

Department of Environmental Protection

Jeb Bush
Governor

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

David B. Struhs
Secretary

October 7, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Karen A. Sheffield
General Manager, Big Bend Station
Tampa Electric Company
6944 US Highway 41
Apollo Beach, FL 33572-9200

Re : Extension of Air Construction Permit Expiration Date
Air Construction Permit No. 0570039-012-AC
Big Bend Station

Dear Ms. Sheffield:

The Florida Department of Environmental Protection (DEP, or "the Department") issued Air Construction Permit No. 0570039-012-AC to Tampa Electric Company (TEC) on October 4, 2001 to allow the permittee to fire coal residual at its Big Bend Station located on Big Bend Road in North Ruskin, Hillsborough County, Florida. The coal residual used at the Big Bend Station is a by-product of the coal gasification system employed at TEC's Polk Power Station. As instructed in the construction permit, on July 1, 2002, the permittee filed an application to revise the Big Bend Station Title V air operation permit to incorporate the conditions of the construction permit. This Title V operation revision application was deemed incomplete because the required test results were not included. The tests were subsequently reported, but they did not provide conclusive results. On September 30, 2002, the applicant requested an extension of their construction permit expiration date in order to perform additional testing while firing coal residual. On October 28, 2002, the Department extended the construction permit expiration date from September 30, 2002, to June 30, 2003.

On May 7, 2003, the applicant again requested that the air construction permit expiration date be extended (from June 30, 2003, to December 31, 2003) to allow time for submittal of the additional test results. On May 23, 2003, the applicant submitted the results of the additional tests, and on September 5, 2003, the applicant provided historic data indicating the use of coal residual on a daily basis. An analysis of the submitted information and available emissions data concludes that there is little or no impact on emissions of nitrogen oxides (NO_x) as a result of firing a blend of coal and residual coal. Accordingly, the Department has decided to grant an extension of time for the construction permit. The expiration date is hereby extended from June 30, 2003, to December 31, 2003, to provide additional time in which to obtain a revised Title V air operation permit. This permitting action does not authorize any new construction.

A copy of this letter shall be filed with the referenced permit and shall become part of the permit. This permitting decision is issued pursuant to Chapter 403, Florida Statutes.

"More Protection, Less Process"

Printed on recycled paper.

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) of the Florida Statutes, 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 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205 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, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action; (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

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

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 of the Florida Statutes. The relief provided by this state statute applies only to state rules, not statutes, and not to any federal regulatory requirements. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have in relation to the action proposed in this notice of intent.

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

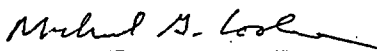
The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of those terms is defined in Section 120.542(2) of the Florida Statutes, and that the purpose of the underlying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

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

This permitting decision is final and effective on the date filed with the clerk of the Department unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition pursuant to Rule 62-110.106 of the Florida Administrative Code, and the petition conforms to the content requirements of Rules 28-106.201 and 28-106.301 of the Florida Administrative Code. Upon timely filing of a petition or a request for extension of time, this order will not be effective until further order of the Department.

Any party to this permitting decision (order) has the right to seek judicial review of it under Section 120.68 of the Florida Statutes, by filing 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 must be filed within thirty days after this order is filed with the clerk of the Department.

Executed in Tallahassee, Florida


Michael G. Cooke, Director
Division of Air Resources
Management

Ms. Karen Sheffield.
DEP File No. 0570039-012-AC
October 7, 2003
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CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this PERMIT MODIFICATION was sent by certified mail (*) and copies were mailed by U.S. Mail before the close of business on 10/15/03 to the person(s) listed:

Laura Crouch, TEC
Greer Briggs, TEC
Jerry Campbell, EPCHC
Rob Kalch, EPCHC
Gerald Kissel, DEP/SWD
Eric Peterson, DEP/SWD

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.

Victoria Gibson October 15, 2003
(Clerk) (Date)