

Department of Environmental Protection

Jeb Bush
Governor

Southwest District
3804 Coconut Palm Drive
Tampa, Florida 33619

Colleen M. Castille
Secretary

CERTIFIED MAIL-Return Receipt

Mr. John Doran, Manager
C.F. Industries, Inc.
P.O. Box 1480
Bartow, FL 33831

RECEIVED

SEP 27 2004

Re: Letter dated September 17, 2004
Notice of Operating Change-Truck Transfer
Facility ID No. 1050052

BUREAU OF AIR REGULATION

Dear Mr. Doran:

On September 17, 2004, the Department received your "Notice of Operating Change" letter (dated September 17, 2004) pursuant to rule 62-213.410, F.A.C. to unload/load fertilizer with trucks in addition to railcars. As discussed with your consultant, Mr. Pradeep Raval of Koogler and Associates, earlier that week, the Department would require a PSD applicability analysis and an air construction permit application. This change constitutes a change in the method of operation. The facility is also one of the source categories that must account for fugitive emissions in PSD determinations. The increased truck traffic would cause an increase in emissions.

Based upon the above, the Department does not concur that the Notice of Operating Change is an appropriate method to make this change. Failure to obtain the proper permits and/or revisions prior to implementing this change may result in enforcement action by the Department.

If you have any questions, please call Mr. Jason Waters of my staff at (813) 744-6100 extension 107.

A person whose substantial interests are affected by this letter may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, 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 **21** days of receipt of this notice. 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, 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 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 action; and
- (f) A statement of 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 authorization. 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.

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.

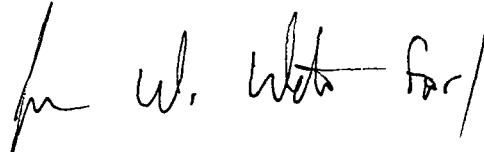
Persons subject to regulation pursuant to any federally delegated or approved air program should be aware that Florida is specifically not authorized to issue variances or waivers from any requirements of any such federally delegated or approved program. The requirements of the program remain fully enforceable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

This "Authorization" is final and effective on the date filed with the Clerk of the Department unless a timely petition for an administrative hearing is filed pursuant to

Sections 120.569 and 120.57, F.S. or unless a request for an extension of time in which to file a petition is filed within the time specified for filing a petition. Upon timely filing of a petition or a request for an extension of time to file the petition, this authorization will not be effective until further Order of the Department.

Any party to the Order (Authorization) has the right to seek judicial review of the Order pursuant to Section 120.68, F.S., by the filing of 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, Douglas Building, 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 of Appeal must be filed within 30 days after this Order is filed with the Clerk of the Department.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

A handwritten signature in black ink, appearing to read "Gerald J. Kissel". The signature is written in a cursive style with a large initial "G" and "K".

Gerald J. Kissel, P.E.
District Air Program Administrator

CERTIFICATE OF SERVICE

This is to certify that this NOTICE OF AUTHORIZATION was sent to the addressee by certified mail and all copies were sent by regular mail before the close of business on 9/23/04 to the listed persons, unless otherwise noted.

US EPA Region 4
Air and EPCRA Enforcement Branch
Air Enforcement Section
61 Forsyth Street
Atlanta, GA 30303

Mr. John B. Koogler, Ph.D., P.E.
Koogler and Associates

Mr. Jim Pennington, P.E.
FDEP-Tallahassee

Clerk Stamp

FILING AND ACKNOWLEDGEMENT FILED,
on this date, pursuant to Section 120.52(7), Florida
Statutes, with the designated Department Clerk
receipt of which is hereby acknowledge.

Carol S. Moore 9/23/04
(Clerk) (Date)