shall be grounds for denial of the application. Notwithstanding the provisions of subsection (2) and paragraph (c), every application involving a foreign national shall be approved or denied within 1 year after receipt of the original application or any timely requested additional information or the correction of any errors or omissions, or within 30 days after the conclusion of the public hearing on the application, whichever is later.

(6) When a licensee has made timely and sufficient application for the renewal of a license which does not automatically expire by statute, the existing license shall not expire until the application has been finally acted upon by the agency or, in case the application is denied or the terms of the license are limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(7) No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the entry of a final order, the agency has served, by personal service or certified mail, an administrative complaint which affords reasonable notice to the licensee of facts or conduct which warrant the intended action and unless the licensee has been given an adequate opportunity to request a proceeding pursuant to s. 120.57. When personal service cannot be made and the certified mail notice is returned undelivered, the agency shall cause a short, simple notice to the licensee to be published once each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address as it appears on the records of the board. If no newspaper is published in that county, the notice may be published in a newspaper of general circulation in that county. If the address is in some state other than this state or in a foreign territory or country, the notice may be published in Leon County. Notwithstanding the provisions of this section, cancellation, suspension, or revocation of a driver's license shall be by personal delivery to the licensee or by first-class mail as provided in s. 322.251.

(8) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of a license, it shall show compliance in its order with the requirements imposed by s. 120.54(9) on agencies making emergency rules. Summary suspension, restriction, or limitation may be ordered, but a formal suspension or revocation proceeding under this section shall also be promptly instituted and acted upon.

(9) If the Administration Commission grants an exemption from any provision of this section as provided in s. 120.63, the exemption shall be for a single application only and shall not be renewable.

(10) This section does not apply to certification of employee organizations pursuant to s. 447.307.

History.--s. 1, ch. 74-310; s. 10, ch. 76-131; s. 1, ch. 77-174; ss. 6, 9, ch. 77-453; s. 57, ch. 78-95; s. 8, ch. 78-425; s. 1,

ch. 79-142; s. 6, ch. 79-299; s. 2, ch. 81-180; s. 6, ch. 84-203; s. 2, ch. 84-265; s. 1, ch. 85-82; s. 14, ch. 90-51.

120.61 Official recognition.--When official recognition is requested, the parties shall be notified and given an opportunity to examine and contest the material.

History.--s. 1, ch. 74-310.

120.62 Agency investigations.--

(1) No process, requirement of a report, inspection, or other investigative act or demand shall be issued, made, or enforced in any manner or for any purpose except as authorized by law. Every person who responds to a request or demand by any agency or representative thereof for written data or an oral statement shall be entitled to a transcript of his oral statement at no more than cost.

(2) Any person compelled to appear, or who appears voluntarily, before any hearing officer or agency in an investigation or in any agency proceeding has the right, at his own expense, to be accompanied, represented, and advised by counsel or by other qualified representatives.

History.--s. 1, ch. 74-310.

120.63 Exemption from act.--

(1) Upon application of any agency, the Administration Commission may exempt any process or proceeding governed by this act from one or more requirements of this act:

(a) When the agency head has certified that the requirement would conflict with any provision of federal law or rules with which the agency must comply;

(b) In order to permit persons in the state to receive tax benefits or federal funds under any federal law; or

(c) When the commission has found that conformity with the requirements of the part or parts of this act for which exemption is sought would be so inconvenient or impractical as to defeat the purpose of the agency proceeding involved or the purpose of this act and would not be in the public interest in light of the nature of the intended action and the enabling act or other laws affecting the agency.

(2) The commission may not exempt an agency from any requirement of this act pursuant to this section until it establishes alternative procedures to achieve the agency's purpose which shall be consistent, insofar as possible, with the intent and purpose of the act.

(a) Prior to the granting of any exemption authorized by this section, the commission shall hold a public hearing after notice given as provided in s. 120.54(1). Upon the conclusion of the hearing, the commission, through the Executive Office of the Governor, shall issue an order specifically granting or denying the exemption and specifying any processes or proceedings exempted and the extent of the exemption; transmit to the committee and to the

Department of State a copy of the petition, a certified copy of the order granting or denying the petition, and a copy of any alternative procedures prescribed; and give notice of the petition and the commission's response in the Florida Administrative Weekly.

(b) An exemption and any alternative procedure prescribed shall terminate 90 days following adjournment sine die of the then-current or next regular legislative session after issuance of the exemption order, or upon the effective date of any subsequent legislation incorporating the exemption or any partial exemption related thereto, whichever is earlier. The exemption granted by the commission shall be renewable upon the same or similar facts not more than once. Such renewal shall terminate as would an original exemption.

History.--s. 1, ch. 74-310; s. 11, ch. 76-131; s. 1, ch. 77-53; s. 8, ch. 77-453; s. 87, ch. 79-190; s. 7, ch. 79-299; s. 70, ch. 79-400; s. 58, ch. 81-259.

120.633 Division of Pari-mutuel Wagering; partial exemption from hearing and notice requirements.--The Division of Pari-mutuel Wagering is exempted from the hearing and notice requirements of s. 120.57(1)(a) and (b), but only for stewards, judges, and boards of judges when the hearing is to be held for the purpose of the imposition of fines or suspensions as provided by rules of the Division of Pari-mutuel Wagering, but not for revocations, and only upon violations (1) through (6) below. The Division of Pari-mutuel Wagering shall adopt rules establishing alternative procedures, including a hearing upon reasonable notice, for the following violations:

(1) Horse riding, harness riding, greyhound interference, and jai alai game actions in violation of chapters 550 and 551.

(2) Application and usage of drugs and medication to horses, greyhounds, and jai alai players in violation of chapters 550 and 551.

(3) Maintaining or possessing any device which could be used for the injection or other infusion of a prohibited drug to horses, greyhounds, and jai alai players in violation of chapters 550 and 551.

(4) Suspensions under reciprocity agreements between the Division of Pari-mutuel Wagering and regulatory agencies of other states.

(5) Assault or other crimes of violence on premises licensed for pari-mutuel wagering.

(6) Prearranging the outcome of any race or game.

History.--s. 1, ch. 77-53; s. 7, ch. 79-299.

Note.--Former s. 120.63(3).

120.65 Hearing officers.--

(1) There is hereby created the Division of Administrative Hearings within the Department of Administration to be headed by a director who shall be appointed by the Administration Commission and confirmed by the Senate. The division shall be a separate budget entity, and the director shall be its agency head for all purposes.

The Department of Administration shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Administration in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(2) The director has the right to appeal actions by the Executive Office of the Governor that affect amendments to the division's approved operating budget or any personnel actions pursuant to chapter 216 to the Administration Commission, which shall decide such issue by majority vote. The appropriations committees may advise the Administration Commission on the issue. If the President of the Senate and the Speaker of the House of Representatives object in writing to the effects of the appeal, the appeal may be affirmed by the affirmative vote of two-thirds of the commission members present.

(3) Each state agency as defined in chapter 216 and each political subdivision shall make its facilities available, at a time convenient to the provider, for use by the division in conducting proceedings pursuant to this chapter.

(4) The division shall employ full-time hearing officers to conduct hearings required by this chapter or other law. No person may be employed by the division as a full-time hearing officer unless he has been a member of The Florida Bar in good standing for the preceding 5 years.

(5) The director shall appoint, from among the full-time hearing officers of the division, a panel consisting of one to three members to be the hearing officer in all proceedings brought as provided in s. 120.575(1)(b). The director shall have the discretion to determine the size of the panel based upon the complexity and precedential importance of the issues involved, and the amount of potential revenues in dispute. Such appointments shall be made with due regard to the expertise required for determination of such proceedings. Service as a member of such panel shall be at the pleasure of the director, and such service may be in addition to other duties of employment by the division.

(6) If the division cannot furnish a division hearing officer promptly in response to an agency request, the director shall designate in writing a qualified full-time employee of an agency other than the requesting agency to conduct the hearing. The director shall have the discretion to designate a hearing officer who is a qualified full-time employee of an agency other than the requesting agency which is located in that part of the state where the parties and witnesses reside.

(7) The director shall have the discretion to designate qualified laypersons to conduct hearings. If a layperson is so designated, the director shall assign a hearing officer to assist in the conduct of the hearing and to rule upon proffers of proof, questions of evidence, disposition of procedural requests, and similar matters.

(8) By rule, the division may establish:

(a) Further qualifications for hearing officers and shall establish procedures by which candidates will be considered for

employment or contract.

(b) The manner in which public notice will be given of vacancies in the staff of hearing officers.

(c) Procedures for the assignment of hearing officers.

(9) The division is authorized to provide hearing officers on a contract basis to any governmental entity to conduct any hearing not covered by this section.

(10) The division shall have the authority to adopt reasonable rules to carry out the provisions of this act.

(11) Rules promulgated by the Division of Administrative Hearings pursuant to this section, s. 120.53, or s. 766.207 may authorize any reasonable sanctions except contempt for violation of the rules of the division or failure to comply with a reasonable order issued by a hearing officer, which is not under judicial review.

History.--s. 1, ch. 74-310; s. 9, ch. 75-191; s. 14, ch. 76-131; s. 9, ch. 78-425; s. 46, ch. 79-190; s. 1, ch. 86-297; s. 46, ch. 87-6; s. 25, ch. 87-101; s. 54, ch. 88-1; s. 30, ch. 88-277.

Note.--As enacted by s. 54, ch. 88-1, and s. 30, ch. 88-277, this subsection has also been compiled and published at s. 766.207(10).

120.66 Ex parte communications.--

(1) In any proceeding under s. 120.57, no ex parte communication relative to the merits, threat, or offer of reward shall be made to the agency head, after the agency head has received a recommended order, or to the hearing officer by:

(a) An agency head or member of the agency or any other public employee or official engaged in prosecution or advocacy in connection with the matter under consideration or a factually related matter.

(b) A party to the proceeding or any person who, directly or indirectly, would have a substantial interest in the proposed agency action, or his authorized representative or counsel.

Nothing in this subsection shall apply to advisory staff members who do not testify on behalf of the agency in the proceeding or to any rulemaking proceedings under s. 120.54.

(2) A hearing officer who is involved in the decisional process and who receives an ex parte communication in violation of subsection (1) shall place on the record of the pending matter all written communications received, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall also advise all parties that such matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, if such party requests the opportunity for rebuttal within 10 days after notice of such communication. The hearing officer may, if he deems it necessary to eliminate the effect of an ex parte communication received by him, withdraw from the proceeding, in which case the division shall assign a successor.

(3) Any person who makes an ex parte communication prohibited by subsection (1), and any hearing officer who fails to place in the

record any such communication, is in violation of this act and may be assessed a civil penalty not to exceed \$500 or be subjected to such other disciplinary action as his superiors may determine.

History.--s. 1, ch. 74-310; s. 10, ch. 75-191; s. 12, ch. 76-131; s. 1, ch. 77-174; s. 10, ch. 78-425.

120.68 Judicial review.--

(1) A party who is adversely affected by final agency action is entitled to judicial review. For purposes of this section, a district school board whose decision is reviewed under the provisions of s. 231.36 and whose final action is modified by a superior administrative decision shall be a party entitled to judicial review of the final action. A preliminary, procedural, or intermediate agency action or ruling, including any order of a hearing officer, is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

(2) Except in matters for which judicial review by the Supreme Court is provided by law, all proceedings for review shall be instituted by filing a petition in the district court of appeal in the appellate district where the agency maintains its headquarters or where a party resides. If the appeal is of an order rendered in a proceeding initiated under s. 120.54(4) or under s. 120.56, the agency whose rule is being challenged shall transmit a copy of the notice of appeal to the committee. Review proceedings shall be conducted in accordance with the Florida Rules of Appellate Procedure.

(3) The filing of the petition does not itself stay enforcement of the agency decision, but if the agency decision has the effect of suspending or revoking a license, supersedeas shall be granted as a matter of right upon such conditions as are reasonable, unless the court, upon petition of the agency, determines that a supersedeas would constitute a probable danger to the health, safety, or welfare of the state. The agency may also grant a stay upon appropriate terms, but, whether or not the action has the effect of suspending or revoking a license, a petition to the agency for a stay is not a prerequisite to a petition to the court for supersedeas. In any event, the order shall specify the conditions, if any, upon which the stay or supersedeas is granted.

(4) Judicial review of any agency action shall be confined to the record transmitted and any additions made thereto in accordance with subsection (6).

(5) The record for judicial review shall consist of the following:

(a) The agency's written document expressing the order, the statement of reasons therefor, if issued, and the record under s. 120.57, if review of proceedings under that section is sought.

(b) The agency's written document expressing the action, the statement of reasons therefor, if issued, and the materials considered by the agency under s. 120.54, if review is sought of proceedings under that section.

(c) The agency's written document expressing the action, and other written documents identified by the agency as having been considered by it before its action and used as a basis for its

action, if review is sought of proceedings under s. 120.56 or s. 120.565 or if there has been no proceeding under s. 120.54 or s. 120.57.

(6) When there has been no hearing prior to agency action and the reviewing court finds that the validity of the action depends upon disputed facts, the court shall order the agency to conduct a prompt, factfinding proceeding under this act after having a reasonable opportunity to reconsider its determination on the record of the proceedings.

(7) The reviewing court shall deal separately with disputed issues of agency procedure, interpretations of law, determinations of fact, or policy within the agency's exercise of delegated discretion.

(8) The court shall remand the case for further agency action if it finds that either the fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. Failure of any agency to comply with s. 120.53 shall be presumed to be a material error in procedure.

(9) If the court finds that the agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, it shall:

- (a) Set aside or modify the agency action, or
- (b) Remand the case to the agency for further action under a correct interpretation of the provision of law.

(10) If the agency's action depends on any fact found by the agency in a proceeding meeting the requirements of s. 120.57, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact. The court shall, however, set aside agency action or remand the case to the agency if it finds that the agency's action depends on any finding of fact that is not supported by competent substantial evidence in the record.

(11) If the agency's action depends on facts determined pursuant to subsection (6), the court shall set aside, modify, or order agency action if the facts compel a particular action as a matter of law, or it may remand the case to the agency for further examination and action within the agency's responsibility.

(12) The court shall remand the case to the agency if it finds the agency's exercise of discretion to be:

- (a) Outside the range of discretion delegated to the agency by law;
- (b) Inconsistent with an agency rule;
- (c) Inconsistent with an officially stated agency policy or a prior agency practice, if deviation therefrom is not explained by the agency; or
- (d) Otherwise in violation of a constitutional or statutory provision;

but the court shall not substitute its judgment for that of the agency on an issue of discretion.

(13)(a) The decision of the reviewing court may be mandatory, prohibitory, or declaratory in form; and it shall provide whatever relief is appropriate irrespective of the original form of the

petition. The court may:

1. Order agency action required by law, order agency exercise of discretion when required by law, set aside agency action, remand the case for further agency proceedings, or decide the rights, privileges, obligations, requirements, or procedures at issue between the parties; and

2. Order such ancillary relief as the court finds necessary to redress the effects of official action wrongfully taken or withheld.

(b) If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as the court finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.

(14) Unless the court finds a ground for setting aside, modifying, remanding, or ordering agency action or ancillary relief under a specified provision of this section, it shall affirm the agency's action.

History.--s. 1, ch. 74-310; s. 13, ch. 76-131; s. 38, ch. 77-104; s. 1, ch. 77-174; s. 11, ch. 78-425; s. 4, ch. 84-173; s. 7, ch. 87-385; s. 36, ch. 90-302.

Note.--As reenacted by s. 36, ch. 90-302, applicable to invitations to bid or requests for proposals issued on or after October 1, 1990.

120.69 Enforcement of agency action.--

(1) Except as otherwise provided by statute:

(a) Any agency may seek enforcement of an action by filing a petition for enforcement, as provided in this section, in the circuit court where the subject matter of the enforcement is located.

(b) A petition for enforcement of any agency action may be filed by any substantially interested person who is a resident of the state. However, no such action may be commenced:

1. Prior to 60 days after the petitioner has given notice of the violation of the agency action to the head of the agency concerned, the Attorney General, and any alleged violator of the agency action.

2. If an agency has filed, and is diligently prosecuting, a petition for enforcement.

(c) A petition for enforcement filed by a nongovernmental person shall be in the name of the State of Florida on the relation of the petitioner, and the doctrines of res judicata and collateral estoppel shall apply.

(d) In an action brought under paragraph (b), the agency whose action is sought to be enforced, if not a party, may intervene as a matter of right.

(2) A petition for enforcement may request declaratory relief; temporary or permanent equitable relief; any fine, forfeiture, penalty, or other remedy provided by statute; any combination of the foregoing; or, in the absence of any other specific statutory authority, a fine not to exceed \$1,000.

(3) After the court has rendered judgment on a petition for enforcement, no other petition shall be filed or adjudicated against the same agency action; on the basis of the same transaction or occurrence, unless expressly authorized on remand. The doctrines of

res judicata and collateral estoppel shall apply, and the court shall make such orders as are necessary to avoid multiplicity of actions.

(4) In all enforcement proceedings:

(a) If enforcement depends on any facts other than those appearing in the record, the court may ascertain such facts under procedures set forth in s. 120.68(6).

(b) If one or more petitions for enforcement and a petition for review involving the same agency action are pending at the same time, the court considering the review petition may order all such actions transferred to and consolidated in one court. Each party shall be under an affirmative duty to notify the court when it becomes aware of multiple proceedings.

(c) Should any party willfully fail to comply with an order of the court, the court shall punish him in accordance with the law applicable to contempt committed by a person in the trial of any other action.

(5) In any enforcement proceeding the respondent may assert as a defense the invalidity of any relevant statute, the inapplicability of the administrative determination to respondent, compliance by the respondent, the inappropriateness of the remedy sought by the agency, or any combination of the foregoing. In addition, if the petition for enforcement is filed during the time within which the respondent could petition for judicial review of the agency action, the respondent may assert the invalidity of the agency action.

(6) Notwithstanding any other provision of this section, upon receipt of evidence that an alleged violation of an agency's action presents an imminent and substantial threat to the public health, safety, or welfare, the agency may bring suit for immediate temporary relief in an appropriate circuit court, and the granting of such temporary relief shall not have res judicata or collateral estoppel effect as to further relief sought under a petition for enforcement relating to the same violation.

(7) In any final order on a petition for enforcement the court may award to the prevailing party all or part of the costs of litigation and reasonable attorney's fees and expert witness fees, whenever the court determines that such an award is appropriate.

History.--s. 1, ch. 74-310.

120.70 Annual report.--Not later than February 1 of each year, the division shall issue a written report to the Administrative Procedures Committee and the Administration Commission, including at least the following information:

(1) A summary of the extent and effect of agencies' utilization of hearing officers, court reporters, and other personnel in proceedings under this act.

(2) Recommendations for change or improvement in the Administrative Procedure Act or any agency's practice or policy with respect thereto.

History.--s. 1, ch. 74-310.

120.71 Disqualification of agency personnel.--

(1) Notwithstanding the provisions of s. 112.3143, any individual serving alone or with others as an agency head may be disqualified from serving in an agency proceeding for bias, prejudice, or interest when any party to the agency proceeding shows just cause by a suggestion filed within a reasonable period of time prior to the agency proceeding. If the disqualified individual holds his position by appointment, the appointing power may appoint a substitute to serve in the matter from which the individual is disqualified. If the individual is an elected official, the Governor may appoint a substitute to serve in the matter from which the individual is disqualified. However, if a quorum remains after the individual is disqualified, it shall not be necessary to appoint a substitute to serve in the matter from which the individual is disqualified.

(2) Any agency action taken by a duly appointed substitute for a disqualified individual shall be as conclusive and effective as if agency action had been taken by the agency as it was constituted prior to any substitution.

(3) The Administration Commission shall adopt rules of procedure to implement this section.

History.--s. 1, ch. 74-310; s. 12, ch. 78-425; s. 2, ch. 83-329.

120.72 Legislative intent; prior proceedings and rules; exception.--

(1)(a) The intent of the Legislature in enacting this complete revision of chapter 120 is to make uniform the rulemaking and adjudicative procedures used by the administrative agencies of this state. To that end, it is the express intent of the Legislature that chapter 120 shall supersede all other provisions in the Florida Statutes, 1977, relating to rulemaking, agency orders, administrative adjudication, licensing procedure, or judicial review or enforcement of administrative action for agencies as defined herein to the extent such provisions conflict with chapter 120, unless expressly provided otherwise by law subsequent to January 1, 1975, except for marketing orders adopted pursuant to chapters 573 and 601.

(b) Unless expressly provided otherwise, a reference in any section of the Florida Statutes to chapter 120 or to any section or sections or portion of a section of chapter 120 shall hereby include, and shall be understood as including, all subsequent amendments to chapter 120 or to the referenced section or sections or portions of a section.

(2) All administrative adjudicative proceedings conducted pursuant to any provision of the Florida Statutes which were begun prior to January 1, 1975, shall be continued to a conclusion, including judicial review, under the provisions of the Florida Statutes, 1973, except that administrative adjudicatory proceedings which have not progressed to the stage of a hearing may, with the consent of all parties and the agency conducting the proceeding, be conducted in accordance with the provisions of this act as nearly as is feasible.

(3) Notwithstanding any provision of this chapter, all public

utilities and companies regulated by the Public Service Commission shall be entitled to proceed under the interim rate provisions of chapter 364 or the procedures for interim rates contained in chapter 74-195, Laws of Florida, or as otherwise provided by law.

(4)(a) All prior rules not adopted following a public hearing as provided by statute shall be void and unenforceable after October 1, 1975, and shall be stricken from the files of the Department of State and from the files of the adopting agency.

(b) Any rule in effect on, or filed with the Department of State prior to, January 1, 1975, except one adopted following a public hearing as provided by statute, shall be forthwith reviewed by the agency concerned on the written request of a person substantially affected by the rule involved and this provision. The agency concerned shall initiate the rulemaking procedures provided by this act within 90 days after receiving such written request. If the agency concerned fails to initiate the rulemaking procedures within 90 days, the operation of the rule shall be suspended. This provision shall control s. 120.54(5).

(c) All existing rules shall be indexed by January 1, 1975.
History.--s. 3, ch. 74-310; s. 1, ch. 76-207; s. 1, ch. 77-174; s. 57, ch. 78-95; s. 13, ch. 78-425.

120.721 Effect of chapter 75-22, Laws of Florida, on rules.--Any rule or regulation of a public agency involved in or affected by the reorganization of the executive agencies as set forth in chapter 75-22, Laws of Florida, which was valid when adopted under the authority granted by the Legislature to adopt such rule, to the extent it is not inconsistent with chapter 75-22, Laws of Florida, shall remain in effect until it expires by its terms or is specifically repealed or revised as provided by law.
History.--s. 23, ch. 75-22.

120.722 Legislative intent of chapter 78-95, Laws of Florida.--

(1) The primary purpose of chapter 78-95, Laws of Florida, is to repeal or amend various provisions of the Florida Statutes containing procedural language superseded or made redundant by chapter 120 (the Administrative Procedure Act). Chapter 78-95 is designed to place the provisions affected into conformity with chapter 120, except where expressly noted to the contrary.

(2) Any section or subunit of a section repealed by an act of any session shall remain repealed despite any amendment in chapter 78-95. Any act of the 1978 legislative session, other than one resulting from a reviser's bill, that amends any provision affected by chapter 78-95 shall supersede chapter 78-95 to the extent that such amendment conflicts with chapter 78-95.

(3) Deletions of references to chapter 120 in chapter 78-95 do not imply that chapter 120 is not applicable; except where expressly noted otherwise, references to chapter 120 are deleted as unnecessary and repetitious.

(4) Failure of chapter 78-95 to amend or repeal any provision in the Florida Statutes does not imply that that provision is not in

conflict with, superseded by, or unnecessary in light of chapter 120.

History.--s. 1, ch. 78-95.

120.73 Circuit court proceedings; declaratory judgments.--Nothing in this chapter shall be construed to repeal any provision of the Florida Statutes which grants the right to a proceeding in the circuit court in lieu of an administrative hearing or to divest the circuit courts of jurisdiction to render declaratory judgments under the provisions of chapter 86.

History.--s. 11, ch. 75-191; s. 14, ch. 78-425.

SM
6-6-91
Miami, FL

File Copy

CIBA-GEIGY

COMPOSITE MATERIALS

Composite Materials
CIBA-GEIGY Corporation
3550 N.W. 49th Street
Miami, Florida 33142-3981
305 633 9066
FAX 305 635 6079

RECEIVED

JUN 10 1991

Division of Air
Resources Management

June 5, 1991

Mr. C. H. Fancy, P.E.
Chief, Bureau of Air Regulation
Florida Department of Environmental Regulation
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: CIBA-GEIGY Corporation
Miami, FL
AC13-186729

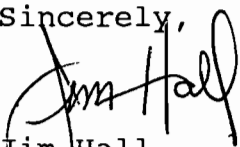
Dear Mr. Fancy:

This letter is in response to the Department's completeness letter dated April 24, 1991. Based on the Department's position regarding the requirement of new source review for nonattainment areas for the subject permit application, it is CIBA-GEIGY's desire to withdraw the permit application. Please withdraw the application and refund the application fee.

In regard to your question on the cost of retrofitting the three cure ovens with a VOC control system, this question is not considered relevant to the subject permit application. In any event, since CIBA-GEIGY is now withdrawing the application, this information is no longer necessary.

Thank you for your cooperation in this matter.

Sincerely,



Jim Hall
Plant Engineer

JH:on

cc: Stephanie Brooks
Patrick Wong
Eric Finkelman

BAICHF }
Bruce Mitchell } 6-10-91 RA

C1/FANCY.LTR

P 407 852 668

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)


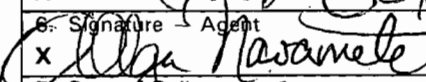
PS Form 3800, June 1985

* U.S.G.P.O. 1989-234-555

Sent to Mr. Dean Bidle, CIBA-GEIGY Special and No. 3550 N.W. 49th St.	
P.O. State and ZIP Code Miami, FL 33142-3981	
Postage	S
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	S
Postmark or Date Mailed: 4-24-91 Permit: AC 13-186729	

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

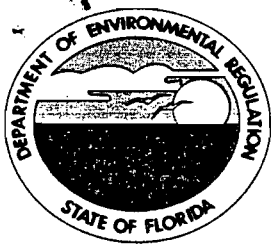
3. Article Addressed to: Mr. Dean Bidle Plant Manager CIBA-GEIGY Corporation 3550 N.W. 49th Street Miami, FL 33142-3981	4. Article Number P 407 852 668 Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
5. Signature - Addressee X 	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent X 	
7. Date of Delivery 4-26-91	

Always obtain signature of addressee or agent and DATE DELIVERED.

PS Form 3811, Apr. 1989

* U.S.G.P.O. 1989-238-815

DOMESTIC RETURN RECEIPT



Florida Department of Environmental Regulation

Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400

Lawton Chiles, Governor

Carol M. Browner, Secretary

April 24, 1991

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Dean Bidle, Plant Manager
CIBA-GEIGY Corporation
3550 N.W. 49th Street
Miami, Florida 33142-3981

Dear Mr. Bidle:

Re: Completeness Review for an Application Package to Modify
AC 13-186729

The Department has reviewed Mr. David Buff's letter received on March 26, 1991, regarding the above referenced application package to modify the facility. Based on a technical review of the response, the application package is deemed incomplete. Therefore, please submit the following information to the Department's Bureau of Air Regulation, including all calculations, reference material and assumptions, and the status will, again, be ascertained:

1. As was requested in the letter, the basis for establishing the previous VOC emission increases associated with the three curing ovens are:
 - a. The application package received on September 27, 1985, and the letter with enclosure received on November 15, 1985 (attached), both established a total baseline level of 37.36 lbs/hr of VOC emissions dedicated to the operation of the three curing ovens;
 - b. The letter with enclosure received on November 25, 1985 (attached), amended the application package and established the proposed total level of 46.70 lbs/hr of VOC emissions dedicated to the operation of the three curing ovens;
 - c. Therefore, the difference/increase of 9.34 lbs/hr at 8000 hrs/yr operation calculates to +37.4 TPY of VOC emissions; and,
 - d. At a significance level of 40 TPY (Table 500-2, F.A.C. Chapter 17-2), the margin is only 2.6 TPY of VOC emissions (40 - 37.4 = 2.6 TPY).

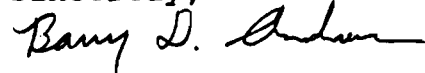
Mr. Dean Bidle
April 24, 1991
Page 2

Consequently, the current request that the Department is evaluating is subject to New Source Review pursuant to F.A.C. Rule 17-2.510(4), Nonattainment Area, and includes the application of LAER. If this is what is desired, then please submit the required information and the appropriate processing fee. If this is not what you desire, then please advise.

2. Pursuant to F.A.C. Rules 17-2.620(2) and 17-4.080(1), what would be the cost of retrofitting the three curing ovens with a VOC control system(s) (i.e., incinerator system, etc.). The evaluation(s) are to be sealed by a licensed P.E. of the State of Florida.

If there are any questions, please call Mr. Bruce Mitchell at (904)488-1344 or write to me at the above address.

Sincerely,



fr

C. H. Fancy, P.E.

Chief

Bureau of Air Regulation

CHF/BM/bm

Attachments

c: S. Brooks, SE District
P. Wong, DERM
D. Buff, P.E., KBN
J. Hall, C-GC

Ready File }
Bruce Mitchell } 4-24-91 RM

Composite Materials Department
Miami Plant

CIBA-GEIGY

CIBA-GEIGY Corporation
3550 N.W. 49th Street
Miami, Florida 33142
Telephone 305 633 9066

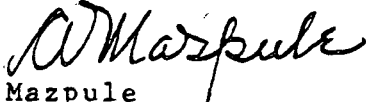
November 14, 1985

Dept. of Environmental Regulations
Bureau of Air Quality Management
Bruce Mitchell
2600 Blair Stone Road
Tallahassee, FL 32301-8241

Dear Mr. Mitchell:

Please find enclosed the VOC Material Balance after
the installation of the Emission Control.

Sincerely,



A. Mazpule
Sr. Project Engineer

AM/cln

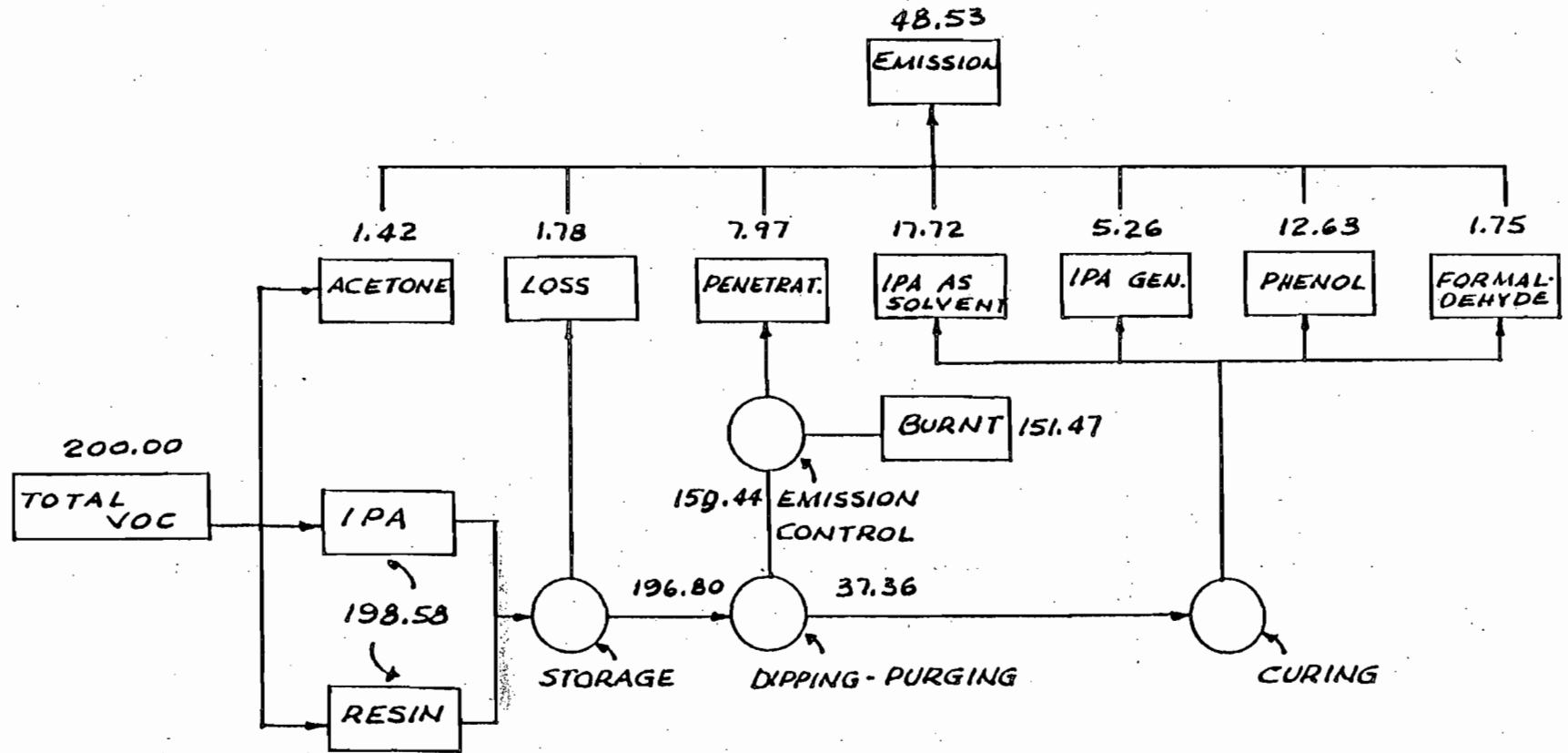
Enclosure

cc: Pat Wong

Stephanie B. [unclear] 11/19/85

DER
NOV 15 1985
BAQM

VOC MATERIAL BALANCE (Lbs/HR.)



Composite Materials Department
Miami Plant

CIBA-GEIGY

CIBA-GEIGY Corporation
3550 N.W. 49th Street
Miami, Florida 33142
Telephone 305 633 9066

November 20, 1985

Mr. Bruce Mitchell
Dept. of Environmental Regulations
Bureau of Air Quality Management
2600 Blair Stone Road
Tallahassee, FL 32301-8241

RE: OPERATING CRITERIA

Dear Mr. Mitchell:

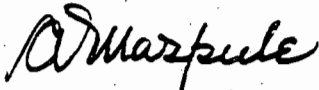
The proposed project consists of two dipping-purging machines operating 8000 hours a year each one; and a common incinerator designed to operate with one or both machines.

The average total VOC consumption will be 250 lbs. per hour.

Please find enclosed the revised "VOC Material Balance".

If you have any further questions please feel free to call me.

Sincerely,



Antonio-Mazpule
Sr. Project Engineer

AM/on

enclosure

cc: Stephanie Escobedo
Pat Wong

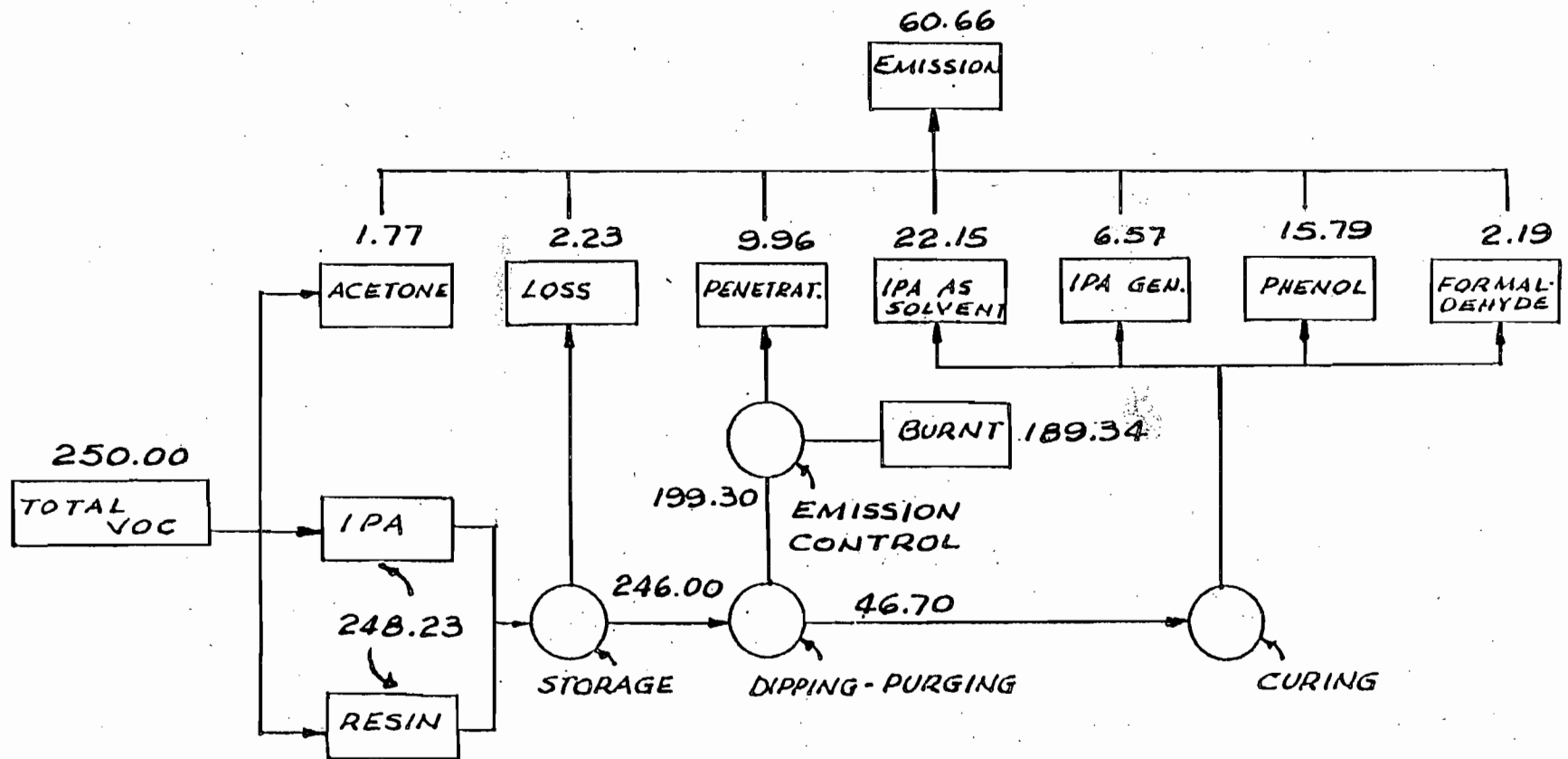
11/25/85

DER
NOV 21 1985
BAQM

REVISION No 1

11-20-85

VOC MATERIAL BALANCE (Lbs/HR.)



DER
NOV 21 1985
BAQM



March 22, 1990
91008

Mr. C. H. Fancy, P.E.
Chief, Bureau of Air Regulation
Florida Department of Environmental Regulation
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Re: Ciba-Geigy Corporation
Miami, Florida
AC13-186729

RECEIVED
MAR 26 1991
DER-BAQM

Dear Mr. Fancy:

This letter is in response to the Department's completeness letter dated February 8, 1991.

As stated previously, the incinerator at Ciba-Geigy is already operating at or close to its maximum gas flow rate capacity. The incinerator design data is attached. The data show that the design waste gas flow rate is 9,000 scfm. In the recent stack test conducted on December 13, 1990, the measured waste gas flow rate to the incinerator was 7,862 dscfm. Therefore, the incinerator could accept at most, an additional gas flow rate of approximately 1,200 dscfm.

The gas flow rate from the cure ovens have been measured at approximately 4,000 dscfm each in the latest stack tests. As a result, the incinerator cannot accommodate even one of the cure ovens.

Please provide your basis for the 37.4 TPY VOC increase for the curing ovens. Construction Permit No. AC13-109080 documented a prior emission level of 399.4 TPY, and VOC usage in the DPU's of 125 lb/hr each. The DPU's were permitted for 8,000 hr/yr operation. After installation of the new DPU's and the incinerator, maximum VOC emissions were permitted to be 242.64 TPY. Maximum VOC usage in the DPU's remained at 125 lb/hr each, with each DPU permitted for 8,000 hr/yr. Therefore, how could there be an increase in VOC emissions from the cure ovens? It is likely that the new DPU's provided better purging and capture of the VOC, which would result in less VOC emissions from the cure ovens.

Please provide your response to these comments at your earliest convenience.

Sincerely,

David A. Buff, M.E., P.E.
Principal Engineer

cc: Jim Hall
Stephanie Brooks
Patrick Wong

Bruce Mitchell } 3-26-91 AQM
BA/CHF

KBN ENGINEERING AND APPLIED SCIENCES, INC.

1034 Northwest 57th Street Gainesville, Florida 32605 904/331-9000 FAX: 904/332-4189

IV. DESIGN DATA

Operating Temperature	1400°F
Fuel Gas Pressure	25 psig
Pilot Gas	.1 MMBtu/Hr
Main Fuel Gas	5 MMBtu/Hr Max. < 1MMBtu/Hr normal
Waste Gas Flow Rate	9000 scfm
Waste Gas Temperature	100°F
Heat Exchanger Duty	9.82 MMBtu/Hr design 6.56 MMBtu/Hr bypass

Fume Side

Flue Gas Side

Temp. In 100°F	1400°F
Temp. Out 710°F	530°F
	H.H. 1550°
	H. 1500°
	L 1200°

WASTE GAS COMPOSITION

<u>Component</u>	<u>Flow Lb/Hr</u>
Air	688.65
IPA (150 propyl alcohol)	280 average - 600 max.

Note: The IPA concentration decays from the maximum rate of ~600 ~~lb~~^{lb}/hr to ~50^{lb} over a 4-minute cycle for each run.

P 407 853 149

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

★ U.S.G.P.O. 1989-234-555

PS Form 3800, June 1985

Sent to: Dean Bidle, CIBA-GEIGY	
Street and No.	3550 N.W. 49th St.
P.O. State and ZIP Code	Miami, FL 33142-3981
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	Mailed: 2-8-91 Permit: AC 13-186729

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to: Mr. Dean Bidle, Plant Manager CIBA-GEIGY Corporation 3550 N.W. 49th Street Miami, FL 33142-3981	4. Article Number P 407 853 149
Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise	
Always obtain signature of addressee or agent and DATE DELIVERED.	
5. Signature - Addressee X <i>Dean Bidle</i>	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent X <i>Robert Casademar</i>	
7. Date of Delivery <i>2-11-91</i>	

PS Form 3811, Apr. 1989

★ U.S.G.P.O. 1989-238-815

DOMESTIC RETURN RECEIPT

File 107



Florida Department of Environmental Regulation

Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400

Lawton Chiles, Governor

Carol M. Browner, Secretary

February 8, 1991

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mr. Dean Bidle, Plant Manager
CIBA-GEIGY Corporation
3550 N.W. 49th Street
Miami, Florida 33142-3981

Dear Mr. Bidle:

Re: Completeness Review for an Application Package to Modify
AC 13-186729

The Department has reviewed Mr. David Buff's letter received on January 11, 1991, regarding the above referenced application package to modify the existing facility. Based on a technical review of the response, the application package is deemed incomplete. Therefore, please submit the following information to the Bureau of Air Regulation (BAR), including all calculations, reference material and assumptions, and the status will, again, be ascertained:

1. Since request #2, that was contained in the BAR's letter of November 28, 1990, was not adequately answered, it will be restated: "Can the existing incinerator system associated with the DPU system accommodate any or all of the three curing ovens? Please demonstrate the response by calculations, assumptions, etc."

2. Since construction permit AC 13-109080 allowed an emission increase of VOC for the curing ovens of 37.4 TPY, then any increase of VOC emissions of 2.6 TPY or more will subject the curing oven system to NSR pursuant to F.A.C. Rule 17-2.510(4) in accordance with F.A.C. Rule 17-2.510(2)5. Consequently, the current emissions increase that has been requested will subject the curing oven system to NSR pursuant to F.A.C. Rule 17-2.510(4), which includes a determination of LAER. If this is what is desired, then please submit the required information. If this is not what you desire, please advise.

Mr. Dean Bidle
February 8, 1991
Page two

If there are any questions, please call Mr. Bruce Mitchell at (904)488-1344 or write to me at the above address.

Sincerely,

C. H. Fancy
C. H. Fancy, P.E.

Chief

Bureau of Air Regulation

CHF/BM/bm

c: S. Brooks, SE District
P. Wong, DERM
D. Buff, P.E., KBN
J. Hall, C-GC

Reading File

Bruce Mitchell

2-8-91 BBN



January 9, 1990

Mr. C. H. Fancy, P.E.
Chief, Bureau of Air Regulation
Florida Department of Environmental Regulation
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: Ciba-Geigy Corporation
Miami, Florida
AC13-186729

Dear Mr. Fancy:

This letter is in response to the Department's completeness letter dated November 28, 1990. The responses are numbered according to the item numbers in the letter.

1. This question is somewhat confusing since the second paragraph of the letter discusses the VOC emissions from the entire facility, while this question refers to the increase in emissions from the cure ovens only. If limiting the cure ovens to a 39 TPY increase in VOC emissions will avoid new source review, Ciba-Geigy would be agreeable to this. This would reduce the requested maximum emissions from the cure ovens from 230 TPY to 226 TPY. If this is not the case, Ciba-Geigy requests that the permit application be withdrawn, and the full permit application fee be refunded.
2. The incinerator is already operating at or near its maximum design flow rate and cannot accommodate any of the three cure ovens.
3. As stated above, the existing incinerator cannot be used to control the cure ovens.
4. As indicated above, if new source review would be required by the current request, Ciba-Geigy desires to withdraw the permit application.

Please call if there are any questions concerning this response.

Sincerely,

David A. Buff
David A. Buff, M.E., P.E.
Principal Engineer

RECEIVED
JAN 11 1991
DER-BAQM

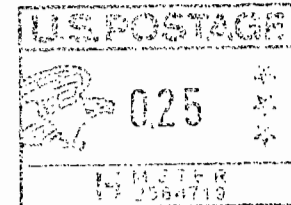
cc: Jim Hall
Stephanie Brooks
Patrick Wong
B. Mitchell

KBN ENGINEERING AND APPLIED SCIENCES, INC.

1034 Northwest 57th Street Gainesville, Florida 32605 904/331-9000 FAX: 904/332-4189



David A. Buff



Mr. C. H. Fancy, P.E.
Chief, Bureau of Air Regulation
Florida Department of Environmental Regulation
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

KBN ENGINEERING AND APPLIED SCIENCES, INC.

1034 Northwest 57th Street

Gainesville, Florida 32605



91008

P 256 396 142

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

U.S.G.P.O. 1989-234-555

PS Form 3800, June 1985

Sent to Mr. Dean Bidle, CIBA-GEIGY Street and No. 3550 N.W. 49th Street	
P.O. State and ZIP Code Miami, FL 33142-3981	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date Mailed: 12-5-90 Permit: AC 13-186729	

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to: Mr. Dean Bidle, Plant Manager CIBA-GEIGY Corporation 3550 N.W. 49th Street Miami, FL 33142-3981	4. Article Number P 256 396 142
	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
	Always obtain signature of addressee or agent and DATE DELIVERED .
5. Signature - Addressee X	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent X <i>Dean Bidle</i>	
7. Date of Delivery <i>12/7/90</i>	

PS Form 3811, Apr. 1989

U.S.G.P.O. 1989-238-815

DOMESTIC RETURN RECEIPT



Florida Department of Environmental Regulation

Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary

November 28, 1990

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Dean Bidle, Plant Manager
CIBA-GEIGY Corporation
3550 N.W. 49th Street
Miami, Florida 33142-3981

Dear Mr. Bidle:

Re: Completeness Review for an Application Package to Modify
AC 13-186729

The Department has reviewed Mr. David Buff's response to an incompleteness letter regarding the above referenced application package to modify the existing facility. Based on a technical review of the response, the application package is, again, deemed incomplete.

In the most recent letter, received November 15, 1990, an attempt was made to establish an annual actual VOC emissions rate using the data from the years 1988 and 1989. The use of the actual VOC emissions established for the year 1988 is not acceptable since it was the year that the facility phased out the uncontrolled VOC emissions from the dip/purge units Nos. 1 and 2 and was to be completed by November 30, 1988 (see Mr. Dale Twachtmann's letter dated May 27, 1988, amending AC 13-109080-attached). Consequently, the annual VOC emissions of 202 tons from the facility in 1989 will be considered as the facility's actual level of VOC emissions and the proposed level of potential VOC emissions is still greater than significant (i.e., 40 TPY). Therefore, please submit to the Department's Bureau of Air Regulation the following information, including all reference material, assumptions and calculations, and the status will, again, be ascertained:

1. Because the curing ovens (3) have an increase in VOC potential emissions greater than 40 TPY, which is considered a significant increase, the operation is subject to new source review requirements pursuant to F.A.C. Rule 17-2.510(4). Therefore, please submit the information as required by this section, which includes the requirement of LAER.

Mr. Dean Bidle
Page 2 of 2

2. Can the existing incinerator system associated with the DPU system accommodate any or all of the three curing ovens? Please demonstrate the response by calculations, assumptions, etc.
3. Referencing #2 above, what would be the expenses involved with connecting one, two, or all curing ovens to the existing incinerator system?
4. Also, an additional fee of \$2500 will be required in order to process the application package, since it is subject to new source review in a nonattainment area ($\$5000 - \$2500 = \$2500$).

If there are any questions, please call Bruce Mitchell at 904-488-1344 or write to me at the above address.

Sincerely,



C. H. Fancy, P.E.
Chief
Bureau of Air Regulation

CHF/BM/plm

Attachment

c: S. Brooks, SE Dist.
P. Wong, DERM
D. Buff, P.E., KBN
J. Hall, C-GC



Florida Department of Environmental Regulation

Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary

May 27, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Douglas B. Buchanan
Plant Manager
CIBA-GEIGY Corporation
3550 N. W. 49th Street
Miami, Florida 33142

Dear Mr. Buchanan:

Re: Amendments to a Construction Permit
AC 13-109080: Dip/Purge Units Nos. 1 & 2

The Department received your letter dated April 1, 1988, requesting an extension of the expiration date to the above referenced construction permit in order to upgrade the Dip/Purge Unit No. 1.

A. Since there will not be any increases in pollutant emissions or in the raw material and chemical input rates associated with the request, the following will be changed and added:

(1) Expiration Date:

From: May 31, 1988
To: April 14, 1989

B. The April 14, 1989 expiration date includes the following intermediate milestones:

- o By November 30, 1988, upgrade the Dip/Purge Unit No. 1 and perform compliance tests on both units, if not already performed.
- o By January 14, 1989 (45 days from November 30, 1988, pursuant to FAC Rule 17-2.700(7)), submit compliance test results for both units to the DER's Southeast Florida District office and Dade County's Environmental Resources Management (DERM) office.
- o By April 14, 1989 (90 days from January 14, 1989), submit for and obtain an operating permit for both units from the DER's Southeast District and DERM.

Mr. Doug Buchanan
Page Two
May 27, 1988

- o The above dates supercede all of the previously established phased construction dates for being in and demonstrating final compliance except for the existing uncontrolled Dip/Purge Tank No. 2, which is to be phased out by May 31, 1988, and all associated permits surrendered to the Department by that date.

Therefore, the following will be added:

Specific Condition

- (1) D.15.: (New)

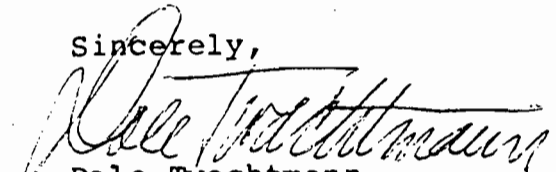
The Dip/Purge Units Nos. 1 & 2 shall be in compliance with all terms of the permit by November 30, 1988, and the permittee shall provide proof of final compliance to the DER's Southeast District office and the DERM office by January 14, 1989.

C. Attachments to be Incorporated:

- 11. Mr. Douglas B. Buchanan's letter dated April 1, 1988, and received April 4, 1988.
- 12. Mr. H. Patrick Wong's letter dated April 26, 1988, and received May 2, 1988.

This letter must be attached to your construction permit, No. AC 13-109080, and shall become a part of the permit.

Sincerely,


Dale Twachtmann
Secretary

DT/bm

attachments

cc: S. Brooks, SE Dist.
P. Wong, DERM
B. Pittman, Esq., DER



RECEIVED
NOV 15 1990
DER-BAQM

November 12, 1990
90018

Mr. Bruce Mitchell
Bureau of Air Regulation
Florida Department of Environmental Regulation
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Re: Ciba-Geigy Corporation
Completeness Review for AC13-186729

Dear Bruce:

In follow-up to our recent telephone conversation concerning the above referenced air construction permit application, I am providing the following clarification. In the permit application, I have assumed that the current allowable VOC emissions from the facility are equal to the current permitted VOC emissions, and therefore, used the allowable 242.64 TPY for the entire facility or the baseline for determining if new source review is required. The basis for this is Florida Administrative Code Rule 17-2.100 (3), which defines actual emissions as the average rate, in tons per year, which the source actually emitted the pollutant during a two year period which precedes the permit application date.

In the case of Ciba-Geigy, VOC emissions during the last two years (1988-1989), as reported on the Annual Operating Report for each year, were 342 TPY and 202 TPY, respectively. This is an average of 272 TPY. Since this average emission rate is higher than the current allowable VOC emissions, the current allowable was used as the basis for current actual emissions.

As discussed in the application, the proposed allowable VOC emissions for the entire Ciba-Geigy facility is 281.2 TPY, thus resulting in a 38.6 TPY increase. Rules 17-2.510 (d) 4. and 17-2.510 (e) 1. provides that new source review applies if the modification would result in a significant net emissions increase from the facility. Since the significant emissions rate for VOC is 40 TPY, and the increase due to the modification is only 38.6 TPY, new source review should not apply.

Please call if you have any questions concerning this information.

Sincerely,

David A. Buff, M.E., P.E.
Principal Engineer

cc: Jim Hall

B. Mitchell
S. Brooks
P. Hong

KBN ENGINEERING AND APPLIED SCIENCES, INC.

1034 Northwest 57th Street Gainesville, Florida 32605 904/331-9000 FAX: 904/332-4189

FACSIMILE COVER SHEET

KBN Engineering and Applied Sciences, Inc.

DATE: 11/12/90

TO: Bruce Mitchell

ORGANIZATION: FDER

FAX NUMBER: 904 487-4938

TELEPHONE NUMBER: _____

FROM: Dave Buff

TOTAL NUMBER OF PAGES: 2 (including cover page)

MESSAGE/INSTRUCTIONS:

PROJECT NUMBER: 90018

FAX OPERATOR: BTW

() The original of the transmitted document will be sent by:

- () US Mail
- () Overnight delivery
- () Other: _____

() This is the ONLY form of delivery of the transmitted document.

Return original to Mary Lynn

cc: Project File _____ yes _____ no

Department of Environmental Regulation
Routing and Transmittal Slip

To: (Name, Office, Location)

1.

Bruce Mitchell

2.

3.

4.

Remarks:

RECEIVED

NOV 14 1990

DER-BAQM

From

Date

Phone

P 256 396 222

RECEIPT FOR CERTIFIED MAIL

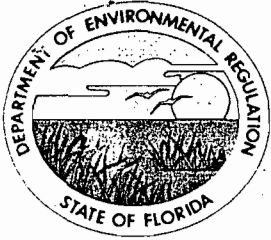
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

Postmark or Date mailed: 10/19/90 AC 13-186729	TOTAL Postage and Fees \$	Return Receipt showing to whom, Date, and Address of Delivery	Return Receipt showing to whom and Date Delivered	Restricted Delivery Fee	Special Delivery Fee	Certified Fee	Postage Miami, FL 33142-3981	3550 N.W. 49th Street CIBA-GEIGY Corp.	Plant Mgr. CIBA-GEIGY Corp.	Mr. Dean Bidle	Sent to
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SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to: Mr. Dean Bidle Plant Mgr. CIBA-GEIGY Corp. 3550 N.W. 49th Street Miami, FL 33142-3981	4. Article Number P 256 396 222
Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise	
Always obtain signature of addressee or agent and DATE DELIVERED .	
5. Signature - Addressee <input checked="" type="checkbox"/> <i>Lee Campanaro</i>	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent <input checked="" type="checkbox"/> <i>[Signature]</i>	
7. Date of Delivery <i>10/22/90</i>	



Florida Department of Environmental Regulation

Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary

October 19, 1990

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Dean Bidle, Plant Manager
CIBA-GEIGY Corporation
3550 N.W. 49th Street
Miami, Florida 33142-3981

Dear Mr. Bidle:

Re: Completeness Review for an Application to Construct/Modify
AC 13-186729

The Department has reviewed the above referenced application package received September 21, 1990, which requested a modification to an existing facility. Based on a technical review of the information, the application is deemed incomplete. Please submit to the Department's Bureau of Air Regulation the following information, including all reference material, assumptions and calculations, and the status will, again, be ascertained:

1. Because the curing ovens (3) have an increase in VOC potential emissions of 43.25 TPY, which is considered a significant increase, the operation is subject to new source review requirements pursuant to F.A.C. Rule 17-2.510(4). Therefore, please submit the information as required by this section, which includes the requirement of LAER.
2. Can the existing incinerator system associated with the DPU system accommodate any or all of the three curing ovens? Please demonstrate the response by calculations, assumptions, etc.
3. Referencing #2 above, what would be the expenses involved with connecting one, two, or all curing ovens to the existing incinerator system?
4. Also, an additional fee of \$2500 will be required in order to process the application package, since it is subject to new source review in a nonattainment area (\$5000 - \$2500 = \$2500).

Mr. Dean Bidle
Page 2

If there are any questions, please call Bruce Mitchell at 904-488-1344 or write to me at the above address.

Sincerely,



C. H. Fancy, P.E.
Chief
Bureau of Air Regulation

CHF/BM/plm

c: S. Brooks, SE Dist.
P. Wong, DERM
D. Buff, P.E., KBN
J. Hall, C-GC



Florida Department of Environmental Regulation

Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, Florida 32399-2400

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary

October 19, 1990

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Dean Bidle, Plant Manager
CIBA-GEIGY Corporation
3550 N.W. 49th Street
Miami, Florida 33142-3981

Dear Mr. Bidle:

Re: Completeness Review for an Application to Construct/Modify
AC 13-186729

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Mr. Dean Bidle
Page 2

If there are any questions, please call Bruce Mitchell at 904-488-1344 or write to me at the above address.

Sincerely,



C. H. Fancy, P.E.
Chief
Bureau of Air Regulation

CHF/BM/plm

c: S. Brooks, SE Dist.
P. Wong, DERM
D. Buff, P.E., KBN
J. Hall, C-GC



RECEIVED
DER - MAIL ROOM
1990 SEP 21 AM 11:19

September 20, 1990

Mr. C.H. Fancy, P.E.
Chief, Bureau of Air Regulation
Florida Department of Environmental Regulation
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: Ciba-Geigy Corporation
Miami, Florida

Dear Mr. Fancy:

Please find enclosed air construction permit applications for Ciba-Geigy Corporation located in Miami, Florida. Also included is the required permit application fee of \$2,500. This request is for a minor modification (39 TPY VOC increase) of Ciba-Geigy's existing plant. Copies of this information have also been sent to Stephanie Brooks in the FDER West Palm Beach office and Patrick Wong at Dade County Environmental Resources Management. Please call if you have any questions.

Sincerely,

David A. Buff, M.E., P.E.
Principal Engineer

DAB/jlm

cc: Jim Hall
Stephanie Brooks
Patrick Wong

001031

90018A1/8

KBN ENGINEERING AND APPLIED SCIENCES, INC.
1034 Northwest 57th Street Gainesville, Florida 32605 904/331-9000 FAX: 904/332-4189

Best Available Copy

**KBN ENGINEERING
AND APPLIED SCIENCES, INC.**

1034 N.W. 57TH ST., PH 904-331-9000
GAINESVILLE, FL 32605

6289

BRANCH 315

PAY
TO THE
ORDER OF

Florida Dept. of Environmental Regulation

9-18 19 *90*

Twenty five hundred and 00/100

\$ *2500.00*

DOLLARS



First Union National Bank
of Florida
Gainesville, Florida 32601
Service. We Guarantee It.™

VOID AFTER 90 DAYS

FOR *David A. Buff / CIBA - Geigy*

David A. Buff

Re: Ciba-Geigy Corporation
Miami, Florida

Dear Mr. Fancy:

Please find enclosed air construction permit applications for Ciba-Geigy Corporation located in Miami, Florida. Also included is the required permit application fee of \$2,500. This request is for a minor modification (39 TPY VOC increase) of Ciba-Geigy's existing plant. Copies of this information have also been sent to Stephanie Brooks in the FDER West Palm Beach office and Patrick Wong at Dade County Environmental Resources Management. Please call if you have any questions.

Sincerely,

David A. Buff

David A. Buff, M.E., P.E.
Principal Engineer

DAB/jlm

cc: Jim Hall
Stephanie Brooks
Patrick Wong

001031

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

\$2,500 pd.
9-21-90
Recpt. #151174



AC 13-186729

APPLICATION TO OPERATE/CONSTRUCT AIR POLLUTION SOURCES

SOURCE TYPE: Nomex Honeycomb Manufacturer [] New¹ [] Existing¹

APPLICATION TYPE: [] Construction [] Operation [] Modification

COMPANY NAME: Ciba-Geigy Corporation COUNTY: Dade

Identify the specific emission point source(s) addressed in this application (i.e. Lime Kiln No. 4 with Venturi Scrubber; Peaking Unit No. 2, Gas Fired) Dip/Purge Units and Cure Ovens

SOURCE LOCATION: Street 3550 N.W. 49th Street City Miami

UTM: East 17:575.5 km North 2856.4 km

Latitude 25° 49' 25" N Longitude 80° 15' 16" W

APPLICANT NAME AND TITLE: Jim Hall, Plant Engineer

APPLICANT ADDRESS: 3550 N.W. 49th Street, Miami, Florida 33142

SECTION I: STATEMENTS BY APPLICANT AND ENGINEER

A. APPLICANT

I am the undersigned owner or authorized representative* of Ciba-Geigy Corporation

I certify that the statements made in this application for a Construction permit are true, correct and complete to the best of my knowledge and belief. Further, I agree to maintain and operate the pollution control source and pollution control facilities in such a manner as to comply with the provision of Chapter 403, Florida Statutes, and all the rules and regulations of the department and revisions thereof. I also understand that a permit, if granted by the department, will be non-transferable and I will promptly notify the department upon sale or legal transfer of the permitted establishment.

*Attach letter of authorization

Signed: [Signature]

Jim Hall, Plant Engineer
Name and Title (Please Type)

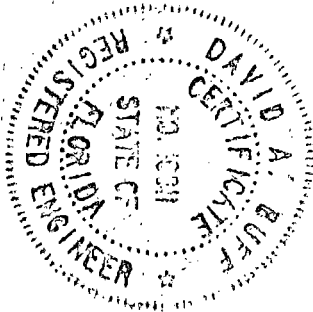
Date: 09/18/90 Telephone No. (305) 633-9066

B. PROFESSIONAL ENGINEER REGISTERED IN FLORIDA (where required by Chapter 471, F.S.)

This is to certify that the engineering features of this pollution control project have been designed/examined by me and found to be in conformity with modern engineering principles applicable to the treatment and disposal of pollutants characterized in the permit application. There is reasonable assurance, in my professional judgment, that

¹ See Florida Administrative Code Rule 17-2.100(57) and (104)

the pollution control facilities, when properly maintained and operated, will discharge an effluent that complies with all applicable statutes of the State of Florida and the rules and regulations of the department. It is also agreed that the undersigned will furnish, if authorized by the owner, the applicant a set of instructions for the proper maintenance and operation of the pollution control facilities and, if applicable, pollution sources.



Signed David A. Buff
David A. Buff

Name (Please Type)

KBN Engineering and Applied Sciences, Inc.
Company Name (Please Type)

1034 N.W. 57th Street, Gainesville, FL 32605
Mailing Address (Please Type)

Florida Registration No. 19011 Date: 9/18/90 Telephone No. (904) 331-9000

SECTION II: GENERAL PROJECT INFORMATION

A. Describe the nature and extent of the project. Refer to pollution control equipment, and expected improvements in source performance as a result of installation. State whether the project will result in full compliance. Attach additional sheet if necessary.

Refer to Attachment A

B. Schedule of project covered in this application (Construction Permit Application Only)

Start of Construction upon permit issuance Completion of Construction 12 months after
permit issued

C. Costs of pollution control system(s): (Note: Show breakdown of estimated costs only for individual components/units of the project serving pollution control purposes. Information on actual costs shall be furnished with the application for operation permit.)

N/A: Control equipment already in place

D. Indicate any previous DER permits, orders and notices associated with the emission point, including permit issuance and expiration dates.

AC13-109080 Issued 12/30/85 Expired 1989

A013-160871 Issued 5/12/89 Expires 4/14/94

E. Requested permitted equipment operating time: hrs/day 24; days/wk 7; wks/yr 52;
If power plant, hrs/yr _____; if seasonal, describe: _____

F. If this is a new source or major modification, answer the following questions.
(Yes or No) Not Applicable

1. Is this source in a non-attainment area for a particular pollutant? _____
 - a. If yes, has "offset" been applied? _____
 - b. If yes, has "Lowest Achievable Emission Rate" been applied? _____
 - c. If yes, list non-attainment pollutants. _____
2. Does best available control technology (BACT) apply to this source?
If yes, see Section VI. _____
3. Does the State "Prevention of Significant Deterioration" (PSD) requirement apply to this source? If yes, see Sections VI and VII. _____
4. Do "Standards of Performance for New Stationary Sources" (NSPS) apply to this source? _____
5. Do "National Emission Standards for Hazardous Air Pollutants" (NESHAP) apply to this source? _____

- H. Do "Reasonably Available Control Technology" (RACT) requirements apply to this source? _____
No
- a. If yes, for what pollutants? _____
 - b. If yes, in addition to the information required in this form, any information requested in Rule 17-2.650 must be submitted.

Attach all supportive information related to any answer of "Yes". Attach any justification for any answer of "No" that might be considered questionable.

SECTION III: AIR POLLUTION SOURCES & CONTROL DEVICES (Other than Incinerators)

A. Raw Materials and Chemicals Used in your Process, if applicable:

See Attachment A

Description	Contaminants		Utilization Rate - lbs/hr	Relate to Flow Diagram
	Type	% Wt		

B. Process Rate, if applicable: (See Section V, Item 1)

1. Total Process Input Rate (lbs/hr): N/A

2. Product Weight (lbs/hr): N/A

C. Airborne Contaminants Emitted: (Information in this table must be submitted for each emission point, use additional sheets as necessary)

See Attachment A

Name of Contaminant	Emission ¹		Allowed ² Emission Rate per Rule 17-2	Allowable ³ Emission lbs/hr	Potential ⁴ Emission		Relate to Flow Diagram
	Maximum lbs/hr	Actual T/yr			lbs/hr	T/yr	

¹See Section V, Item 2.

²Reference applicable emission standards and units (e.g. Rule 17-2.600(5)(b)2. Table II, E. (1) - 0.1 pounds per million BTU heat input)

³Calculated from operating rate and applicable standard.

⁴Emission, if source operated without control (See Section V, Item 3).

D. Control Devices: (See Section V, Item 4)

Name and Type (Model & Serial No.)	Contaminant	Efficiency	Range of Particles Size Collected (in microns) (If applicable)	Basis for Efficiency (Section V Item 5)
Incinerator (existing)	VOC	+95%	N/A	Design
3 Baghouses (existing)	Particulate	+98%	>10µm	Test Data

E. Fuels

Type (Be Specific)	Consumption*		Maximum Heat Input (MMBTU/hr)
	avg/hr	max./hr	
Natural Gas-Cure Oven 1	0.0012	0.0012	1.2
Natural Gas-Cure Oven 2	0.0012	0.0012	1.2
Natural Gas-Cure Oven 3	0.0012	0.0012	1.2

*Units: Natural Gas--MMCF/hr; Fuel Oils--gallons/hr; Coal, wood, refuse, others--lbs/hr.

Fuel Analysis:

Percent Sulfur: Neg. Percent Ash: Neg.
 Density: _____ lbs/gal Typical Percent Nitrogen: Neg.
 Heat Capacity: 1,000 Btu/scf BTU/lb _____ BTU/gal
 Other Fuel Contaminants (which may cause air pollution): _____

F. If applicable, indicate the percent of fuel used for space heating.

Annual Average N/A Maximum _____

G. Indicate liquid or solid wastes generated and method of disposal.

All solid and liquid wastes are disposed properly offsite.

H. Emission Stack Geometry and Flow Characteristics (Provide data for each stack):

Stack Height: See Attachment A. ft. Stack Diameter: _____ ft.
 Gas Flow Rate: _____ ACFM _____ DSCFM Gas Exit Temperature: _____ °F.
 Water Vapor Content: _____ % Velocity: _____ FPS

SECTION IV: INCINERATOR INFORMATION

Note: Incinerator is existing

Type of Waste	Type 0 (Plastics)	Type II (Rubbish)	Type III (Refuse)	Type IV (Garbage)	Type IV (Pathological)	Type V (Liq. & Gas By-prod.)	Type VI (Solid By-prod.)
Actual lb/hr Incinerated							
Uncontrolled (lbs/hr)							

Description of Waste _____
 Total Weight Incinerated (lbs/hr) _____ Design Capacity (lbs/hr) _____
 Approximate Number of Hours of Operation per day _____ day/wk _____ wks/yr. _____
 Manufacturer _____
 Date Constructed _____ Model No. _____

	Volume (ft) ³	Heat Release (BTU/hr)	Fuel		Temperature (°F)
			Type	BTU/hr	
Primary Chamber					
Secondary Chamber					

Stack Height: _____ ft. Stack Diameter: _____ Stack Temp. _____
 Gas Flow Rate: _____ ACFM _____ DSCFM* Velocity: _____ FPS

*If 50 or more tons per day design capacity, submit the emissions rate in grains per standard cubic foot dry gas corrected to 50% excess air.

Type of pollution control devices: Cyclone Wet Scrubber Afterburner
 Other (specify) _____

Brief description of operating characteristics of control devices: _____

Ultimate disposal of any effluent other than that emitted from the stack (scrubber water, ash, etc.):

NOTE: Items 2, 3, 4, 6, 7, 8, and 10 in Section V must be included where applicable.

SECTION V: SUPPLEMENTAL REQUIREMENTS

Please provide the following supplements where required for this application.

1. Total process input rate and product weight -- show derivation [Rule 17-2.100(127)]
2. To a construction application, attach basis of emission estimate (e.g., design calculations, design drawings, pertinent manufacturer's test data, etc.) and attach proposed methods (e.g., FR Part 60 Methods, 1, 2, 3, 4, 5) to show proof of compliance with applicable standards. To an operation application, attach test results or methods used to show proof of compliance. Information provided when applying for an operation permit from a construction permit shall be indicative of the time at which the test was made.
3. Attach basis of potential discharge (e.g., emission factor, that is, AP42 test).
4. With construction permit application, include design details for all air pollution control systems (e.g., for baghouse include cloth to air ratio; for scrubber include cross-section sketch, design pressure drop, etc.)
5. With construction permit application, attach derivation of control device(s) efficiency. Include test or design data. Items 2, 3 and 5 should be consistent: actual emissions = potential (1-efficiency).
6. An 8 ½" x 11" flow diagram which will, without revealing trade secrets, identify the individual operations and/or processes. Indicate where raw materials enter, where solid and liquid waste exit, where gaseous emissions and/or airborne particles are evolved and where finished products are obtained.
7. An 8 ½" x 11" plot plan showing the location of the establishment, and points of airborne emissions, in relation to the surrounding area, residences and other permanent structures and roadways (Examples: Copy of relevant portion of USGS topographic map).
8. An 8 ½" x 11" plot plan of facility showing the location of manufacturing processes and outlets for airborne emissions. Relate all flows to the flow diagram.

- 9. The appropriate application fee in accordance with Rule 17-4.05. The check should be made payable to the Department of Environmental Regulation.
- 10. With an application for operation permit, attach a Certificate of Completion of Construction indicating that the source was constructed as shown in the construction permit.

SECTION VI: BEST AVAILABLE CONTROL TECHNOLOGY
Not Applicable

A. Are standards of performance for new stationary sources pursuant to 40 C.F.R. Part 60 applicable to the source?

Yes No

Contaminant	Rate or Concentration

B. Has EPA declared the best available control technology for this class of sources (If yes, attach copy)

Yes No

Contaminant	Rate or Concentration

C. What emission levels do you propose as best available control technology?

Contaminant	Rate or Concentration

D. Describe the existing control and treatment technology (if any).

- | | |
|---------------------------|--------------------------|
| 1. Control Device/System: | 2. Operating Principles: |
| 3. Efficiency:* | 4. Capital Costs: |

*Explain method of determining

- 5. Useful Life:
- 7. Energy:
- 9. Emissions:

- 6. Operating Costs:
- 8. Maintenance Cost:

Contaminant	Rate or Concentration

10. Stack Parameters

- a. Height: ft.
- b. Diameter ft.
- c. Flow Rate: ACFM
- d. Temperature: °F.
- e. Velocity: FPS

E. Describe the control and treatment technology available (As many types as applicable, use additional pages if necessary).

1.

- a. Control Devices:
- b. Operating Principles:
- c. Efficiency:¹
- d. Capital Cost:
- e. Useful Life:
- f. Operating Cost:
- g. Energy:²
- h. Maintenance Cost:
- i. Availability of construction materials and process chemicals:
- j. Applicability to manufacturing processes:
- k. Ability to construct with control device, install in available space, and operate within proposed levels:

2.

- a. Control Device:
- b. Operating Principles:
- c. Efficiency:¹
- d. Capital Cost:
- e. Useful Life:
- f. Operating Cost:
- g. Energy:²
- h. Maintenance Cost:
- i. Availability of construction materials and process chemicals:

¹Explain method of determining efficiency.

²Energy to be reported in units of electrical power - KWH design rate.

- j. Applicability to manufacturing processes:
- k. Ability to construct with control device, install in available space, and operate within proposed levels:

3.

- a. Control Device:
- b. Operating Principles:
- c. Efficiency:¹
- d. Capital Cost:
- e. Useful Life:
- f. Operating Cost:
- g. Energy:²
- h. Maintenance Cost:
- i. Availability of construction materials and process chemicals:
- j. Applicability to manufacturing processes:
- k. Ability to construct with control device, install in available space, and operate within proposed levels:

4.

- a. Control Device:
- b. Operating Principles:
- c. Efficiency:¹
- d. Capital Cost:
- e. Useful Life:
- f. Operating Cost:
- g. Energy:²
- h. Maintenance Cost:
- i. Availability of construction materials and process chemicals:
- j. Applicability to manufacturing processes:
- k. Ability to construct with control device, install in available space, and operate within proposed levels:

F. Describe the control technology selected:

- 1. Control Device:
- 2. Efficiency:¹
- 3. Capital Cost:
- 4. Useful Life:
- 5. Operating Cost:
- 6. Energy:²
- 7. Maintenance Cost:
- 8. Manufacturer:
- 9. Other locations where employed on similar processes:
 - a. (1) Company:
 - (2) Mailing Address:
 - (3) City:
 - (4) State:

¹Explain method of determining efficiency.

²Energy to be reported in units of electrical power - KWH design rate.

- (5) Environmental Manager:
- (6) Telephone No.:
- (7) Emissions:¹

Contaminant	Rate or Concentration

- (8) Process Rate:¹
- b. (1) Company:
- (2) Mailing Address:
- (3) City: (4) State:
- (5) Environmental Manager:
- (6) Telephone No.:
- (7) Emissions:¹

Contaminant	Rate or Concentration

- (8) Process Rate:¹
- 10. Reason for selection and description of systems:

¹Applicant must provide this information when available. Should this information not be available, applicant must state the reason(s) why.

SECTION VII - PREVENTION OF SIGNIFICANT DETERIORATION

Not Applicable

A. Company Monitored Data

1. _____ no. sites _____ TSP _____ () SO² _____ Wind spd/dir

Period of Monitoring _____ / _____ / _____ to _____ / _____ / _____
month day year month day year

Other data recorded _____

Attach all data or statistical summaries to this application.

¹Specify bubbler (B) or continuous (C).

2. Instrumentation, Field and Laboratory

a. Was instrumentation EPA referenced or its equivalent? [] Yes [] No

b. Was instrumentation calibrated in accordance with Department procedures?

[] Yes [] No [] Unknown

B. Meteorological Data Used for Air Quality Modeling

1. _____ Year(s) of data from _____ / _____ / _____ to _____ / _____ / _____
month day year month day year

2. Surface data obtained from (location) _____

3. Upper air (mixing height) data obtained from (location) _____

4. Stability wind rose (STAR) data obtained from (location) _____

C. Computer Models Used

1. _____ Modified? If yes, attach description.

2. _____ Modified? If yes, attach description.

3. _____ Modified? If yes, attach description.

4. _____ Modified? If yes, attach description.

Attach copies of all final model runs showing input data, receptor locations, and principle output tables.

D. Applicants Maximum Allowable Emission Data

Pollutant	Emission Rate
TSP	_____ grams/sec
SO ²	_____ grams/sec

E. Emission Data Used in Modeling

Attach list of emission sources. Emission data required is source name, description of point source (on NEDS point number), UTM coordinates, stack data, allowable emissions, and normal operating time.

F. Attach all other information supportive to the PSD review.

G. Discuss the social and economic impact of the selected technology versus other applicable technologies (i.e, jobs, payroll, production, taxes, energy, etc.). Include assessment of the environmental impact of the sources.

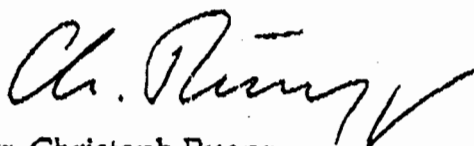
H. Attach scientific, engineering, and technical material, reports, publications, journals, and other competent relevant information describing the theory and application of the requested best available control technology.

Composite Materials
CIBA-GEIGY Corporation
5115 East La Palma Avenue
Anaheim, CA 92807-2018
714 779 8000
FAX 714 777 0628

June 11, 1990

TO WHOM IT MAY CONCERN:

By way of this memo, I am assigning Jim Hall, Engineering Manager of CIBA-GEIGY, Composite Materials Department, Miami, Florida as authorized signee for the purpose of applying for and obtaining permits as required by regulatory agencies, in the areas of air, water, fire and solid waste concerns.



Dr. Christoph Ruegg
Vice-President of Operations

cc: D. Bidle, Plant Manager

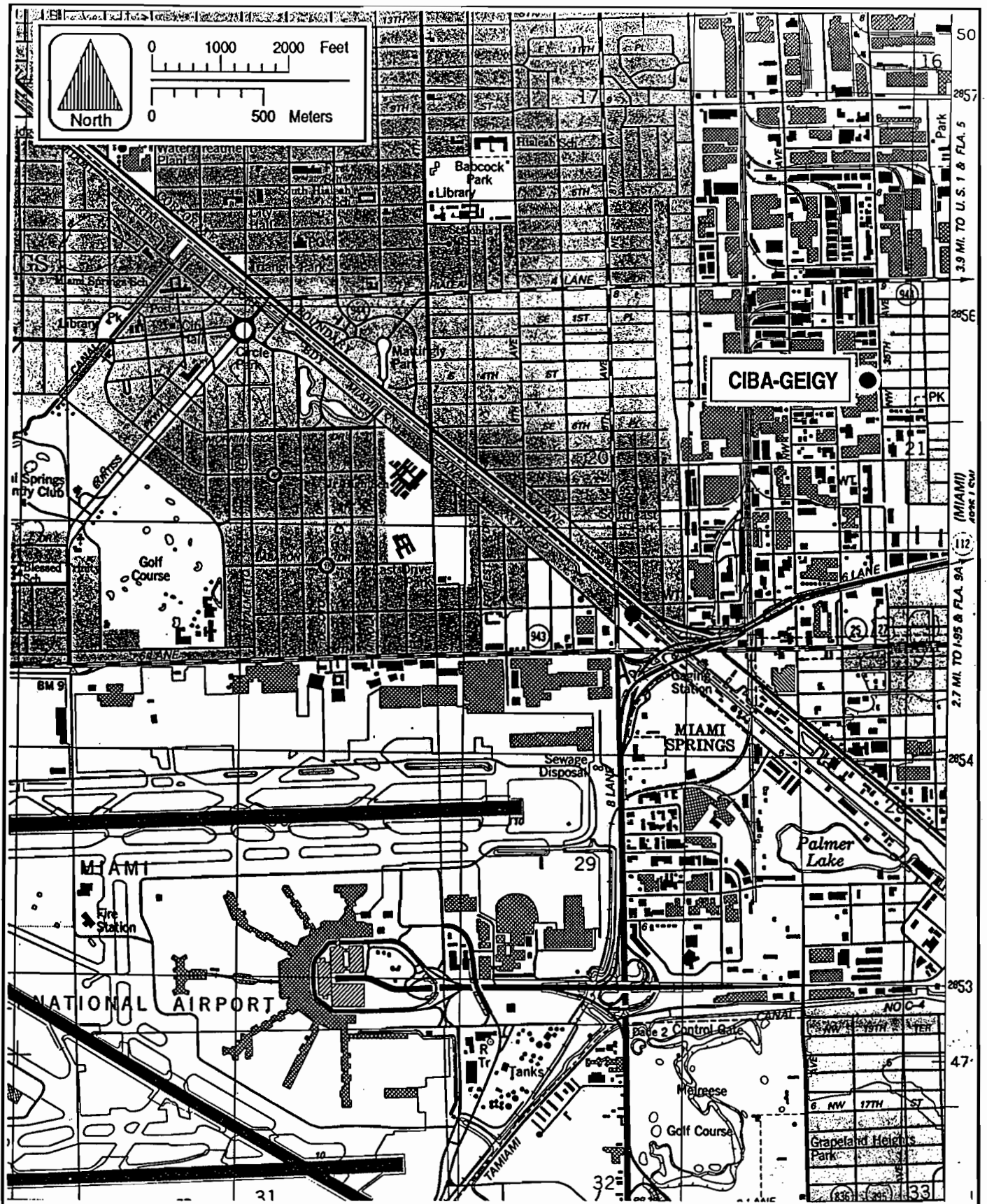
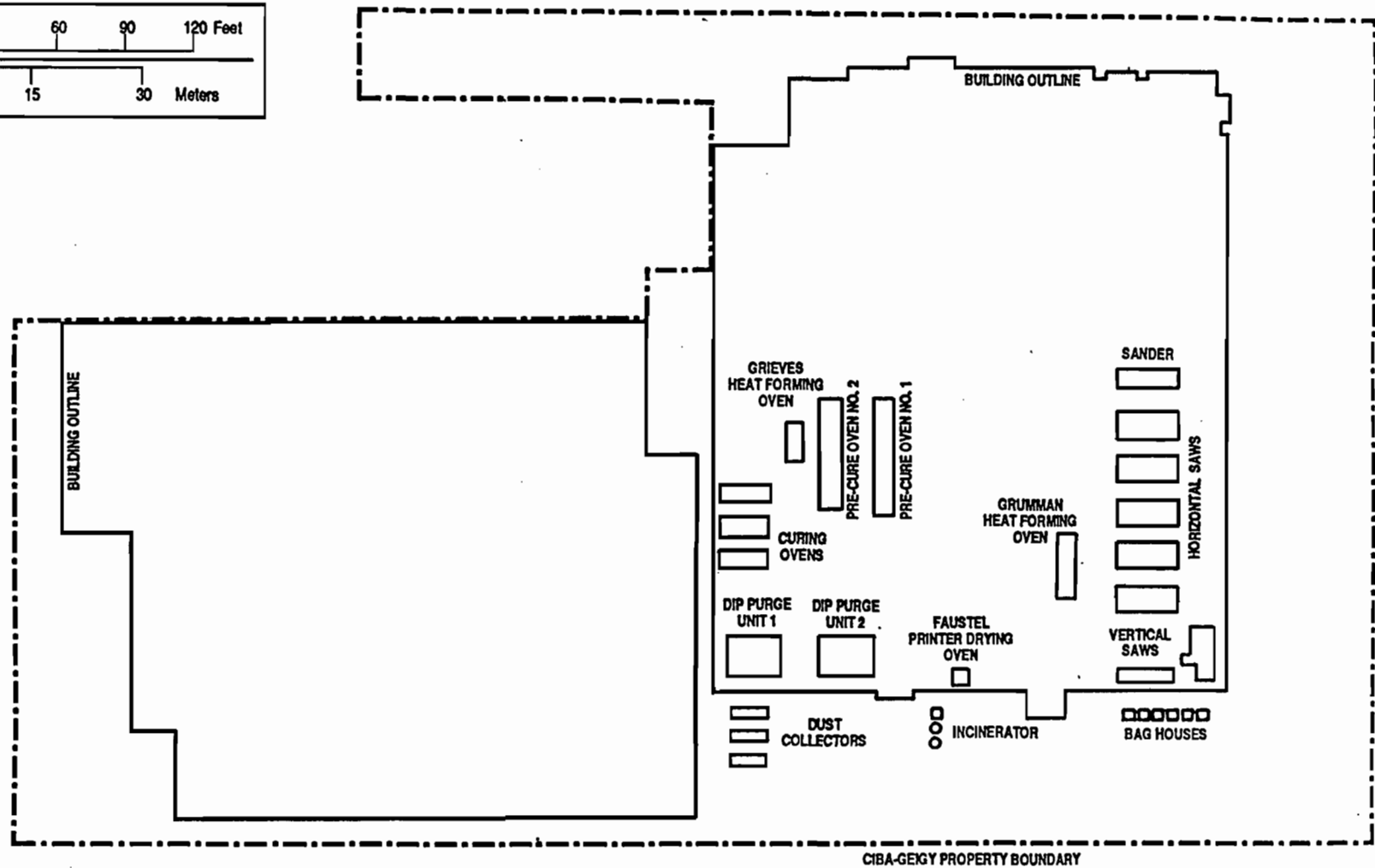
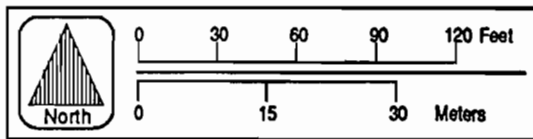


Figure A SITE LOCATION OF CIBA-GEIGY CORPORATION





PLOT PLAN OF CIBA-GEIGY FACILITY



ATTACHMENT A

1.0 CURRENT PROCESS DESCRIPTION

Ciba-Geigy Corporation operates a nomex honeycomb manufacturing facility located in Miami, Florida. The facility produces nomex honeycomb boards of various sizes, which are used as structural insulation in airplanes, helicopters, and other aviation equipment. A simplified flow diagram of the operation is presented in Figure 1. In this process, nomex is first coated with an adhesive ink. Lines are printed onto the nomex, which is then sent to a drying oven (Faustel printer dryer oven). The ink (R600) contains 43.5 percent volatile organic compounds (VOCs) by weight. The VOC in the ink is released as fugitive emissions during the printing/drying process.

Next, several layers of nomex are overlaid and heated to form a honeycomb structure (i.e., block). The blocks are sent through one of two pre-cure ovens to remove moisture from the blocks. The blocks are then sent through the two dip/purge units (DPUs) wherein each block is dipped in a mixture of resin and isopropyl alcohol (IPA). The amount of resin and IPA used is dependent upon the type of block being produced (i.e., structural characteristics) and ambient conditions (temperature, humidity, etc.). Historically, on an annual basis, the resin has accounted for 53 percent to 60 percent of the total resin/IPA usage on a weight basis. However, the resin can account for as little as 43.5 percent of the total mixture.

The resin and IPA are currently stored in drums on-site. There are some fugitive VOC emissions from this storage and handling.

Each DPU is enclosed and is exhausted to the VOC incinerator. The most recent VOC mass balance conducted on the DPUs (in 1989) indicates that, on the average, 65 percent of the total VOC contained in the resin/IPA mixture which is used in the DPUs is exhausted to the incinerator. The mass balance calculations are presented in Figure 2. The incinerator has a minimum VOC destruction efficiency of 95 percent. The remaining VOC in the

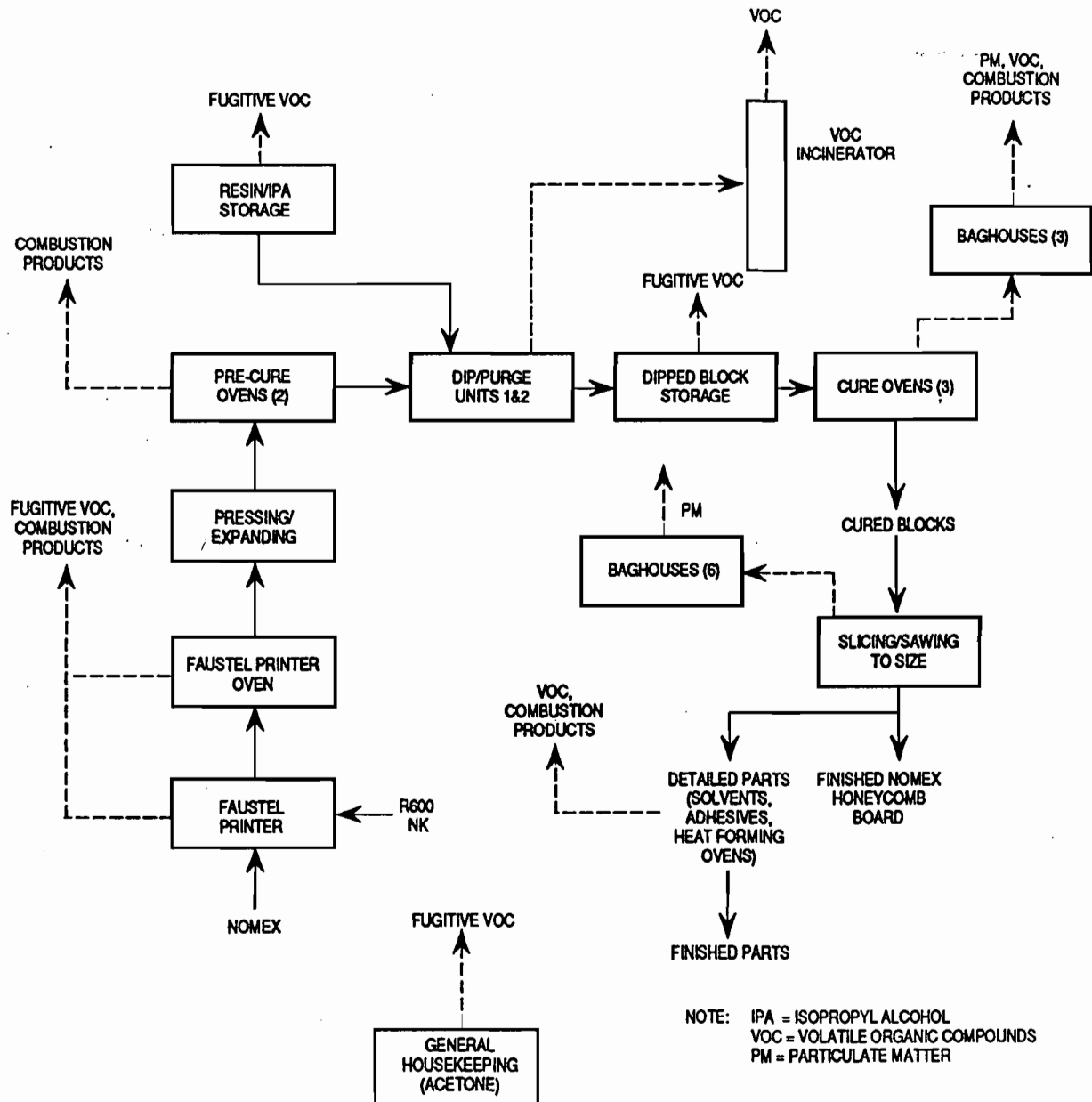
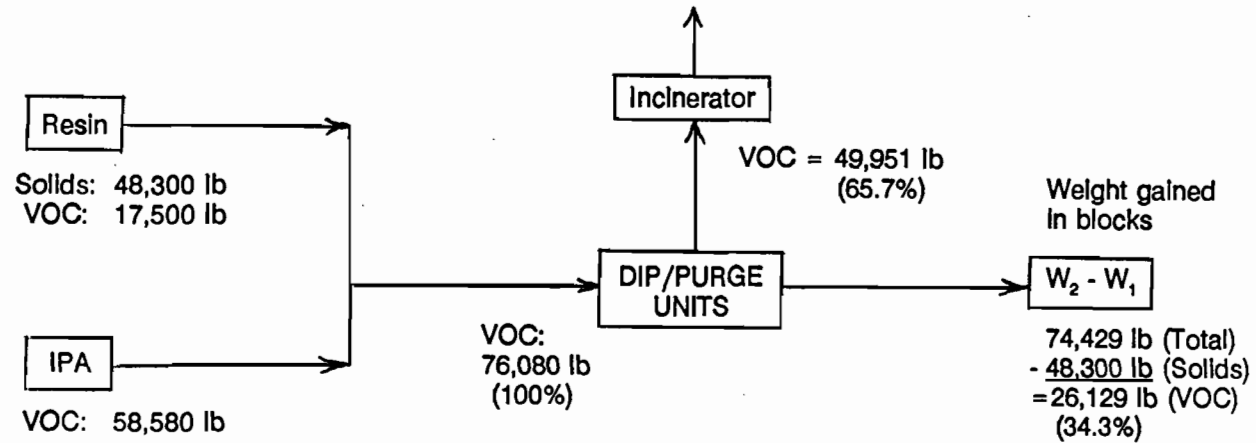


Figure 1 SIMPLIFIED FLOW DIAGRAM
CIBA-GEIGY CORPORATION
MIAMI, FLORIDA



Based on T. Mazpule data of 7/20/90
 Total Resin = 140 drums x 500 lb/drum = 70,000 lb

VOC = 25% = 17,500 lb
 Solids = 69% = 48,300 lb
 Water = $\frac{6\%}{100\%}$



A-3

Figure 2 REVISED MATERIAL BALANCE
 FOR DIP/PURGE PROCESS



mixture is released as fugitive VOC emissions. These fugitive emissions occur during storage of the dipped blocks at ambient temperature, and during the curing operation.

The curing operation involves placing the blocks into the natural-gas-fired cure ovens and curing at elevated temperature for a short time period. The temperature and time are determined again by the desired characteristics of the block. Particulate emissions from each of the three curing ovens are controlled by a baghouse. The baghouses may also reduce VOC emissions, but this has not been documented.

Following the curing operation, the cured blocks are cut to size. The slicing, sawing, and sanding operations are controlled by a total of six baghouses. The blocks may also be sent through one of two heat-forming ovens, wherein they are heated to allow bending, forming, etc. The only emissions from these ovens are the products of natural gas combustion.

General housekeeping and cleanup is performed using acetone. It is assumed all acetone used is eventually released to the atmosphere as fugitive VOC.

The Ciba-Geigy facility is currently permitted under air operating permit No. A013-160871, issued by the Florida Department of Environmental Regulation (FDER) on May 12, 1989. Construction Permit No. AC13-109080, issued December 30, 1985, is the federally recognized, enforceable permit for the facility. The construction permit limits total VOC emissions from the facility to 242.64 tons per year (TPY), and total particulate matter (PM) emissions from the three curing ovens to 3.96 TPY. The six baghouses controlling the slicing, sawing, and sanding operations are permitted under a separate operating permit (A013-123720), issued November 21, 1986.

2.0 PROJECT DESCRIPTION

Ciba-Geigy desires to increase the allowable VOC emissions from the facility by 39 TPY. This increase is needed because the former construction permit and current operating permit do not account for certain

miscellaneous VOC sources at the facility, such as the Faustel printer ink, adhesives, etc. Since there is a maximum allowable VOC emission for the entire facility, these additional VOC emissions reduce the potential VOC emissions allowed from the DPUs and cure ovens. Also, an increase in the allowable VOC emissions for the facility will allow Ciba-Geigy ultimately to increase production, if market conditions are favorable for such an increase.

In this project, Ciba-Geigy is only requesting an increase in the allowable VOC emissions from the facility (from 242.64 TPY to 281.23 TPY, or a 38.59 TPY increase). There will be no physical modifications or changes in the method of operation of any of the sources at the facility. All equipment will continue to operate as it does currently.

3.0 EMISSION ESTIMATES

Maximum chemical and solvent usages associated with the Ciba-Geigy operation are presented in Table 1. Resin and IPA are used in the DPUs. The maximum VOC usage in the DPUs will remain at the current permitted level of 125 lb/hr for each DPU. The level of resin and IPA usage associated with this maximum VOC usage can vary depending upon the product requirements and weather conditions.

In order to estimate worst case annual VOC emissions, historic resin/IPA usage data from Ciba-Geigy was reviewed. These data showed that the resin/IPA usage ratio on an annual basis has varied from 53.4 percent up to 59.7 percent. Maximum VOC usage would occur at the lower resin percentage (i.e., greater percentage of IPA). Therefore, a resin/IPA ratio of 53 percent was used to be conservative in the calculations. Based on this assumption, the total resin/IPA usage is estimated at 2,200,000 lb/yr, of which 1,166,000 lb/yr is resin, and 1,034,000 lb/yr is IPA. However, it should be noted that lower IPA usage would allow a disproportionately greater level of resin usage, since IPA contains more VOC than does resin on a pound-for-pound basis.

Maximum usage of acetone for housekeeping is estimated at 3 gal/hr and 1,700 gal/yr. The Faustel printer ink, not previously quantified, is used at a maximum rate of 4 gal/hr and 3,000 gal/yr. Usages of miscellaneous solvents are quantified in Table 1.

Maximum hourly and annual VOC emissions for Ciba-Geigy based on the current permit limits, as well as maximum requested VOC emissions, are summarized in Table 2. As shown, maximum annual VOC emissions will increase by 38.59 TPY based on the requested emissions. VOC emission calculations are presented in Attachment B.

The current permitted particulate matter emissions from the three cure ovens are 0.99 lb/hr and 3.96 TPY (total all three ovens). Ciba-Geigy is not requesting any increase in the maximum allowable emissions for the cure ovens. Stack emission parameters for the VOC incineration and cure oven baghouses will not change as a result of this VOC increase request.

Table 1. Maximum Chemical/Solvent Usage Rates, Ciba-Geigy

Chemical/Solvent	Density (lb/gal)	VOC Content (percent by weight)	Maximum Hourly			Maximum Annual			
			Total Usage		VOC Usage	Total Usage		VOC Usage	
			(gal/hr)	(lb/hr)	(lb/hr)	(gal/yr)	(lb/yr)	(lb/yr)	(tons/yr)
DIP/PURGE UNITS									
Resin	9.55	25.0	a	a	250.0 ^a	-	1,166,000 ^b	291,500	145.75
Isopropyl alcohol	6.56	99.0	a	a	a	-	1,034,000 ^b	1,023,660	511.83
HOUSEKEEPING									
Acetone	6.56	100.0	3	19.7	19.7	1,700	11,152	11,152	5.58
FAUSTEL PRINTER									
R600 printer ink	10.00	43.5	4	40.0	17.4	3,000	30,000	13,050	6.53
MISCELLANEOUS SOLVENTS									
R-1078-T Adhesive	6.42	75.0	2	12.8	9.6	2,300	14,766	11,075	5.54
Methyl ethyl ketone	6.72	100.0	0.5	3.4	3.4	160	1,075	1,075	0.54
Penacolite Adhesive	9.17	27.0	2	18.3	5.0	1,400	12,838	3,466	1.73

^aMaximum VOC usage rate is 125 lb/hr per dip/purge unit. Maximum resin and isopropyl alcohol usage rates vary depending upon product produced and weather conditions.

^bBased on maximum isopropyl alcohol usage on annual basis. This assumption results in maximum VOC usage.

Table 2. Maximum Current and Future VOC Emissions, Ciba-Geigy

Source	Current Maximum Emissions ^a		Requested Maximum Emissions	
	lb/hr	TPY	lb/hr ^b	TPY
Dip/Purge Units w/Incinerator (Resin/IPA)	9.96	39.84	12.50	20.86
Housekeeping (Acetone)	1.77	7.08	6.56	5.58
Storage	2.23	8.92	2.36	10.30
Curing Ovens (3)	46.70	186.80	87.50	230.15
Faustel Printer Ink (R600)	--	--	17.40	6.53
R-1078-T Adhesive	--	--	9.60	5.54
Methyl ethyl ketone	--	--	3.40	0.54
Penacolite Adhesive	--	--	5.00	1.73
Facility	60.66	242.64		281.23

Note: lb/hr = pounds per hour.
TPY = tons per year.

^aBased on AC13-109080 and A013-160871.

^bMaximum lb/hr does not occur simultaneously from all sources.

ATTACHMENT B
EMISSION ESTIMATES

A. ANNUAL VOC EMISSIONS

1. Housecleaning (acetone)

Maximum annual usage = 1,700 gal

Acetone = 6.56 lb/gal

$1,700 \text{ gal} \times 6.56 \text{ lb/gal} = 11,152 \text{ lb/yr} = 5.58 \text{ TPY}$

2. Faustel Printer Ink (R600)

Maximum annual usage = 3,000 gal/yr

R600 = 10.0 lb/gal, 43.5% VOC by weight

$3,000 \text{ gal/yr} \times 10.0 \text{ lb/gal} \times 0.435 = 13,050 \text{ lb/yr} = 6.53 \text{ TPY}$

3. Storage

Current Permit = 8.92 TPY

Prorate to desired level = $8.92 \times \frac{281.6}{242.6} = 10.30 \text{ TPY}$

4. Incinerator and Cure Ovens

Assumptions:

53% of total resin + IPA usage is resin

(Based on minimum percent during years 1984 to 1989)

Average of 65 percent of VOC used is routed to incinerator,
based on mass balance of 1989. This 65 percent must also
include storage losses.

Maximum usage, resin plus IPA = 2,200,000 lb/yr

For worst-case emission situation:

Resin usage = $2,200,000 \times 0.53 = 1,166,000 \text{ lb}$

IPA usage = $2,200,000 \times 0.47 = 1,034,000 \text{ lb}$

25% of resin is VOC = $1,166,000 \times 0.25 = 291,500 \text{ lb}$

99% of IPA is VOC = $1,034,000 \times 0.99 = \underline{1,023,660 \text{ lb}}$

Total VOC = $1,315,160 \text{ lb}$

65 percent of this goes to incinerator or is lost in storage:

$1,315,160 \times 0.65 = 854,854 \text{ lb}$

Storage emissions = $10.30 \text{ TPY} = 20,600 \text{ lb}$

VOC to incinerator = $854,854 - 20,600 = 834,254 \text{ lb}$

Incinerator has 95 percent minimum destruction efficiency

Incinerator VOC emissions = $834,254 \times (1 - 0.95) = 41,713 \text{ lb}$
= 20.86 TPY

VOC to cure ovens (or fugitive):

$1,315,160 \text{ lb} \times 0.35\% = 460,306 \text{ lb} = 230.15 \text{ TPY}$

5. Miscellaneous Solvents

R-1078-T Adhesive:

Maximum annual usage = $2,300 \text{ gal/yr} \times 6.42 \text{ lb/gal} = 14,766 \text{ lb/yr}$

VOC content = 75 percent

VOC emissions = $14,766 \text{ lb/yr} \times 0.75 / 2,000 \text{ lb/ton} = 5.54 \text{ tons/yr}$

Methyl ethyl ketone

Maximum annual usage = $160 \text{ gal/yr} \times 6.72 \text{ lb/gal} = 1,075 \text{ lb/yr}$

VOC content = 100 percent

VOC emissions = $1,075 \text{ lb/yr} / 2,000 \text{ lb/ton} = 0.54 \text{ tons/yr}$

Penacolite adhesive

Maximum annual usage = $1,400 \text{ gal/yr} \times 9.17 \text{ lb/gal} = 12,838 \text{ lb/yr}$

VOC content = 27 percent

VOC emissions = $12,838 \text{ lb/yr} \times 0.27 / 2,000 \text{ lb/ton} = 1.73 \text{ tons/yr}$

B. MAXIMUM HOURLY VOC EMISSIONS

1. Housecleaning (acetone)

Estimate maximum usage at 1 gal/hr

$$1 \text{ gal/hr} \times 6.56 \text{ lb/gal} = 6.56 \text{ lb/hr}$$

2. Faustel Printer Ink (R600)

From recent submittal to FDER

$$\text{Maximum usage} = 4 \text{ gal/hr} \times 10.00 \text{ lb/gal} = 40.00 \text{ lb/hr}$$

VOC content = 43.5 percent

$$\text{Maximum VOC} = 40 \text{ lb/hr} \times 0.435 = 17.40 \text{ lb/hr}$$

3. Storage

$$\text{Average emissions} = 10.35 \text{ TPY} \times \frac{2,000}{8,760} = 2.36 \text{ lb/hr}$$

4. VOC Incinerator

Maximum VOC usage in DPUs (each) = 125.0 lb/hr

As worst case, assume all VOC is released in DPUs and that there is 100 percent capture. These assumptions will maximize potential VOC emissions from the incinerator. Incinerator has minimum 95 percent destruction efficiency.

$$\text{Incinerator VOC} = 125.0 \times 2 \times 0.05 = 12.5 \text{ lb/hr}$$

$$= 6.25 \text{ lb/hr per DPU}$$

5. Curing ovens

Maximum VOC usage in DPUs (each) = 125.0 lb/hr

As worst case, assume 65 percent of VOC used in DPUs is released in DPUs and exhausted to incinerator (based on the mass balance); remainder is released as fugitives during curing operation.

$$\text{Cure ovens/fugitive VOC} = 125.0 \times 2 \times (1-0.65) = 87.5 \text{ lb/hr}$$

$$= 43.75 \text{ lb/hr per DPU}$$

It is noted that maximum VOC emissions from the curing ovens would not occur at the same time as maximum VOC emissions from the VOC incinerator, based on the above assumptions.

6. Miscellaneous Solvents

Refer to Table 1 for maximum VOC usage rates. It is assumed all VOC is released to the atmosphere.