

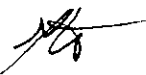


Florida Department of
Environmental Protection

Memorandum

TO: Howard Rhodes

THRU: Trina Vielhauer 
Al Linero 

FROM: Greg DeAngelo 

DATE: November 6, 2002

SUBJECT: DEP File No. 1210465-002-AC (PSD-FL-259A)
Suwannee American Cement – Request for Amendment/Modification of Permit Condition
Notification and Initial Startup of Cement Plant

A final permit amendment letter is attached for your approval and signature.

This amendment for the Suwannee American Cement construction permit removes the requirement in appendix B to provide a notification of the anticipated date of initial startup between 30 and 60 days prior to actual startup. This requirement derived from the part 60 general provisions at 40 CFR 60.7(a)(2), but it was removed from the Federal rules pursuant to the Clean Air Act: Recordkeeping and Reporting Burden Reduction final rule promulgated on February 12, 1999.

To address the needs of the Northeast District Office, however, a new condition has been added to the facility-wide specific conditions. This new condition requires a notification at least 10 days prior to commissioning of the subject equipment. Burden reduction is still achieved as this new condition may be waived by the Department, and it explicitly approves the use of facsimile notification.

I recommend your approval.

Attachments

TTV/AAL/gpd



Jeb Bush
Governor

Department of Environmental Protection

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

David B. Struhs
Secretary

November 8, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Robert J. Sagmeister
Plant Manager
Suwannee American Cement
Post Office Box 410
Branford, Florida 32008-0410

Re: Request for Amendment/Modification of Permit Condition
Notification and Initial Startup of Cement Plant
DEP File No. 1210465-002-AC (PSD-FL-259A)

Dear Mr. Sagmeister:

The Florida Department of Environmental Protection (Department) reviewed your request dated October 14, 2002 to delete the requirement to furnish written notification of the anticipated date of initial startup of facilities 30 to 60 days prior to such date.

The Department agrees that this Federal requirement at 40 CFR 60.7(a)(2) was repealed in 1999 prior to the issuance of the subject permit. As discussed with you, there are still practical reasons for the Department to need to know in advance of the startup of the plant. Permit condition 7 at page B-2 of the referenced permit is hereby modified as follows:

- (a) Any owner or operator subject to the provisions of 40 CFR 60 shall furnish the Administrator written notification as follows:
 - (1) [No change.]
 - (2) ~~A notification of the anticipated date of initial startup of an affected facility postmarked not more than 60 days nor less than 30 days prior to such date.~~
 - (3) through (7) [No changes.]

New facility-wide specific condition 27-A is hereby added to the referenced permit as follows:

27-A. Notification of Anticipated Date of Commission: For each piece of equipment for which a pollution control device, emissions testing, or visual observation is required by this permit, or which is subject to any State or Federal rule, the owner or operator shall submit a notification of the anticipated date of commission for that equipment. The notification shall be postmarked not less than 10 days prior to such date. The Department may waive the notification. Changes of the anticipated date shall be provided in a timely manner. Notifications and changes may be provided by facsimile to the attention of the Northeast District Air Program Administrator at 904/448-4363.

"More Protection, Less Process"

Printed on recycled paper.

Note that according to U.S. Environmental Protection Agency guidance for New Source Performance Standards (NSPS), "[Startup] for Portland Cement operations is generally considered to be the first day raw material is fed into the preheater or the kiln, depending on facility configuration."¹ The implication is that the date raw material is first fed into the preheater for purposes of producing a product (i.e., "commissioning") would start the 180-day clock for conducting initial performance testing at all affected facilities at the plant.² (Affected facilities, in this context, means the components of the cement plant that are individually subject to the NSPS. For example, conveyor transfer points, the in-line raw mill/kiln system, and the clinker cooler are all individual "affected facilities" pursuant to the NSPS.)

The inverse, however, does not hold. In other words, starting up one of the other affected facilities subject to the Portland Cement NSPS, such as conveyor transfer points or bulk unloading systems, would start the 180-day clock *for that affected facility* but not for the remainder of the plant nor for the main preheater, kiln, and clinker cooler system.

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 (F.S.).

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, 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 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 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), F.S., 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 (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

¹ See Instructional Manual for Clarification of Startup in Source Categories Affected by New Source Performance Standards. U.S. EPA Office of Enforcement. EPA-68-01-4143. October 1979.

² Initial performance testing must be conducted within 180 days after initial startup of each affected facility (or within 60 days after achieving the maximum production rate at which the affected facility will be operated). See 40 CFR 60.8(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 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, 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 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

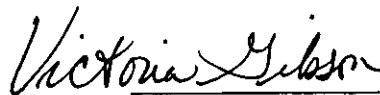
CERTIFICATE OF SERVICE

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 11/13/02 to the person(s) listed:

Robert J. Sagmeister*
Chris Kirts, DEP NED
Lawrence E. Sellers Jr., Holland & Knight LLP*
Jack Chisolm, DEP OGC

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.

 November 13, 2002
(Clerk) (Date)

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. Fred W. Koester
 President
 Suwannee American Cement Company, Inc.
 PO Box 410
 Brandford, FL 32008

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

Susan Vaughan 11-15-82

C. Signature

X Susan Vaughan Agent
 Addressee

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

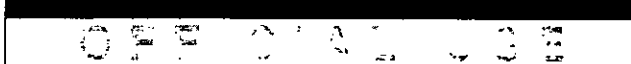
- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7001 0320 0001 3692 7645

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

7001 0320 0001 3692 7645



Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here

Sent To Fred W. Koester
 Street, Apt. No. or PO Box PO Box 410
 City, State, ZIP+4 Branford, FL 32008

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ 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. 	<p>A. Received by (Please Print Clearly) <i>Susan Vaughan</i> B. Date of Delivery <i>11-15-02</i></p> <p>C. Signature <i>Susan Vaughan</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>
<p>1. Article Addressed to:</p> <p>Mr. Robert J. Sagmeister Plant Manager Suwannee American Cement P. O. Box 410 Branford, FL 32008-0410</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>² 7001 0320 0001 3692 7676</p>	

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

U.S. Postal Service CERTIFIED MAIL RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>											
OFFICIAL USE											
<table border="1"> <tr> <td>Postage</td> <td>\$</td> </tr> <tr> <td>Certified Fee</td> <td></td> </tr> <tr> <td>Return Receipt Fee (Endorsement Required)</td> <td></td> </tr> <tr> <td>Restricted Delivery Fee (Endorsement Required)</td> <td></td> </tr> <tr> <td>Total Postage & Fees</td> <td>\$</td> </tr> </table>	Postage	\$	Certified Fee		Return Receipt Fee (Endorsement Required)		Restricted Delivery Fee (Endorsement Required)		Total Postage & Fees	\$	Postmark Here
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Sent To	Robert J. Sagmeister										
Street, Apt. No., or P.O. Box No.	P.O. Box 410										
City, State, ZIP+4	Branford, FL 32008-0410										
<p>PS Form 3800, January 2001 See Reverse for Instructions</p>											

7001 0320 0001 3692 7676

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:

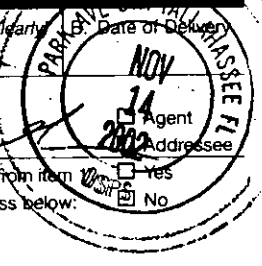
Lawrence E. Sellers, Jr.
Esquire
Holland & Knight, LLP
P. O. Drawer 810
Tallahassee, FL 32301

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) Chip Medley B. Date of Delivery NOV 14 2002

C. Signature X Chip Medley

D. Is delivery address different from item? Yes No
If YES, enter delivery address below:



3. Service Type

Certified Mail Express Mail

Registered Return Receipt for Merchandise

Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. 7001 0320 0001 3692 7652

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To: Lawrence E. Sellers, Jr.

Street, Apt. No. or PO Box No.: P.O. Drawer 810

City, State, ZIP+4: Tallahassee, FL 32301

PS Form 3800, January 2001 See Reverse for Instructions

2592 2692 1000 0250 1007

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF FINAL PERMIT

In the Matter of an
Application for Permit by:

Fred W. Koester, President
Suwannee American Cement Company, Inc.
PO Box 410
Branford, Florida 32008

DEP File No. 1210465-001-AC, PSD-FL-259
Branford Plant, Portland Cement Plant
Suwannee County

Enclosed is Final Permit Number 1210465-001-AC. This permit authorizes Suwannee American Cement Company, Inc. to construct a portland cement plant located at US Highway 27 and County Road 49, Suwannee County. This permit is issued pursuant to Chapter 403, Florida Statutes.

Any party to this 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.

Lisa Polak Edgar
Deputy Secretary

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this Notice of Final Permit (including the Final permit) was sent by certified mail (*) and copies were mailed by U.S. Mail before the close of business on 6-1-00 to the person(s) listed:

- | | | |
|-------------------------------------|-------------------------------|---------------------------|
| Mr. Fred W. Koester * ✓ | Ms. December McSherry ✓ | Mr. J. Calvin Gaddy ✓ |
| Mr. Larry Sellers dupe ✓ | Mr. Svenn Lindskold ✓ | Ms. Patrice Boyes, Esq. ✓ |
| Mr. Frank Darabi, P.E. ✓ | Mr. Tom Greenhalgh ✓ | Ms. Kathy Cantwell ✓ |
| Mr. Steve Cullen, P.E. ✓ | Mr. Dave Bruderly ✓ | Mr. Ralph Ashodian ✓ |
| Mr. Ernest E. Frye, Director, NE ✓ | Mr. Chris Bird, Alachua Co. ✓ | Ms. Virginia Seacrist ✓ |
| } District | } DER | Dr. Bob and Lynn Milner ✓ |
| Mr. Gregg Worley, EPA ✓ | Mr. John Mousa, Alachua Co. ✓ | Ms. Linda Pollini ✓ |
| Mr. John Bunyak, NPS ✓ | } DER | Helen Beaty ✓ |
| Mr. Jim Stevenson, DEP ✓ | Ms. Penny Wheat, Chair, ✓ | Bessie Robinson ✓ |
| Mr. Tom Workman, DEP ✓ | } Alachua Co. Board of Co. ✓ | Mr. Craig Pittman, St. ✓ |
| Mr. Mark Latch, DEP ✓ | } Commissioners | } Petersburg Times |

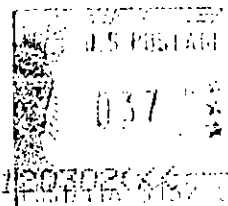
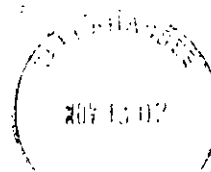
Clerk Stamp

FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to §120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Kari Jobe
(Clerk)

6-1-00
(Date)

5505 5515
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
TWIN TOWERS OFFICE BUILDING
2600 BLAIR STONE ROAD
TALLAHASSEE, FLORIDA 32399-2400

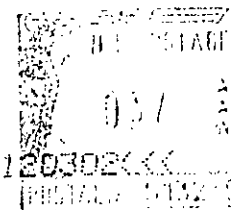


>>>RTN TO SENDER=UNDELIVERABLE AS ADDRESSED-1203024444

Mr. Chyris Bird
Director
Alachua County Department of
Environmental Regulation
226 S. Main Street
Gainesville, FL 32601

32601-6538 01 

5505 5515
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
TWIN TOWERS OFFICE BUILDING
2600 BLAIR STONE ROAD
TALLAHASSEE, FLORIDA 32399-2400



>>>RTN TO SENDER=UNDELIVERABLE AS ADDRESSED-1203024444

Mr. John Mousa
Alachua County Department of
Environmental Regulation
226 South Main Street
Gainesville, FL 32601

32601-6538 01 