



Department of Environmental Protection

Jeb Bush
Governor

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

David B. Struhs
Secretary

January 16, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Celso A. Martini, Plant Manager
Suwannee American Cement
Post Office Box 410
Branford, Florida 32008

Re: DEP File No. 1210465-003-AC (PSD-FL-259B)
Cement Plant – Branford, Suwannee County, Florida

Dear Mr. Martini:

The Department reviewed a request submitted by Koogler and Associates dated December 12, 2002, to extend the expiration date of the construction permit for the above referenced facility until May 30, 2006. Per Rule 62-4.080, F.A.C., an extension for a construction permit shall be granted if the applicant can demonstrate reasonable assurances that upon completion, the extended permit will comply with the standards and conditions required by applicable regulation.

The requested date is more in line for a new application for a greenfield project. Physical construction required to make cement is approaching completion. We have previously discussed this matter with the former plant manager, your consultant, and legal representatives. They, and we, understood that an extension would be on the order of one year. We have already received notification from Suwannee American Cement (SAC) of startup for a number of the units on-site. We understand that SAC plans to begin making clinker sometime during the first three months of this year.

We conclude that by June 30, 2004, Suwannee American will have completed the physical construction necessary to make cement, conducted the performance and compliance testing, and submitted a Title V operation permit application representative of the as-built plant. Further modification, such as addition of a tire handling system or gasification chamber will require additional permitting if not completed by that date.

The Department has been expecting, but has not received, details of the Continuous Monitoring Retrieval System required by Section III, Specific Condition 9 of the permit. This permit condition has been clarified to provide the Department the reasonable assurance of compliance it must have in order to grant the extension.

The existing permit is hereby modified as follows:

COVER PAGE OF PERMIT - EXPIRATION DATE

The expiration date is hereby extended from May 30, 2003 to June 30, 2004.

"More Protection, Less Process"

Printed on recycled paper.

SECTION II. SPECIFIC CONDITION 6

Expiration: This air construction permit shall expire on ~~May 30, 2003~~ June 30, 2004. The permittee, for good cause, may request that this construction and PSD permit be extended. Such a request shall be submitted to the Department's Bureau of Air Regulation prior to 60 days before the expiration of the permit. [Rules 62-210.300(1), 62-4.070(4), 62-4.080, and 62-4.210, F.A.C.]

PSD Expiration: Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, or if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified.
[40 CFR 52.21(r)(2)]

BACT Determination: In conjunction with extension of the 18 month periods to commence or continue construction, or extension of the permit expiration date, the permittee may be required to demonstrate the adequacy of any previous determination of Best Available Control Technology (BACT) for the source.
[40 CFR 52.21(j)(4)] The Department will not require such a demonstration of adequacy unless an extension is requested beyond June 30, 2004.

SECTION II – SPECIFIC CONDITION 30

Experience of Facility Personnel: The owner shall staff the facility with trained and experienced managers, supervisors and operators. Trained supervisors and operators shall be on duty at the plant at all times. The plant manager shall have at least 10 years of cement industry experience and shall also have experience as a cement plant manager. The qualifications of the plant manager with regard to cement industry and cement plant management experience shall be provided to the Department by February 15, 2003. This information shall be provided to the Department for any future plant manager changes within 30 days after the change.
[Rule 62-4.070(3), F.A.C.].

SECTION II – SPECIFIC CONDITION 31 (NEW)

Construction Schedule: By February 15, 2003, the owner or operator shall identify each remaining activity, including estimated start and finish dates, that will be conducted through June 30, 2004. These activities shall include additional construction, startup and shakedown, performance and emission compliance testing, submittal of Title V Operation Permit application, etc. [Rule 62-212.400(5)(h)2., F.A.C. – Permit Application Information Required – “A detailed schedule for construction of the facility.”]

SECTION II – SPECIFIC CONDITION 32 (NEW)

Sale or Legal Transfer: Within 30 days after sale or legal transfer of this facility, an “Application for Transfer of Permit” must be submitted to the Department. This form must be completed with the notarized signatures of both the permittee and the proposed new permittee. For air permits, an “Application for Transfer of Air Permit” (DEP Form 62-210.900(7) shall be submitted. [Rule 62-4.120., F.A.C., Transfer of Permits]

SECTION III - SPECIFIC CONDITION 9

Continuous Monitor Data Retrieval System: The owner or operator, at its sole expense and prior to the Anticipated Date of Commission (initial startup of the kiln), as Notified in accordance with Permit Modification No. 1210465-002-AC, Section II, Specific Condition 27A, shall:

- (a) insure all of the CEMS are installed, operational, recording and continuously transmitting available data to the Department's Northeast District Office; and
- (b) provide to the Department, at the Department's chosen site Northeast District Office, one personal computer equipped with a modem and software, and corresponding hardware at the owner's facility, to enable the Department at any time to connect to the CEM system and allow the Department access to data from the continuous monitors for SO₂, NO_x and VOC expressed in terms of the units of the emission limiting standards of this permit, data from the continuous opacity monitor systems, and data from the monitor for the temperature at the inlet to the in-line kiln/raw mill particulate matter control device; The computer and software shall provide the Department with a numerical and graphical display of these data in real time and pursuant to the averaging requirements of this permit, and shall allow the Department to electronically store and retrieve such data, and print such data as the Department may select. The software shall also allow the Department to review the exception log for any previous period of time accessible through the CEMS data management system.

The owner or operator shall also, at its sole expense, provide for 24 months after initiating plant operation software development support at the Department's chosen site to allow the Department to specify and receive timely programming of the data retrieval software to allow the Department to change the format and provide additional formats of the reports it receives.

Within 60 days after achieving the maximum production rate at which the plant will be operated, but not later than 180 days after initial startup of the kiln, ~~the~~ the owner or operator shall also at its sole expense, if technically feasible, post the above data on a real-time basis, as averaged pursuant to the averaging times for each applicable pollutant specified in Section III, Specific Condition 15, to an Internet site accessible to the Department and public at any time via standard Internet browser software.

[Rule 62-4.070(3), F.A.C.]

By February 15, 2003, the owner or operator shall provide to the Department the schedule and design parameters for all systems described above, such as scoping papers, selected systems, implementation plans, example data screens, report lists, etc. [Rules 62-4.070(3), 62-4.080(3) and 62-212.400(5)(h)2, F.A.C.]

SECTION III - SPECIFIC CONDITION 19

CEM System Requirements: The selection, installation, calibration, maintenance, operation, record keeping, and reporting of the CEM system shall comply with the requirements of 40 CFR 60.7 and 60.13, and 40 CFR 60 Appendix B, Performance Specifications, and Appendix F, Quality Assurance Procedures. [Rules 62-4.070(3), 62-210.800 and 62-297.520, F.A.C., and BACT] All CEM systems (regardless of requirement authority) shall be installed, operational, recording and continuously transmitting available data prior to the initial startup of the kiln and shall be certified within 60 days after achieving the maximum production rate at which the plant will be operated, but not later than 180 days after initial startup.

[Note: 40 CFR 60 Appendix B and Appendix F have been omitted for brevity. See the Code of Federal Regulations for the text of these sections.]

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


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 1/17/03 to the person(s) listed:

Celso Martini, SAC*
Claude Grinfeder, SAC*
George Townsend, SAC
Larry Sellers, Esq.*
Frank Darabi, P.E.
Steve Cullen, P.E.
John Koogler, P.E.
Chris Kirts, DEP NED
Jim Little, EPA
John Bunyak, NPS

Jim Stevenson, DEP
Tom Workman, DEP
Mark Latch, DEP
December McSherry
Svenn Lindskold
Tom Greenhalgh*
Dave Bruderly
Chris Bird, Alachua Co. DER
Chair, Alachua Co. BCC*
J. Calvin Gaddy

Patrice Boyes, Esq.*
Kathy Cantwell
Ralph Ashodian
Virginia Seacrist
Bob and Lynn Milner
Linda Pollini
Helen Beaty
Bessie Robinson
Craig Pittman, St. Pete Times

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 Gibon / *January 17, 2003*
(Clerk) (Date)