FLORIDA DEPARTMENT OF Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

November 22, 2024

Sent by Electronic Mail – Document Access Verification Requested

Douglas Whitehead
Director
Lee County Solid Waste Department
10500 Buckingham Road
Fort Myers, Florida, 33905
dwhitehead@leegov.com

RE: Lee County Solid Waste Energy Recovery Facility
Modification to Conditions of Certification
DEP Case Number PA 90-30I
OGC Case Number 24-2938

NOTICE OF INTENT TO MODIFY CONDITIONS OF CERTIFICATION

Dear Mr. Whitehead:

In accordance with Section 403.516(1)(c), Florida Statutes (F.S.), the Department of Environmental Protection (Department) may initiate a modification to the conditions of a certified facility's license upon its own initiative. The Department hereby provides notice of its intent to modify the Conditions of Certification (Conditions) for the Lee County Solid Waste Energy Recovery Facility (LCSWERF) pursuant to Section 403.516(1)(c), F.S., to incorporate a uniform set of general conditions consistent with recent site certifications, and to update antiquated specific conditions that are no longer applicable or consistent with current regulations.

The modified LCSWERF Conditions (PA08-53I) replace the existing LCSWERF Conditions (PA08-53H) in their entirety. Several existing conditions have been deleted or updated and incorporated into a more uniform set of general conditions. Many existing conditions may have been moved to different sections of the document. These changes are clarified in the existing (Attachment A) and the proposed (Attachment B) Conditions, which can be downloaded from the following file transfer protocol (ftp) site, as well as the updated Attachments to the Proposed Conditions:
https://publicfiles.dep.state.fl.us/Siting/Outgoing/LCRRF/Modifications/Mod_I/

Copies of the Draft Conditions and/or attachments may also be obtained by contacting the Department of Environmental Protection, Siting Coordination Office, 2600 Blair Stone Rd, Tallahassee, Florida 32399-3000, (850) 717-9000.

Pursuant to Section 403.516, F.S., and Rule 62-17.211, Florida Administrative Code (F.A.C.), all parties to the certification proceeding have 45 days from the issuance of this notice in which to file a written objection to the modification. A public notice will also be published in the Florida Administrative Register (FAR) regarding this Intent to Modify the Conditions. Any person who is not already a party to the certification proceeding and whose substantial interests will be affected by the requested modification has 30 days from the date of publication of the notice in the FAR to object in writing.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing 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, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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 when and how the petitioner received notice of the agency decision;
(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 that the petitioner contends warrant reversal or modification of the agency's proposed action;
(f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at Agency_Clerk@dep.state.fl.us. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

If the Department does not receive any written objections, then an Order Modifying the Conditions of Certification shall be issued by the Department. If written objections are timely filed which address only a portion of the modification, then pursuant to subparagraph 62-17.211(1)(b)5, F.A.C., the Department shall issue an Order approving that portion of the modification to which no objections were filed, unless that portion of the modification is substantially related to or necessary to implement the portion to which written objections are filed. If objections are raised, or the Department denies the request, then pursuant to Section 403.516(1)(c)3., F.S., the applicant or Department may file a request for a hearing on the modification with the Department.

Mediation is not available in this proceeding.

Any questions regarding this Intent to Modify Conditions of Certification should be directed to Nate Senn at (850) 717-9111. Questions regarding legal issues should be referred to the Department's Office of General Counsel at (850) 245-2257. Such contact with any of the above does not constitute an objection to the modification.

Sincerely,

Cindy Mulkey
Deputy Director Water Resource Management

CC by electronic mail:
District Director, FDEP: elizabeth.sweigert@floridadep.gov
District Liaison, FDEP: nolin.moon@floridadep.gov
LCRRF, ADuBois@leegov.com
LCRRF, rrodriguez2@leegov.com

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

Lisa Williams _____ 11/22/2024
Clerk Date

Service List: ***Sent by Electronic Mail – Document Access Verification Requested***

Kelley Corbari, Esquire
Department of Environmental Protection
Office of General Counsel
3900 Commonwealth Blvd., M.S. 35
Tallahassee, Florida 32399-3000
Kelley.Corbari@FloridaDEP.gov

Sharon M. Guaderrama, Esquire
Assistant General Counsel
St. Johns River Water Management District
P.O. Box 1429
Palatka, Florida 32178-1429
SMGuader@sjrwmd.com
kvermillion@sjrwmd.com

Anthony Pinzino, Esquire
Joseph Meyer, Esquire
Florida Fish & Wildlife Conservation Commission
620 South Meridian Street
Tallahassee, Florida 32399-1600
Anthony.Pinzino@myfwc.com
Joseph.Meyer@myfwc.com
ConservationPlanningServices@myfwc.com

Jon Morris, Esquire
Department of State - DHR
R.A. Gray Building 4th Floor
500 South Bronough Street
Tallahassee, Florida 32399-0250
jon.morris@dos.myflorida.com
jennifer.tobias@dos.myflorida.com
CompliancePermits@DOS.MyFlorida.com

Valerie Wright, Esquire
Department of Commerce
107 East Madison Street
Tallahassee, Florida 32399
valerie.wright@commerce.fl.gov
Scott.Rogers@commerce.fl.gov

Richard Shine, Esquire
Assistant General Counsel
Department of Transportation
605 Suwannee Street, MS 58
Tallahassee, Florida 32399-0458
richard.shine2@dot.state.fl.us
Monica.Zhong@dot.state.fl.us

Adria Harper, Esquire
Florida Public Service Commission
Office of General Counsel
2450 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
AHarper@psc.state.fl.us

Richard Wesch, Esquire
County Attorney
Lee County
PO Box 398
Fort Meyers, Florida 33902
RWesch@leegov.com