



State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee	
To: <u>RBM - FINANCIAL</u>	LOCATION: _____
To: _____	LOCATION: _____
To: _____	LOCATION: _____
From: _____	Date: _____

Interoffice Memorandum

To: Dale Twachtmann
From: Steve Smallwood *JSW*
Date: May 14, 1990
Subj: Order Approving Alternate Test Procedures and Requirements: Lykes Pasco ASP-89-A-01

Attached is an Alternate Test Procedure Order approving Lykes Pasco, Inc.'s request to use EPA Method 9 (Visible Emissions Observation) with an emission limit of no visible emissions (5% opacity) in lieu of EPA Method 5 (Stack Sampling).

The Bureau of Air Regulation, the affected District, the affected county program and the Office of General Counsel have reviewed the request.

I recommend your approval.

SSm/ht

5-24-90

12:00 noon

called Fikogler and gave him the status.

RA

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

In the matter of:)
)
LYKES PASCO, INC.) OGC File No.
) Permit No. AC51-166207
Petitioner) ASP-89-A-01
)

ORDER APPROVING REQUEST

FOR

ALTERNATE TEST PROCEDURES AND REQUIREMENTS

Pursuant to Rule 17-2.700(3), Florida Administrative Code, Lykes Pasco, Inc., petitioner, submitted a request for approval of the use of EPA Method 9 in lieu of EPA Method 5 for compliance verification procedures for petitioner's No. 2 Coffee Bean Line, permit number AC51-166207, located in Pasco County.

Having considered petitioner's written request and all supporting documentation, the following Findings of Fact, Conclusions of Law, and Order are entered:

FINDINGS OF FACT

1. On July 27, 1989, petitioner specifically requested to use EPA Method 9 in lieu of EPA Method 5 for annual testing requirements for particulate matter emissions from the No. 2 Coffee Bean Line as specified in permit number AC51-166207, specific condition numbers 4 and 5. Further, petitioner, requests an emission limit of no visible emissions (5% opacity) in lieu of the less stringent 20% opacity presently allowed.

2. As justification for the waiver of the annual EPA Method 5 compliance test requirements, petitioner stated that an annual EPA Method 9 test would be conducted with a more stringent visible emission limit of no visible emissions (5% opacity).

CONCLUSIONS OF LAW

1. The Department has jurisdiction to consider petitioner's request pursuant to Section 403.061, Florida Statutes, and Rule 17-2.700(3), Florida Administrative Code.

2. The Department retains the right to require a quantitative compliance test pursuant to 17-2.700(2)(b) if, after investigation, it is believed that any applicable emission standard is being violated.

3. Petitioner has demonstrated that the proposed alternate compliance verification method would be adequate to verify the compliance of the unit with the particulate matter and visible emission limiting standards.

ORDER

Having considered petitioner's written request and supporting documentation, it is hereby ordered that:

1. The relief requested by petitioner is granted;
2. Petitioner shall conduct the appropriate visible emission tests using the procedures specified in Rule 17-2.700; and
3. Petitioner shall submit the test results to the Deputy Assistant Secretary for the Southwest District prior to September 30, 1990.

RIGHT TO APPEAL

Any party to this Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; 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 from the date the Notice of Agency Action is filed with the Clerk of the Department.

PETITION FOR ADMINISTRATIVE REVIEW

1. A person whose substantial interests are affected by the Department's decision may petition for an administrative proceeding (hearing) in accordance with Section 120.57, 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 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 21 days of receipt of this Order. Petitioner shall mail a copy of the petition to the applicant at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, Florida Statutes.

2. The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner, the applicant's name and address, and the Department File Number;

(b) A statement of how and when each petitioner received notice of the Department's action or proposed action;

(c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;

(d) A statement of the material facts disputed by petitioner, if any;

(e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action;

(f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; and

(g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

3. If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Order. Persons whose substantial interests will be affected by any decision of the Department with regard to the applicant have the right to petition to become a party to the proceeding. The petition must conform with the requirements specified above and be filed (received) within 21 days of

receipt of this notice in the Office of General Counsel at 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-5.207, F.A.C.

4. This Order constitutes final agency action 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 and conforms to Rule 17-103.070. F.A.C. Upon timely filing of a petition or a request for an extension of time this Order will not be effective until further Order of the Department.

DONE AND ORDERED this 23 day of May, 1990 in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION


DALE TWACHTMANN

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

(904) 488-4805

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Order has been mailed, postage prepaid, to Mr. M. J. Mulholland, Lykes Pasco, Inc., P. O. Box 97, Dade City, Florida, 32397-0097, this ____ day of _____, 1990.

GARY SMALLRIDGE
Assistant General Counsel

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

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