



Florida Department of Environmental Protection

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

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

March 22, 2010

Mr. Lindsey J. Sampson, Director
Solid Waste Division
Lee County Southwest Florida
P.O. Box 398
Fort Myers, Florida 33902-0398

RE: Lee County Solid Waste Energy Recovery Facility
Modification to Conditions of Certification
C & D Recycling Facility
DEP Case Number PA90-30H
OGC Case Number 09-2895

FINAL ORDER MODIFYING CONDITIONS OF CERTIFICATION

Dear Mr. Sampson:

The Florida Governor and Cabinet (Siting Board) issued the Site Certification for the Lee County Solid Waste Energy Recovery Facility (SWERF) on June 19, 1992 authorizing the construction and operation of two 20 MW (nominal) mass burn combustion systems and ancillary facilities. A third mass burn combustion system was certified by the Siting Board on October 8, 2003. The Department of Environmental Protection (Department) has modified the Conditions of Certification by Final Order on seven other occasions.

The Department has reviewed Lee County's petition dated June 26, 2009 for modification to the Conditions of Certification. Additionally, the Department has considered modifications pursuant to 403.516 (1) (c), Florida Statutes ("F.S.").

On or before November 10, 2009, all parties to the certification proceeding were provided with notice by certified mail of the Department's Intent to Modify the Conditions of Certification for this facility, along with a copy of the proposed Order Modifying Conditions of Certification.

On November 25, 2009, notice of the Department's intent to modify the Conditions of Certification for this facility was published on the Florida Administrative Weekly (FAW). Pursuant to Section 403.516, Florida Statutes ("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 notice by mail to such party's last address of record in which to file a written objection to the modification; that 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 public notice in the Florida Administrative Weekly to object in writing; that failure to act within the time frame constitutes a waiver of the right to

become a party; and that the Department will issue an Order Modifying the Conditions of Certification for this facility if no written objections are received by the Department.

No objections to the modification have been received by the Department.

Modifications directly associated with the addition of the C&D Recycling Facility

Comments were received on January 9, 2010 from Lee County Solid Waste Division requesting changes to Section B, Specific Condition I.K to allow for submittal of form 62-701.900(4) prior to operation and to allow for submittal of only those parts of the form that had not been previously submitted. The Department is not opposed to the requested changes regarding the submittal of form 62-701.900(4), however the requirement for submittal of the documents prior to construction will not be changed. Section B, Condition I.K. has been changed accordingly.

The Specific Conditions of Certification for the Lee County SWERF are hereby modified as follows:

- The Construction & Demolition Recycling facility (CDRF) was added as an associated facility and listed as such in Section A. General Conditions, Condition I. Scope, paragraph E. (See attachment A)
- The following condition was added to Section B. Specific Conditions, Condition I. Department of Environmental Protection, paragraph K. (See Attachment A)

K. Construction & Demolition Debris Recycling Facility (CDRF)

Prior to construction and operation of the CDRF, Lee County shall submit a completed application form No. 62-701.900(4) (excluding those portions that have been previously submitted for this project), including supporting data for the District's review and approval. Review of this post-certification submittal shall be in accordance with Section A, Condition XIX. Procedures for Post-Certification Submittals and shall include review of all portions of form 62-701.900(4).

Modifications Associated with the Incorporation of General Conditions

Written comments were received via email from Lee County Solid Waste Division on December 22, 2009 requesting clarifications and corrections to the uniform set of General Conditions incorporated by the Department. The submitted comments regarding the General Conditions have been considered and changes have been made, where deemed appropriate by the Department, to Section A General Conditions of the Conditions of Certification.

The modified Conditions of Certification PA90-30H (Attachment A to this document) replace the existing Conditions of Certification PA90-30G (Attachment B) in their entirety. Several existing Conditions have been updated and incorporated into the more uniform set of General Conditions. Many existing Conditions have been moved to different sections of the document.

Attachment B (existing Conditions) contains cross references to the corresponding condition in Attachment A (modified Conditions) appearing in red following each section of the document. In the electronic Adobe pdf file of Attachment B (existing Conditions), the cross references have been electronically linked to the corresponding condition in the Adobe pdf file of Attachment A (modified Conditions). In order to toggle between the two documents on your screen, copy both files (Attachment A and Attachment B) from

<http://publicfiles.dep.state.fl.us/siting/outgoing/LCRRF/Mod%20H/> and paste them into a single folder and open both files. (If you open the documents from the ftp site and "Save As", the links will not work. You must copy and paste with the same file names.) Clicking on a link in Attachment B will take you directly to the corresponding condition in Attachment A.

The complete set of the modified Conditions of Certification (including attachments) can be viewed and downloaded from the following website:

<http://www.dep.state.fl.us/siting/certification.htm>. Copies of the Conditions of Certification and/or attachments may also be obtained by contacting Michael P. Halpin, P.E., Administrator, Siting Coordination Office, Department of Environmental Protection, 3900 Commonwealth Blvd, M.S. 48, Tallahassee, Florida 32399-3000, (850) 245-2002.

Any party to the this Order has a right to seek judicial review of it pursuant to Section 120.68, Florida Statutes by filing a Notice of Appeal, pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department of Environmental Protection 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 thirty days from the date this Order is filed with the Clerk of the Department of Environmental Protection.

Executed in Tallahassee, Florida.



Michael P. Halpin, P.E.
Administrator,
Siting Coordination Office

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



3-22-10

Date

Service List: CC by email (return receipt requested):

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