

Jeb Bush
Governor

Department of Environmental Protection

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

David B. Struhs
Secretary

October 14, 1999

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Ronald W. Tomlin
Assistant Managing Director
Lakeland Electric & Water Utilities
501 East Lemon Street
Lakeland, Florida 33801-5079

Re: DEP File No. 1050004-006-AC (PSD-FL-245B)
McIntosh Unit No. 5 Combustion Turbine

Dear Mr. Tomlin:

The Department reviewed your letter to EPA dated September 16 requesting extension of the deadline to demonstrate compliance with 40CFR60 Subpart GG, "Standards of Performance for New Stationary Gas Turbines." It is our understanding that the unit has not operated since July and is under inspection, modification and re-assembly. We cannot defer the compliance date for the NSPS standard until EPA acts on your request. However, we are deferring the compliance schedule for the other emissions limits (such as BACT on NO_x) to accommodate the work described in your letter. Deferral of the NSPS testing requirement will occur automatically upon approval by EPA. The Department hereby modifies the referenced permit as follows:

SPECIFIC CONDITION 29

Compliance with the allowable emission limiting standards shall be determined for applicable New Source Performance Standards in accordance with as amended by the most recent approved EPA schedule (not later than 30 days after reassembling and restarting the unit). Compliance shall be determined by February 15, 2000 and 120 days for all other emissions limits after achieving the maximum production rate, for gas-firing and not later than 90 days after the first oil firing that occurs after October 14, 1999 for oil firing each fuel, at which this unit will be operated, but not later than 180 days of initial operation of the unit for that fuel. Initial and subsequent annual compliance shall be demonstrated and annually thereafter as indicated in this permit, by using the following reference methods as described in 40 CFR 60, Appendix A (1997 version), and adopted by reference in Chapter 62-204.800, F.A.C. Emission limits compliance dates shall conform to the timetable specified on Specific Condition No. 20. [EPA Region IV. Initial Performance Test Schedule – Unit 5. March 22, 1999 or as subsequently amended by EPA]

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. 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, 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.

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.

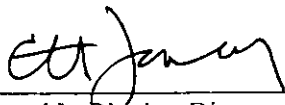
The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of those terms is defined in Section 120.542(2) F.S., and that the purpose of the underlying statute will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

for 
Howard L. Rhodes, Director
Division of Air Resources
Management

CERTIFICATE OF SERVICE

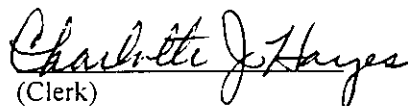
The undersigned duly designated deputy agency clerk hereby certifies that this PERMIT MODIFICATION was sent by certified mail (*) and copies were mailed by U.S. Mail before the close of business on 10/15/99 to the person(s) listed:

Ronald W. Tomlin, City of Lakeland*
Farzie Shelton, City of Lakeland
Gregg Worley, EPA

John Bunyak, NPS
Bill Thomas, DEP SWD
Hamilton Oven DEP PPSO

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)

10/15/99
(Date)

Z 031 391 962

US Postal Service
Receipt for Certified Mail

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

PS Form 3800 April 1995

Sent to	
Mr Richard W Tomlin	
Street & Number	
501 Lemon St.	
Post Office, State, & ZIP Code	
Lakeland FL 33801-5079	
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	
Lakeland 10/15/99	

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
 MR RONALD W TOMLIN
 ASSISTANT MANAGING DIRECTOR
 LAKELAND ELECTRIC & WATER UTILITIES
 501 EAST LEMON ST
 LAKELAND, FL 33801-5079

4a. Article Number
Z 031 391-962

- 4b. Service Type
- Registered
 - Express Mail
 - Return Receipt for Merchandise
 - Certified
 - Insured
 - COD

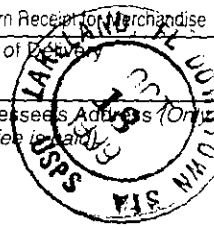
7. Date of Receipt

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X Mary Joseph



Thank you for using Return Receipt Service.