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MAY 13 2002

BUREAU OF AIR REGULATION

May 3, 2002

Ms. Cindy Phillips, P.E.
FDEP Bureau of Air Regulation
MS 5505
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Reason: Request for Applicability Determination for the following Source Category (or Categories) for Cutler Power Plant Permit No. 0250001-001 -AV

Dear Ms. Phillips,

Thank you for your notice considering the "MACT hammer" notification requirements for the State of Florida. In accordance with your notice and the general provisions of 40 CFR Part 63 (MACT standards) and the MACT hammer provisions, which implement Section 112(j) of the Clean Air Act (CAA), this letter is to request the above mentioned determination regarding the MACT hammer.

Based on the information available to us at the time of this application, we believe that the Cutler Plant is not a major source for HAPS. We reserve the right, however, to amend or withdraw this application should we obtain new or different information regarding our status.

As the responsible official, I hereby certify, based on information and belief formed after reasonable inquiry, that the statements and information in this document are true, accurate, and complete.

Should you have any questions regarding this, please contact Gary Andersen at (305) 242-3826 or John Hampp at (561) 691-2894.

Sincerely,

H. O. Nunez
Plant General Manager
Cutler Power Plant

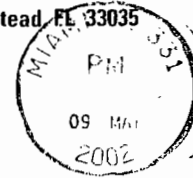
cc: Air Permitting Section, Air Planning Branch, APTDM,
USEPA Region 4
Atlanta Federal Center
Atlanta, Ga. 30303-8960

Tom Tittle – FDEP Central District
FDEP Southeast District
400 North Congress Avenue
West Palm Beach, FL 33401

Scott Sheplak – Title V Permitting
FDEP Bureau of Air Regulation
MS 5505
2600 Blair Stone Road
Tallahassee, FL 32399-2400
an FPL Group company



Florida Power & Light Company, 9700 S.W. 344 Street, Homestead, FL 33035
Turkey Point Fossil Plant



Ms. Cindy Phillips, P.E.
FDEP Bureau of Air Regulation
MS 5505
2600 Blair Stone Road
Tallahassee, FL 32399-2400

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Jeb Bush
Governor

Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

David B. Struhs
Secretary

June 11, 2002

Mr. H. O. Nunez
Plant General Manager
Cutler Power Plant
Florida Power & Light Company
9700 SW 344 Street
Homestead, FL 33035

Re: Request for Determination of MACT Applicability for Cutler Power Plant

Dear Mr. Nunez:

In response to your letter received May 13, 2002 which requests that the Department make a determination of MACT applicability for your plant, I have attached Chapter 28-105, F.A.C., Declaratory Statements, which specifies the procedure that you must follow in order for us to comply with your request.

The Department's Agency Clerk is Kathy Carter. Her address is:

Kathy Carter, Agency Clerk
Florida Department of Environmental Protection
MS 35
3900 Commonwealth Boulevard
Tallahassee FL 32399-3000

Please be aware that, although your letter refers to it being an "application," the Department does not recognize your letter as a state permit application and has no plans to process it as such.

If you have any questions, concerning this matter, please contact me at 850/921-9534.

Sincerely,

Cindy L. Phillips, P.E.
Bureau of Air Regulation

attachment

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CHAPTER 28-105, F.A.C.

DECLARATORY STATEMENTS

28-105.001 Purpose and Use of Declaratory Statement.

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory statement may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from an agency. A petition for declaratory statement must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

28-105.002 The Petition.

A petition seeking a declaratory statement shall be filed with the clerk of agency that has the authority to interpret the statute, rule, or order at issue and shall provide the following information:

- (1) The caption shall read:

Petition for Declaratory Statement

Before (Name of Agency)

- (2) The name, address, telephone number, and any facsimile number of the petitioner.
- (3) The name, address, telephone number, and any facsimile number of the attorney or qualified representative (if any) of the petitioner.
- (4) The statutory provision(s), agency rule(s), or agency order(s) on which the declaratory statement is sought.
- (5) A description of how the statutes, rules, or orders may substantially affect the petitioner in the petitioner's particular set of circumstances.
- (6) The signature of the petitioner or of the petitioner's attorney or qualified representative.
- (7) The date.

28-105.003 Agency Disposition.

The agency may hold a hearing to consider a petition for declaratory statement. If the agency is headed by a collegial body, it shall take action on a petition for declaratory statement only at a duly noticed public meeting. If a hearing is held, it shall be conducted in accordance with Sections 120.569 and 120.57(2), F.S. The agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Within 90 days of the filing of the petition, the agency shall render a final order denying the petition or issuing a declaratory statement.