



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

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DIVISION OF AIR  
RESOURCE MANAGEMENT

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BUREAU OF AIR REGULATION

4APT-ATMB

Mr. Michael Cooke  
Director  
Division of Air Resource Management  
Florida Department of Environmental Protection  
Mail Station 5500  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Dear Mr. Cooke:

We have received information from the Florida Municipal Power Agency (FMPA) in response to our August 1, 2005, letter concerning the applicability of New Source Performance Standards (NSPS) Subpart KKKK - "Standards of Performance for Stationary Combustion Turbines" to a proposed 45 megawatt (MW) simple cycle combustion turbine. The combustion turbine is to be constructed at the Stock Island Power Plant in Key West, Florida. Our August 1, 2005, response to your initial request for an applicability determination indicated that we were unable to determine when construction of the combustion turbine commenced, since the information you originally submitted did not demonstrate a commitment to complete a continuous program of construction within a reasonable time. However, based on our review of the additional information submitted by FMPA, we have determined that construction of the combustion turbine commenced on February 18, 2005. Therefore, the combustion turbine will not be subject to NSPS Subpart KKKK, provided that a continuous program of construction is maintained and construction is completed within a reasonable time.

NSPS Subpart KKKK was proposed in the Federal Register on February 18, 2005. The final standard will apply to affected facilities which commence construction, modification, or reconstruction after the date of proposal. As indicated at 40 CFR Section 60.4305, NSPS Subpart KKKK applies to "... a stationary combustion turbine with a power output at peak load equal to or greater than 1 megawatt (MW), which commences construction, modification, or reconstruction after February 18, 2005 ..." The NSPS general provisions at 40 CFR Section 60.2 define "commenced" to mean:

"... with respect to the definition of *new source* in section 111(a)(2) of the Act, that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification."

The State initially provided us with a February 18, 2005, contract between FMPA and GE Packaged Power, Inc. for the fabrication and construction of a 45 MW fuel oil-fired LM6000 PC Sprint combustion turbine-based simple cycle generating set by GE Packaged Power, Inc. Included in the contract is the purchase price of the combustion turbine and a cancellation fee which must be paid if the contract is broken by either party after the date of the contract. Based on our previous review of this contract, we provided a determination on August 1, 2005, indicating that we were unable to determine whether construction of the combustion turbine commenced on February 18, 2005, since the contract included no commitment to complete a continuous program of construction in a reasonable time.

Additional information provided by FMPA documents commitments made with GE prior to February 18, 2005. Based on our review of scheduling commitments concerning the construction of the combustion turbine, we have determined that a commitment to complete a continuous program of construction was entered on February 18, 2005, and construction of the affected facility commenced on that date. Therefore, the combustion turbine will not be subject to NSPS Subpart KKKK, provided that a continuous program of construction is maintained and construction is completed in a reasonable time. The progress of construction of the combustion turbine will need to be assessed over time to ensure that this requirement is met.

This determination has been provided with assistance from the Environmental Protection Agency's Office of Enforcement and Compliance Assurance (OECA). If there are any questions regarding this letter, please contact Mr. Keith Goff of the EPA Region 4 staff at (404) 562-9137.

Sincerely,



Beverly H. Banister  
Director  
Air, Pesticides & Toxics  
Management Division

cc: Mr. A. A. Linero  
Florida Department of  
Environmental Protection

Mr. Greg Fried, OECA