



RECEIVED

MAY 13 2002

Ms. Cindy Phillips, P.E.  
FDEP Bureau of Air Regulation  
MS 5505  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

BUREAU OF AIR REGULATION

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7000 0520 0012 3152 7524

May 6, 2002

**Reason: Request for Applicability Determination for the following Source Category (or categories) for Ft. Myers Power Plant permit no. 0710002-001-AV**

Dear Ms. Phillips,

Thank you for your notice considering the "MACT hammer" notification requirements for the State of Florida. In accordance with your notice and the general provisions of 40 CFR Part 63 (MACT standards) and the MACT hammer provisions, which implement Section 112(j) of the Clean Air Act (CAA), this letter is to request the above mentioned determination regarding the MACT hammer.

**Applicability Determination Request for 112(j)  
Internal Combustion Engine**

1) The name and address (physical location) of the major source.	Florida Power and Light Company – Ft. Myers Plant 10650 State Road 80 Ft. Myers, FL 33905  The plant is located approximately eight miles east of Ft. Myers, Florida, on State Road 80, Lee County.
2) A brief description of the major source and an identification of the relevant source category	This facility consists of six-combined cycle generating unit designated as units 2A-2F, and twelve simple cycle combustion turbine peaking units designated as units 3 through 14. The combined cycle units are rated at a nominal total of 1580 megawatts. Each of twelve simple cycle combustion turbines is rated at a nominal 63 megawatts. Also included in this permit are miscellaneous unregulated/insignificant emissions units and/or activities.  Based on the initial Title V permit application received June 12, 1996, this facility is a major source of hazardous air pollutants (HAPs).
3) Identification of the types of emission points belonging to the relevant source category.	E.U. ID No. Brief Description One Internal Combustion Engine which drives Compressors and Water Pumps and Similar Equipment One Emergency Diesel Generator

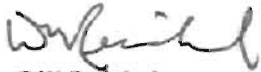
4) Identification of any affected sources for which a section 112(g) MACT determination has been made at this facility	none
--	------

Based on the information available to us at the time of this application, we believe that we may be subject to section 112(j) of the Clean Air Act. We reserve the right, however, to amend or withdraw this application should we obtain new or different information regarding our status.

As the responsible official, I hereby certify, based on information and belief formed after reasonable inquiry, that the statements and information in this document are true, accurate, and complete.

Should you have any questions regarding this, please do not hesitate to contact me at the above number or Kevin Washington at (561) 691-2877.

Sincerely,



Bill Reichel  
Plant General Manager  
Ft. Myers Power Plant

cc: Air Permitting Section, Air Planning Branch, APTDM,  
USEPA Region 4  
Atlanta Federal Center  
Atlanta, Ga. 30303-8960

Ron Blackburn – FDEP South District

Scott Sheplak – Title V Permitting  
FDEP Bureau of Air Regulation  
MS 5505  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400



Jeb Bush  
Governor

# Department of Environmental Protection

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

David B. Struhs  
Secretary

June 11, 2002

Mr. Bill Reichel  
Plant General Manager  
Ft. Myers Power Plant  
Florida Power & Light Company  
P.O. Box 430  
Fort Myers, FL 33902

Re: Request for Determination of MACT Applicability for Ft. Myers Power Plant

Dear Mr. Reichel:

In response to your letter received May 13, 2002 which requests that the Department make a determination of MACT applicability for your plant, I have attached Chapter 28-105, F.A.C., Declaratory Statements, which specifies the procedure that you must follow in order for us to comply with your request.

The Department's Agency Clerk is Kathy Carter. Her address is:

Kathy Carter, Agency Clerk  
Florida Department of Environmental Protection  
MS 35  
3900 Commonwealth Boulevard  
Tallahassee FL 32399-3000

Thank you for submitting the 112(j) notification information. Your information submittal appears to meet our current 112(j) requirements.

Please be aware that, although your letter refers to this information submittal as an "application," the Department does not recognize your submittal as a state permit application and has no plans to process it as such.

No further 112(j) information is needed from you at this time. If you have any questions, concerning this matter, please contact me at 850/921-9534.

Sincerely,

Cindy L. Phillips, P.E.  
Bureau of Air Regulation

attachment

*"More Protection, Less Process"*

*Printed on recycled paper.*

## **CHAPTER 28-105, F.A.C.**

### **DECLARATORY STATEMENTS**

#### 28-105.001 Purpose and Use of Declaratory Statement.

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory statement may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from an agency. A petition for declaratory statement must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

#### 28-105.002 The Petition.

A petition seeking a declaratory statement shall be filed with the clerk of agency that has the authority to interpret the statute, rule, or order at issue and shall provide the following information:

(1) The caption shall read:

Petition for Declaratory Statement

Before (Name of Agency)

(2) The name, address, telephone number, and any facsimile number of the petitioner.

(3) The name, address, telephone number, and any facsimile number of the attorney or qualified representative (if any) of the petitioner.

(4) The statutory provision(s), agency rule(s), or agency order(s) on which the declaratory statement is sought.

(5) A description of how the statutes, rules, or orders may substantially affect the petitioner in the petitioner's particular set of circumstances.

(6) The signature of the petitioner or of the petitioner's attorney or qualified representative.

(7) The date.

#### 28-105.003 Agency Disposition.

The agency may hold a hearing to consider a petition for declaratory statement. If the agency is headed by a collegial body, it shall take action on a petition for declaratory statement only at a duly noticed public meeting. If a hearing is held, it shall be conducted in accordance with Sections 120.569 and 120.57(2), F.S. The agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Within 90 days of the filing of the petition, the agency shall render a final order denying the petition or issuing a declaratory statement.