

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF PROPOSED AGENCY ACTION

The Department of Environmental Protection gives Notice of its Intent to issue a solid waste coal combustion residuals (CCR) closure permit to City of Lakeland-Lakeland Electric, 3030 East Parker Drive, Lakeland, Florida 33805. The C.D. McIntosh Power Plant is located at 3030 East Parker Drive, Lakeland, Florida 33805. This permit authorizes the closure of the CCR unit at the C.D. McIntosh Power Plant known as the By-product Storage Area by leaving the CCR in place and installing a final cover system in accordance with Rule 62-701.805(8), F.A.C. The Department has assigned File Number 0425997-001-CP-01 to this project.

The Department's file on this matter is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Solid Waste Section, 2600 Blair Stone Road, Tallahassee, Florida 32317, phone 850-245-8707. Documents are also available at the following link: http://approd.dep.state.fl.us/WWW_WACS/REPORTS/SW_Facility_Docs.asp?wacsid=95347.

NOTICE OF RIGHTS

The Department will issue the permit unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until subsequent order of the Department. Because the administrative hearing process is designed to formulate final agency action, the subsequent order may modify or take a different position than this action.

Petition for Administrative Hearing

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@FloridaDEP.gov. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within **14** days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within **14** days of publication of the notice or within **14** days of receipt of the written notice, whichever occurs first. The failure 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 (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

Public Participation

Pursuant to Rule 62-701.805(13), F.A.C., any interested person may submit written comments or request a public meeting regarding the proposed action. Any comment or request for a public meeting must be submitted in writing to the Department of Environmental Protection, Solid Waste Section, 2600 Blair Stone Road, MS 4565, Tallahassee, FL 32399 or via electronic correspondence at SWPP@FloridaDEP.gov within 30 days of publication of this notice, unless such period is extended by the Department. Comments or requests for public meeting submitted via electronic correspondence should include the facility name and "CCR Permit" in the subject line. A request for a public meeting shall be in writing and shall state the nature of the issues proposed to be raised in the meeting. A request for a public meeting is not equivalent to a request for a formal or informal administrative hearing. Public meetings are not evidentiary in nature, and information submitted at a public meeting is for non-binding consideration only. A public meeting is not subject to court or appellate review. Failure to file a request for a public meeting within this time period shall constitute a waiver of any right such a person may have to request a meeting under Rule 62-701.805(13), F.A.C.

After the conclusion of the public comment period and a public meeting (if any), the Department will consider all timely comments, make any necessary changes, and make a final decision on the permit application. Copies of all comments and the Department's response to comments will be available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Solid Waste Section, 2600 Blair Stone Road, Tallahassee, Florida 32317, phone 850-245-8707, and at the following link:

http://appprod.dep.state.fl.us/WWW_WACS/REPORTS/SW_Facility_Docs.asp?wacsid=95347.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to submit comments, request a public meeting, or file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with 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@FloridaDEP.gov, before the expiration of the deadline proposed to be extended. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.