

MIAMI-DADE COUNTY, FLORIDA



ENVIRONMENTAL RESOURCES MANAGEMENT
POLLUTION CONTROL DIVISION
33 S.W. 2nd AVENUE
SUITE 800
MIAMI, FLORIDA 33130-1540
(305) 372-6817

May 20, 2004

CERTIFIED MAIL NO. 7001 0320 0003 5933 0796
RETURN RECEIPT REQUESTED

RECEIVED

JUN 02 2004

DEPT OF ENV PROTECTION
WEST PALM BEACH

In the matter of an Application for Permit by:

Rinker Materials Corporation
Attn: Michael Vardeman
1200 NW 137 Avenue
Miami, Florida 33182

FDEP Permit No: 0146251-WT-02
Permit File No. 10118 (SW# 1117)

Dear Mr. Vardeman:

INTENT TO ISSUE

The Department of Environmental Resources Management (DERM), under delegation from the Florida Department of Environmental Protection (jointly referred to as the Department herein), hereby gives notice of its Intent to Issue a permit for the proposed project as detailed in the application specified below. The Department is issuing this Intent to Issue for the reasons stated below:

1. The applicant, Rinker Materials Corporation applied on October 27, 2003, for a permit to operate a 300 tons (30,000 tires) Waste Tire Processing Facility. The project is located at 1200 NW 137 Avenue, Miami, Florida 33182. The Department has permitting jurisdiction under Section 403.087, Florida Statutes (F.S.), to issue or deny permits for Solid Waste Management Facilities.
2. The Department has determined that a Solid Waste Permit is required for the proposed work. The Department intends to issue this permit based on Chapters 62-4 and 62-701, Florida Administrative Code (F.A.C.), and believes reasonable assurances have been provided to indicate that the proposed project will not adversely impact the environment.

Pursuant to Section 403.815, F.S, you (the applicant) are required to publish at your own expense the enclosed Notice of Proposed Agency Action. The notice shall be published one time only within seven (7) days, in the legal ad section of a newspaper of general circulation in the area affected. For the purpose of this rule, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place.

Where there is more than one newspaper of general circulation in the county, the newspaper used must be one with significant circulation in the area that may be affected by the permit. If you are uncertain that a newspaper meets these requirements, please contact the Miami-Dade County DERM at the address or telephone number listed in this letter.

The applicant shall provide original copy of the proof of publication to the Department of Environmental Resources Management, 33 SW 2nd Avenue, Suite 700 Miami, Florida 33130 within seven (7) days of publication. Failure to publish the notice and provide proof of publication within the allotted time may result in the denial of the permit. The Department will issue the permit with the specific conditions unless a petition for an administrative proceeding (hearing) is filed pursuant to the provisions of Section 120.57, F.S., and 120.569 F.S.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Florida Department Of Environmental Protection at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Petitions filed by the permit applicant or any of the parties listed below must be filed within fourteen (14) days of receipt of this notice of intent. Petitions filed by any other person must be filed within fourteen (14) days of publication of the public notice or within fourteen (14) days of receipt of this notice of intent, whichever occurs first. Under Section 120.60(3), F.A.C., however, any person who asked the Department for notice of agency action may file a petition within fourteen (14) days of receipt of such notice, regardless of the date of publication. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any person 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 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-5.207 of the Florida Administrative Code.

A petition that disputes the material fact on which the Department's action is based must contain the following information:

- (a) The name, address, and telephone number of each petitioner, the applicants name and address, the Department Permit File Number, and the county in which the project is proposed;
- (b) A statement of how and when each petitioner received notice of the Departments action or proposed action;
- (c) A statement of how each petitioner's substantial interests are affected by the Departments action or proposed action;
- (d) A statement of the material facts disputed by the petitioner, if any;
- (e) A statement of the facts that the petitioner contends warrants reversal or modification of the Departments action or proposed action;
- (f) A statement identifying the rules or statutes that the petitioner contends require reversal or modification of the Departments action or proposed action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to the action or proposed action addressed in this notice of intent.

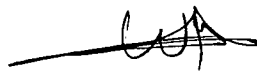
A petition that does not dispute the material fact on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice of intent. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above as required by Rule 28-106.301, F.A.C. Mediation is not available in this proceeding.

Any party to this Agency Action has the right to seek judicial review of it under Section 120.68, F.S., by filing a notice of appeal under Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Florida Department Of Environmental Protection in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, 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 (30) days after this Agency Action is filed with the clerk of the Florida Department Of Environmental Protection Office of General Counsel.

DONE AND ENTERED this 28th day of May 2004 in the City of Miami, Florida

DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT.



Wilbur Mayorga, P.E., Chief
Pollution Remediation Section
Department of Environmental Resources Management

Attachment

CERTIFICATE OF SERVICE

This is to certify that this **INTENT TO ISSUE** and all copies were mailed before the close of business on 5/28/04 to the listed persons.

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 Melinda Bania Date May 28, 2004

Copies furnished to:

Joe Lurix, FDEP/WPB

Fred Wick, FDEP/TLH

Carlos Hernandez, P.E., Hardeep Anand, P.E., Mayra Flagler, DERM

DERM File # 10118/SW-1117

MIAMI-DADE COUNTY
DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT
NOTICE OF PROPOSED AGENCY ACTION

The Department of Environmental Resources Management, under delegation of the Florida Department of Environmental Protection, gives Notice of its Intent to grant a Solid Waste Management Facility permit (FDEP File # 0146251-02-WT) to Applicant, Rinker Materials Corporation to operate a 300 tons (30,000 tires) Waste Tire Processing Facility. The project is located at 1200 NW 137 Avenue, Miami, Florida 33182. The applicant's mailing address is 1200 NW 137 Avenue, Miami, Florida 33182. The Department's file (SW# 1117/File #10118) on this matter is available for public inspection by contacting the Pollution Control Division file clerk at 305-372-6718 and making an appointment to view the files during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at 33 SW 2nd Avenue, Miami, Florida 33130.

A person whose substantial interests are affected by the above proposed agency action may petition for an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Florida Department of Environmental Protection, Office of General Counsel, Marjory Stoneman Douglas Building, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Petitions filed by any persons other than those entitled to written notice under section 120.60(3) of the Florida Statutes must be filed within fourteen (14) days of publication of this notice or receipt of the written notice, whichever occurs first. The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person 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 of the Florida Statutes, 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 of the Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department File Number and the county in which the project is proposed;
- (b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;
- (d) A statement of all material facts disputed by petitioner or a statement that there are no disputed facts;
- (e) A statement of facts which the petitioner contends warrant reversal or modification of the Department's action or proposed action;
- (f) A statement of which rules or statutes the petitioner contends require reversal or modification of the Department's action or proposed action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action the petitioner wants the Department to take with respect to the Department's action or proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301 of the Florida Administrative Code.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

In accordance with Section 120.573, F.S., the Department advises that mediation is not available in this case as an alternative to filing a petition for an administrative determination.



DRAFT

ENVIRONMENTAL RESOURCES MANAGEMENT
POLLUTION CONTROL DIVISION
33 S.W. 2nd AVENUE
SUITE 800
MIAMI, FLORIDA 33130-1540
(305) 372-6817

PERMITTEE:

Rinker Materials Corporation
1200 NW 137th Avenue
Miami, FL 33182

ATTENTION: Michael Vardeman

FDEP PERMIT NUMBER: 0146251-WT-02
DATE OF ISSUE: TBD
EXPIRATION DATE: TBD
COUNTY: Miami-Dade
LATITUDE/LONGITUDE: 25°46'48"/80°25'10"
SECTION/TOWNSHIP/RANGE: 34/T53S/39E
PROJECT: Rinker Materials Corporation-Waste
Tire Processing Facility

Dear Mr. Vardeman:

The Miami-Dade County Department of Environmental Resources Management (DERM), under delegation by the Florida Department of Environmental Protection (jointly referred to as the Department, herein), hereby issues this permit under the provisions of Chapter 403, Florida Statutes (F.S.), and Chapters 62-4, and 62-711, Florida Administrative Code (F.A.C.). The above named permittee is hereby authorized to perform the work or operate the facility shown on the application dated October 27, 2003 (received on November 7, 2003), prepared by Koogler and Associates Environmental Services, and signed and sealed by Steven C. Cullen, P.E., on behalf of the permittee, Rinker Materials Corporation.

TO OPERATE/CLOSE: A Waste Tire Processing Facility utilizing waste tires as a supplemental fuel for the production of Portland cement in high-temperature rotary kilns until utilized.

IN ACCORDANCE WITH: An application for permit to construct a Solid Waste Management Facility dated October 27, 2003 (received on November 7, 2003), and additional information dated December 19, 2003, February 17, 2004, and March 15, 2004.

LOCATED AT: 1200 NW. 137th Avenue, Miami, Miami-Dade County, Florida.

SUBJECT TO: General Conditions 1-15 (attached as pages 2 and 3) and specific conditions 1-13 (attached as pages 4 through 6)

GENERAL CONDITIONS:

- 1 The terms, conditions, requirements, limitations, and restrictions set forth herein are "Permit Conditions" and as such are binding upon this permittee and enforceable pursuant to the authority of Sections 403.141, 403.161, 403.727, or 403.859 through 403.861, Florida Statutes (F.S.). The permittee is hereby placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.
- 2 This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.
- 3 As provided in Subsections 403.987(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in the permit.
- 4 This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.
- 5 This permit does not relieve this permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties thereof; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and the Florida Department of Environmental Protection (FDEP) rules, unless specifically authorized by an order from the Department.
- 6 The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit, as required by FDEP rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of this permit and when required by Department rules.
- 7 The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:
 - a) Have access to and copy any records that must be kept under the conditions of this permit;
 - b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
 - c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or FDEP rules.Reasonable time may depend on the nature of the concern being investigated.
- 8 If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately notify and provide the Miami-Dade County DERM with the following information:
 - a) A description of and cause of non-compliance; and
 - b) The period of non-compliance, including dates and times; or, if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate, and

prevent recurrence of the non-compliance. The permittee shall be responsible for any and all damages, which may result and may be subject to enforcement action by the Department for penalties or revocation of this permit.

- 9 In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and any other information relating to the construction, operation, or closure of this permitted source, which are submitted to the Department, may be used by the Department as evidence in any enforcement case arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.73 and 403.111, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.
- 10 The permittee agrees to comply with changes in the Department rules and Florida Statutes, after a reasonable time frame for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or the Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, F.A.C., shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard
- 11 This permit is transferable only upon the Department approval in accordance with Rules 62-4.120 and 62-730.300, Florida Administrative Code (F.A.C.) as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.
- 12 This permit or a copy thereof shall be kept at the work site of the permitted activity.
- 13 This permit also constitutes:
 - a) Determination of Best Available Control Technology (BCAT)
 - b) Determination of Prevention of Significant Deterioration (PSD)
 - c) Certification of Compliance with State Water Quality Standards (Section 401, PL 92-500)
 - d) Compliance with New Source Performance Standards
- 14 The permittee shall comply with the following:
 - a) Upon request, the permittee shall furnish all records and plans required by the Department rules. During enforcement actions, the retention period for all records will be extended automatically, unless otherwise stipulated by the Department.
 - b) The permittee shall hold at the facility or other location designated by this permit, records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation), required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report or application unless otherwise specified by the Department rule.
 - c) Records of monitoring information shall include:
 1. the date, exact place, and time of sampling of measurements;
 2. the person responsible for performing the sampling or measurements;
 3. the date(s) analyses were performed;
 4. the person responsible for performing the analyses;
 5. analytical techniques or methods used; and
 6. results of such analyses.
- 15 When requested by the Department, the permittee shall within a reasonable time furnish any information required by law, which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

SPECIFIC CONDITIONS:

1. The waste tire processing facility shall be operated in strict accordance with the application dated October 27, 2003, prepared by Koogler and Associates Environmental Services, signed and sealed by Steven C. Cullen, P.E., on behalf of the permittee, Rinker Materials Corporation, additional information dated December 19, 2003, February 17, 2004, and March 15, 2004, Chapters 62-4, and 62-711, F.A.C., and as specified in the following Specific Conditions.
2. The maximum amount of waste tires stored on site at any time shall not exceed 300 tons (i.e., 30,000 tires). Waste tires received at the facility shall be stored in trailers at the trailer transfer area. The maximum daily throughput of the equipment shall be 87 tons per day for the existing kilns, 140 tons per day for the proposed new kilns.
3. Processed tires stored for recycling or disposal shall meet the minimum size requirements specified in Rule 62-711.400 (3) (b), F.A.C., unless a demonstration is made as part of a permit application or modification that storage of a larger size will not adversely affect the environment or the public health or welfare, and that storage of a larger size is necessary for purposes of recycling or transportation. At least 75 percent of the whole tires, used tires, and processed tires that are delivered to, or are contained on the site of the waste tire processing facility at the beginning of each calendar year shall be processed through the kilns or removed for disposal or recycling at an off-site permitted solid waste management facility.
4. In accordance with the requirement of Rules 62-701.630, F.A.C., and 62-711.500(3), F.A.C., the closing cost estimate shall be re-estimated at least annually and submitted to the Department at least 60 days prior to the anniversary date of the instrument. All original submittals in response to this specific condition shall be submitted to:

Attn: Mr. Wilbur Mayorga, Chief
Pollution Remediation Section
Department of Environmental Resources Management
33 SW 2 Avenue, Suite 700
Miami, Florida 32399-2400

5. The permittee shall, in addition to annually adjusting the closure cost estimates, adjust the financial assurance mechanism to reflect an increase in cost estimates. Documentation of financial mechanism increases shall be submitted to:

Florida Department of Environmental Protection
Financial Coordinator – Solid Waste Section
Twin Towers Office Building
2600 Blair Stone Road MS 4565
Tallahassee, FL 32399-2400

6. Closure of the waste tire processing facility shall be performed in accordance with the requirement of Rule 62-711.700, F.A.C., and the approved closure plan dated July 9, 1993. In the event of closure of this facility, the permittee shall be responsible for the removal of all processed and unprocessed tires to a facility approved by the Department for disposal or processing. Failure to properly remove all tire material and close the site in accordance with the approved closure plan shall result in forfeiture of the financial mechanism to the Department.

7. The permittee shall comply with the record keeping requirement of Rule 62-711.530(4), F.A.C., and the reporting requirement of Rule 62-711.530 (5), F.A.C. A quarterly report that summarizes all of the information collected under Rules 62-711.530 (4), and (5) F.A.C., shall be submitted to DERM at the following address on FDEP Form 62-701.900(21), no later than the 20th day of the month following the close of each calendar quarter.

Attn: Mr. Wilbur Mayorga, Chief
Pollution Remediation Section
Department of Environmental Resources Management
33 SW 2 Avenue, Suite 700
Miami, Florida 32399-2400

8. In the event of damage or failure of any of the site facilities or equipment, the permittee shall notify the Department within forty eight (48) hours of such an event, explaining such occurrence and remedial measures to be taken and time needed for repairs. A detailed written notification shall be submitted to the Department within one week following the occurrence.
9. In the event of an emergency (e.g., hurricane, fires, explosions, etc.) that may require the implementation of the Facility's Integrated Contingency Plan and/or discharge to any natural or artificial body of water, including groundwater, the Department shall be notified in person or by telephone within 24 hours of the incident. The 24-hour emergency telephone number for the State's Warning Point, as designated in Chapter 62-150, F.A.C., is 850-413-9911. The telephone number for Miami-Dade County DERM is (305) 372-6955. Please provide the name of the permittee, the Facility (File# 10118/SW-1117), and a brief description of the incident. A written preliminary report describing the incident shall also be submitted to the Department within seventy-two (72) hours of the start of the incident. In addition, a final written report shall be sent to the Department within two (2) weeks of the incident. The final report shall contain a complete description of and discuss the cause of the emergency and/or discharge, the anticipated time that the discharge, if any, will continue, the steps that will be taken to evaluate, reduce, eliminate, and prevent recurrence of the event, and all other information deemed necessary by the Department. In addition, all applicable federal, state, and local discharge notifications shall be adhered to.
10. The permittee shall maintain the facility in compliance with the fire safety survey prepared by Mr. Reed B. Valey, P.E. of Varley-Cambell & Associates, Inc., dated November 17, 1998.
11. At least sixty (60) days prior to the expiration of this permit, the permittee shall submit an application to the Department for renewal of this permit in a manner prescribed by the Department in order to assure conformance with all applicable Department rules.
12. The permittee shall comply with all applicable requirements of Chapter 62-711, F.A.C.

Issued this ____ day of _____, 2004
Department OF ENVIRONMENTAL RESOURCES MANAGEMENT

Wilbur Mayorga, P.E., Chief
Pollution Remediation Section

CERTIFICATE OF SERVICE

This is to certify that this NOTICE OF PERMIT and all copies were mailed before the close of business on _____ to the listed persons.

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