



FLORIDA DEPARTMENT OF Environmental Protection

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

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

August 2, 2019

Sent by Electronic Mail – Document Access Verification Requested

Rebecca Rodriguez, P.E.
Public Utilities Operations Manager
Lee County Public Utilities – Solid Waste Division
Lee County
P.O. Box 398
Fort Meyers, Florida 33902-0398
RRodriguez2@leegov.com

RE: Lee County Solid Waste to Energy Recovery Facility
Amendment Request (AM19-194)
Construction and Utilization of Enhancements Required to Support the Existing
Solid Waste to Energy Recovery Facility

Dear Ms. Rodriguez:

On July 3, 2019, the Florida Department of Environmental Protection (Department) Siting Coordination Office received a request from Lee County for a post-certification amendment to the Lee County Solid Waste to Energy Recovery Facility (SWERF) Site Certification Application (SCA). The amendment request is for approval to construct and utilize enhancements to the following existing SWERF structures:

- SWERF Operator Maintenance Storage Shed;
- SWERF Operator Spare Parts Storage Warehouse;
- Lee County Solid Waste Fleet Maintenance Storage Building;
- Transfer Station Employee Building; and
- Entrance Road Turn-Around.

Based on a review of the information submitted on July 3, 2019, and additional information submitted on July 26, 2019, the Department has determined that this request has been properly characterized as an amendment, pursuant to §403.5113(1), Florida Statutes (F.S.), as it proposes a material change to Lee County's SCA but does not require modification to the Conditions of Certification. This letter serves as notification of the approval of the proposed amendment.

Failure to comply with all existing requirements of the Conditions of Certification, pursuant to §403.514, F.S., shall constitute a violation of Chapter 403, F.S. The Department's notification shall become final unless a timely petition for an administrative hearing is filed under §§120.569 and 120.57, F.S., within **21** days of receipt of this order. The procedures for petitioning for a hearing are set forth below.

Persons affected by this order have the following options:

If you choose to accept the above decision by the Department concerning the post-certification amendment you do not have to do anything. This order is final and effective as of the date on the top of the first page of this order.

If you disagree with the decision, you may do one of the following:

1. File a petition for an administrative hearing with the Department's Office of General Counsel within **21** days of receipt of this order; or
2. File a request for an extension of time to file a petition for hearing with the Department's Office of General Counsel within **21** days of receipt of this order. Such a request should be made if you wish to meet with the Department in an attempt to informally resolve any disputes without first filing a petition for hearing.

Please be advised that mediation of this decision pursuant to §120.573, F.S., is not available.

How to Request an Extension of Time to File a Petition for Hearing

For good cause shown, pursuant to Rule 62-110.106(4), F.A.C., the Department may grant a request for an extension of time to file a petition for hearing. Such a request must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this order. Petitioner, if different from the addressee, shall mail a copy of the request to the addressee at the time of filing. Timely filing a request for an extension of time tolls the time period within which a petition for an administrative hearing must be made.

How to File a Petition for Administrative Hearing

A person whose substantial interests are affected by this order may petition for an administrative proceeding (hearing) under §§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, M.S. 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this order. Petitioner, if different from the addressee, shall mail a copy of the petition to the addressee at the time

of filing. Failure to file a petition within this time period shall waive the right of anyone who may request an administrative hearing under §§120.569 and 120.57, F.S.

Pursuant to §§120.54(5)(b)4 and 120.569(2), F.S., and Rule 28-106.201, F.A.C., a petition for an administrative hearing shall 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 each 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;
- c) An explanation of how each petitioner's substantial interests are or will be affected by the Department's action or proposed action;
- d) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- e) A statement of all material facts disputed by the petitioner, or a statement that there are no disputed facts;
- f) A concise statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the Department's action or proposed action;
- g) A statement of the specific rules or statutes the petitioner contends requires reversal or modification of the Department's action or proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's action or proposed action.

This order is final and effective as of the date on the top of the first page of this order. Timely filing a petition for an administrative hearing postpones the date this order takes effect until the Department issues either a final order pursuant to an administrative hearing or an order responding to supplemental information provided to the Department pursuant to meetings with the Department.

Judicial Review

Any party to this order has the right to seek judicial review of it under §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 in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, 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 of appeal must be filed within **30** days after this order is filed with the clerk of the Department (see below).

Questions

Any questions regarding the Department's review of this amendment request should be directed to Amanda Dyer at (850) 717-9111. Questions regarding legal issues should be referred to the Department's Office of General Counsel at (850) 245-2257. Contact with any of the above does not constitute a petition for an administrative hearing or request for an extension of time to file a petition for an administrative hearing.

Sincerely,

Cindy Mulkey, Administrator
Siting Coordination Office

CC by email:

District Director, DEP: John.Iglehart@FloridaDEP.gov

District Liaison, DEP: Nolin.Moon@FloridaDEP.gov

FILING AND ACKNOWLEDGMENT

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

Clerk

Date

Service List: CC by email (Document Access Verification Requested)

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