

# Department of Environmental Protection

Jeb Bush  
Governor

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

David B. Struhs  
Secretary

October 10, 2002

## CERTIFIED MAIL - RETURN RECEIPT REQUESTED

John J. Fanjul, Vice President and General Manager  
Atlantic Sugar Association, Inc.  
P.O. Box 1570  
Belle Glade, Florida 33430

Re: Extension of Air Construction Permit Expiration Date  
Atlantic Sugar Mill Boiler No. 5  
Air Permit No. PSD-FL-078B

Dear Mr. Fanjul:

On October 9, 2002, Atlantic Sugar Association, Inc. (ASA) requested an extension of the expiration date of Permit No. PSD-FL-078B for the Boiler No. 5 located at the Atlantic Sugar Mill in Belle Glade, Florida. ASA indicates that all construction related to this permit has been completed, but that additional time is necessary to submit a timely and complete application for a revision to the Title V operation permit. The Department approves this request and the permit is modified as follows.

The permittee shall submit an application for a revision to the Title V permit before November 10, 2002. The expiration date is hereby extended from **December 31, 2002** to **April 1, 2003** to provide the necessary time to submit a complete application for a revision to the 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.

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 (F.S.). 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), F.S., must be filed within fourteen (14) days of publication of the public notice or within fourteen (14) days of receipt of this notice of intent, whichever occurs first. Under Section 120.60(3), F.S., 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 (F.A.C.)

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

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*Printed on recycled paper.*

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, F.A.C.

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.

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, F.A.C., and the petition conforms to the content requirements of Rules 28-106.201 and 28-106.301, F.A.C. Upon timely filing of a petition or a request for extension of time, this action 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, F.S., 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 (30) days after this order 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 order was sent by certified mail (\*) and copies were mailed by U.S. Mail before the close of business on 10/11/02 to the persons listed:

Mr. John J. Fanjul, ASA\*  
Mr. Hector Cardentey, ASA  
Mr. David Buff, Golder Associates  
Mr. Ron Blackburn, SD  
Mr. James Stormer, PBCHD  
Mr. Gregg Worley, EPA Region 4  
Mr. John Bunyak, NPS

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 Sibson October 11, 2002  
(Clerk) (Date)

Florida Department of  
Environmental Protection

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**Memorandum**

TO: Howard Rhodes  
THRU: Al Linero   
FROM: Jeff Koerner   
DATE: October 10, 2002  
SUBJECT: Atlantic Sugar Association  
Extension of Air Construction Permit Expiration Date  
Air Permit No. PSD-FL-078B

Attached for your approval and signature is a permit modification that extends the permit expiration date for the above referenced project. All necessary construction is complete. The extension is to provide additional time to submit a complete application for a Title V revision to incorporate the provisions of the PSD permit.

Day 74 is December 22, 2002. I recommend your approval and signature.

Attachments

AAL/jfk



## Atlantic Sugar Association, Inc.

**John A. Fanjul**  
VICE-PRESIDENT  
GENERAL MANAGER  
(ADMINISTRADOR)

POST OFFICE BOX 1570, BELLE GLADE, FLORIDA 33430

TELEPHONE (561) 996-6541 - Ext. 200  
TELEFAX (561) 996-8021

October 9, 2002

**RECEIVED**

OCT 11 2002

BUREAU OF AIR REGULATION

Jeff Koerner, P.E.  
Bureau of Air Regulation  
Division of Air Resources Management  
Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, FL 32399

RE: Permit No. 0990016-005-AC, PSD-FL-078B; Title V Permit Revision Application

Dear Mr. Koerner:

Atlantic Sugar Association, Inc., plans to submit an application for a Title V permit revision within the next several days to request incorporation of new requirements from the above-referenced air construction permit into the existing Title V permit for our facility. All construction associated with issuance of that construction permit, which included installation of continuous process monitoring systems for carbon monoxide and oxygen, has been completed. This letter is written to confirm that if this application for Title V permit revision is deemed to be complete prior to expiration of the construction permit on December 31, 2002, the revision application will be considered both timely and complete.

If this understanding is not correct, on behalf of Atlantic Sugar Association, Inc., I respectfully request that the permit expiration date for the above-referenced air construction permit that was issued on June 28, 2002, be extended for an additional 30 days, or until January 30, 2003. The requested extension of time will allow for the timely submittal of the application for the Title V air operation permit revision.

Thank you for your cooperation and assistance with this matter. If you have any questions or would like any additional information, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Fanjul", is written over the typed name and title.

John A. Fanjul  
Vice President and General Manager

cc: Scott Sheplak, DEP  
David Buff, Golder Associates  
Hector Cardentey, Atlantic Sugar

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. John J. Fanjul  
 Vice President and General Manager  
 Atlantic Sugar Association  
 PO Box 1570  
 Belle Glade, FL 33430

2. Article

7001 0320 0001 3692 7829

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly)

B. Date of Delivery

10/15/02

C. Signature

X *John J. Fanjul*  Agent  Addressee

D. Is delivery address different from item 1?  Yes

No

If YES, enter delivery address below:  No

Manager  
 Inc.

3. Service Type

- Certified Mail  Express Mail
- Registered  Return Receipt for Merchandise
- Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

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<b>Total Postage &amp; Fees</b>	<b>\$</b>

Postmark  
 Here

Sent To **John J. Fanjul**  
 Street, Apt. No.,  
 or PO Box **PO Box 1570**  
 City, State, ZIP+4  
**Belle Glade, FL 33430**

PS Form 3800, January 2001

See Reverse for Instructions