

Jeb Bush  
Governor

# Department of Environmental Protection

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

David B. Struhs  
Secretary

March 19, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Murray T. Brinson  
Sr. Vice-President, Sugar Processing  
United States Sugar Corporation  
Post Office Box 1207  
Clewiston, Florida 33440-1207

Re: DEP File No. 0510003-007 AC (PSD-FL-217B)  
Clewiston Facility, Boiler No. 4  
Hours of Operation


Dear Mr. Brinson:

Enclosed is one copy of the Draft Air Construction Permit Modification for Boiler No. 4 at the U. S. Sugar Facility, Clewiston, Hendry County. The Department's Intent to Issue Air Construction Permit Modification and the "PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT MODIFICATION" are also included.

The "PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT" must be published as soon as possible in a newspaper of general circulation in the area affected. Proof of publication, i.e., newspaper affidavit, must be provided to the Department's Bureau of Air Regulation office within 7 (seven) days of publication. Failure to publish the notice and provide proof of publication within the allotted time may result in the denial of the permit.

Please submit any written comments you wish to have considered concerning the Department's proposed action to A. A. Linero, P.E., Administrator, New Source Review Section at the above letterhead address. If you have any other questions, please contact Teresa Heron at 850/921-9529.

Sincerely,

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

CHF/aal

Enclosures

**PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT MODIFICATION**

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

DEP File No. 0510003-007 AC (PSD-FL-217B)  
U.S. Sugar Corporation Clewiston Facility  
Hendry County

The Department of Environmental Protection (Department) gives notice of its intent to issue an air construction permit modification to U.S. Sugar Corporation, for the No. 4 Boiler at its Clewiston Facility in Hendry County, Florida. A Best Available Control Technology (BACT) determination was not required pursuant to Rule 62-212.400, F.A.C. The applicant's name and address are: U. S. Sugar Corporation, Post Office Box 1207, Clewiston, Florida 33440-1207.

U.S. Sugar Corporation requested a clarification of a condition in its existing construction permit that limits usage of the No. 4 Boiler to 160 days per season and 3840 hours per year. The Company requests that this condition be interpreted to allow operation for 3840 hours per calendar year, consistent with other conditions in its permit. The Department agrees as long as the unit operates only during the recognized sugar season (which straddles two calendar years) as indicated in all relevant applications, permits, and reports to-date. It is possible, as a result of this change, that the unit might actually operate less in a calendar year if there is an early end to one season and a late start to the next season. The result is that in the long run the two methods are probably equivalent.

The Department has determined that the change will not result in actual emissions increases and will not cause or contribute to a violation of ambient air quality standards.

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

The Department will accept written comments concerning the proposed permit issuance action for a period of fourteen (14) days from the date of publication of "Public Notice of Intent to Issue Air Construction Permit Modification." Written comments should be provided to the Department's Bureau of Air Regulation at 2600 Blair Stone Road, Mail Station #5505, Tallahassee, FL 32399-2400. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in the proposed agency action, the Department shall revise the proposed permit and require, if applicable, another Public Notice.

The Department will issue the permit with the attached conditions unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57 F.S., before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below. Mediation is not available in this proceeding.

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station # 35, Tallahassee, Florida, 32399-3000. Petitions filed by the permit applicant or any

of the parties listed below must be filed within fourteen (14) days of receipt of this notice of intent. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3) of the Florida Statutes must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. Under Section 120.60(3), however, any person who asked the Department for notice of agency action may file a petition within fourteen (14) days of receipt of that notice, regardless of the date of publication. A petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57 F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205 of the Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information: (a) The name and address of each agency affected and each agency's file or identification number, if known; (b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination; (c) A statement of how and when petitioner received notice of the agency action or proposed action; (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate; (e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and (f) A demand for relief.

A petition that does not dispute the material facts upon which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

A complete project file is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at:

Dept. of Environmental Protection	Palm Beach Co. Health Department	Dept. of Environmental Protection
Bureau of Air Regulation	901 Evernia Street	South District Office
111 S. Magnolia Drive, Suite 4	Post Office Box 29	2295 Victoria Avenue, Suite 364
Tallahassee, Florida, 32301	West Palm Beach, Florida 33401	Fort Myers, Florida 33902-2549
Telephone: 850/488-0114	Telephone: 561/355-3070	Telephone: (941)332-6975
Fax: 850/922-6979	Fax: 813/464-4420	Fax: (941)332-6969

The complete project file includes the application, technical evaluation, Draft Permit Modification, and the information submitted by the responsible official, exclusive of confidential records under Section 403.111, F.S. Interested persons may contact the Administrator, New Resource Review Section at 111 South Magnolia Drive, Suite 4, Tallahassee, Florida 32301, or call 850/488-0114, for additional information.

In the Matter of an  
Application for Permit by:

Mr. Murray T. Brinson  
Sr. Vice President Sugar Processing  
United States Sugar Corporation  
Post Office Box 1207  
Clewiston, Florida 33440-1207

DEP File No. 0510003-007 AC (PSD-FL-217B)  
Clewiston Boiler No. 4  
Hours of Operation  
Hendry County

**INTENT TO ISSUE PERMIT MODIFICATIONS**

The Department of Environmental Protection (Department) gives notice of its intent to issue permit modifications (copy of DRAFT Permit Modifications attached) for the proposed project, detailed in the application specified above, for the reasons stated below.

The applicant, United States Sugar Corporation, applied on March 18, 1999 to modify the air permit condition related to days during which Boiler No. 4 may be operated at the company's Clewiston facility in Hendry County.

The Department has permitting jurisdiction under the provisions of Chapter 403, Florida Statutes (F.S.), and Florida Administrative Code (F.A.C.) Chapters 62-4, 62-210, and 62-212. The above actions are not exempt from permitting procedures. The Department has determined that a modification of the air construction permits is required to implement the requested change.

The Department intends to issue these modifications based on the belief that reasonable assurances have been provided to indicate that the change will not adversely impact air quality, and will comply with all appropriate provisions of Chapters 62-4, 62-204, 62-210, 62-212, 62-296, and 62-297, F.A.C.

Pursuant to Section 403.815, F.S., and Rule 62-110.106(7)(a)1, F.A.C., you (the applicant) are required to publish at your own expense the enclosed "Public Notice of Intent to Issue Permit Modifications." The notice shall be published one time only in the legal advertisement section of a newspaper of general circulation in the area affected. For the purpose of these rules, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. Where there is more than one newspaper of general circulation in the county, the newspaper used must be one with significant circulation in the area that may be affected by the permit. If you are uncertain that a newspaper meets these requirements, please contact the Department at the address or telephone number listed below. The applicant shall provide proof of publication to the Department's Bureau of Air Regulation, at 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400 (Telephone: 850/488-0114; Fax 850/922-6979). The Department suggests that you publish the notice within thirty days of receipt of this letter. You must provide proof of publication within seven days of publication, pursuant to Rule 62-110.106(5), F.A.C. No permitting action for which published notice is required shall be granted until proof of publication of notice is made by furnishing a uniform affidavit in substantially the form prescribed in section 50.051, F.S. to the office of the Department issuing the permit or other authorization. Failure to publish the notice and provide proof of publication may result in the denial of the permit pursuant to Rules 62-110.106(9) & (11), F.A.C.

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

The Department will accept written comments concerning the proposed permit issuance action for a period of fourteen (14) days from the date of publication of "Public Notice of Intent to Issue Permit Modifications." Written comments should be provided to the Department's Bureau of Air Regulation at 2600 Blair Stone Road, Mail Station #5505, Tallahassee, FL 32399-2400. Any written comments filed shall be made available for

public inspection. If written comments received result in a significant change in the proposed agency action, the Department shall revise the proposed permit and require, if applicable, another Public Notice.

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

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station # 35, Tallahassee, Florida, 32399-3000. Petitions filed by the permit applicant or any of the parties listed below must be filed within fourteen days of receipt of this notice of intent. Petitions filed by any persons other than those entitled to written notice under section 120.60(3) of the Florida Statutes must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. Under section 120.60(3), however, any person who asked the Department for notice of agency action may file a petition within fourteen days of receipt of that notice, regardless of the date of publication. A petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information: (a) The name and address of each agency affected and each agency's file or identification number, if known; (b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination; (c) A statement of how and when petitioner received notice of the agency action or proposed action; (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate; (e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and (f) A demand for relief.

A petition that does not dispute the material facts upon which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above. Mediation is not available in this proceeding.


In addition to the above, a person subject to regulation has a right to apply for a variance from or waiver of the requirements of particular rules, on certain conditions, under Section 120.542 F.S. The relief provided by this state statute applies only to state rules, not statutes, and not to any federal regulatory requirements. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have in relation to the action proposed in this notice of intent.

The application for a variance or waiver is made by filing a petition with the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000. The petition must specify the following information: (a) The name, address, and telephone number of the petitioner; (b) The name, address, and telephone number of the attorney or qualified representative of the petitioner, if any; (c) Each rule or portion of a rule from which a variance or waiver is requested; (d) The citation to the statute underlying (implemented by) the rule identified in (c) above; (e) The type of action requested; (f) The specific facts that would justify a variance or waiver for the petitioner; (g) The reason why the variance or waiver would serve the purposes of the underlying statute (implemented by the rule); and (h) A statement whether the variance or waiver is permanent or temporary and, if temporary, a statement of the dates showing the duration of the variance or waiver requested.

The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of those terms is defined in Section 120.542(2) F.S., and that the purpose of the underlying statute will be or has been achieved by other means by the petitioner.

Persons subject to regulation pursuant to any federally delegated or approved air program should be aware that Florida is specifically not authorized to issue variances or waivers from any requirements of any such federally delegated or approved program. The requirements of the program remain fully enforceable by the Administrator of the EPA and by any person under the Clean Air Act unless and until the Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

Executed in Tallahassee, Florida.

 3/19  
for C. H. Fancy, P.E., Chief  
Bureau of Air Regulation

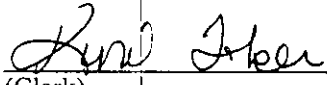
**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy agency clerk hereby certifies that this INTENT TO ISSUE AIR CONSTRUCTION PERMIT MODIFICATIONS (including the PUBLIC NOTICE, and the DRAFT Permit Modifications) was sent by certified mail (\*) and copies were mailed by U.S. Mail before the close of business on 3-22-99 to the person(s) listed:

Murray T. Brinson, USSC\*  
David Buff, PE, Golder Associates  
Phil Barbaccia, DEP SD  
James E. Stormer, PBCHD

Clerk Stamp

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

  
(Clerk) 3-22-99  
(Date)

April XX, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Murray T. Brinson  
Sr. Vice-President, Sugar Processing  
United States Sugar Corporation  
Post Office Box 1207  
Clewiston, Florida 33440-1207

Re: DEP File No. 0510003-007 AC (PSD-FL-217B)  
Clewiston Facility, Boiler No. 4  
Hours of Operation

Dear Mr. Brinson:

The Department reviewed your request dated March 18, 1999 that the permit condition governing the operating days and hours of the No. 4 Boiler be interpreted to allow operation for 3840 hours per calendar year, consistent with other conditions the referenced permit. The Department agrees as long as the unit operates only during the recognized South Florida sugar season (which straddles two calendar years) as indicated in all relevant applications, permits, and reports to-date. The referenced permit for the No. 4 Boiler is hereby changed as follows:

SPECIFIC CONDITION NO. 4

Boiler No. 4 is limited to 160 days (3,840 hr/yr) operation per year and only during season.

Note that it is possible, as a result of this change, that the unit might actually operate less than the allowable hours in a calendar year if there is an early end to one season and a late start to the next season. The result is that in the long run the two methods are probably equivalent.

A copy of this letter shall be filed with the referenced permit and shall become part of the permit. This permit modification is issued pursuant to Chapter 403, Florida Statutes. Any party to this order (permit modification) has the right to seek judicial review of it under Section 120.68, F.S., by the filing of a Notice of Appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department of Environmental Protection in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000, and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within (thirty) days after this Notice is filed with the Clerk of the Department.

Executed in Tallahassee, Florida.

\_\_\_\_\_  
Howard L. Rhodes, Director  
Division of Air Resources  
Management

**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy agency clerk hereby certifies that this NOTICE OF FINAL PERMIT MODIFICATION (including the FINAL permit modification) was sent by certified mail (\*) and copies were mailed by U.S. Mail before the close of business on \_\_\_\_\_ to the person(s) listed:

Murray T. Brinson, USSC\*  
Don Griffin, USSC  
David Buff, PE, Golder Associates  
Phil Barbaccia, DEP SD  
James E. Stormer, PBCHD

Clerk Stamp

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

\_\_\_\_\_  
(Clerk)

\_\_\_\_\_  
(Date)



Z 333 618 086

US Postal Service  
**Receipt for Certified Mail**

No Insurance Coverage Provided.  
Do not use for International Mail (See reverse)

Sender	
Murray Brinson	
Street & Number	
US Sugar	
Post Office, State, & ZIP Code	
Clewiston, FL	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	3-22-99
0510003-007-AC P50-F1-217B	

PS Form 3800, April 1995

<p><b>SENDER:</b></p> <ul style="list-style-type: none"> <li>Complete items 1 and/or 2 for additional services.</li> <li>Complete items 3, 4a, and 4b.</li> <li>Print your name and address on the reverse of this form so that we can return this card to you.</li> <li>Attach this form to the front of the mailpiece, or on the back if space does not permit.</li> <li>Write "Return Receipt Requested" on the mailpiece below the article number.</li> <li>The Return Receipt will show to whom the article was delivered and the date delivered.</li> </ul>	<p>I also wish to receive the following services (for an extra fee):</p> <p>1. <input type="checkbox"/> Addressee's Address</p> <p>2. <input type="checkbox"/> Restricted Delivery</p> <p>Consult postmaster for fee.</p>
	<p>3. Article Addressed to:</p> <p>Mr. Murray J. Brinson US Sugar Corp PO Box 1207 Clewiston, FL 33440-1207</p>
<p>5. Received By: (Print Name)</p>	<p>8. Addressee's Address (Only if requested and fee is paid)</p>
<p>6. Signature: (Addressee or Agent)</p> <p>X Andrea Salis</p>	

Is your RETURN ADDRESS completed on the reverse side?

Thank you for using Return Receipt Service.