

Memorandum

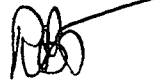
Florida Department of Environmental Protection

TO: District Waste Program Administrators
District Solid Waste Engineers

FROM: Chris McGuire
Senior Assistant General Counsel



Richard Tedder, P.E. Administrator
Solid Waste Section



DATE: May 14, 2002

SUBJECT: Solid Waste Permit Applicants

We have been asked whether we are authorized to accept permit applications, or applications for other licenses, from business entities that are not properly registered with the Department of State¹. A related question is whether we may approve a financial assurance mechanism if the name on the mechanism is different than the name on the permit.

Chapter 607, Florida Statutes (F.S.), requires corporations to register with the Florida Department of State, to maintain a registered agent in Florida, and to file annual reports. Corporations which are not registered in Florida, or which have been administratively dissolved by the Department of State for failure to pay fees or file reports, are not authorized to conduct business in this state. Similar provisions are found in Chapter 608 for limited liability companies and in Chapter 620 for limited partnerships.

A "person" is defined in Section 403.031, F.S., to include business entities, including corporations and partnerships. While there is no specific provision in Chapter 403 relating to registration of business entities, we believe that when Chapter 403 and Chapters 607, 608, and 620 are read together, the definition of person would not include business entities which are not authorized to conduct business in Florida. In that case, we would not be authorized to issue permits to business entities that are not registered to do business in Florida.

When the Department receives a permit or registration application, or a general permit notification, for a solid waste management facility or operation, the reviewing staff should conduct a quick search on the Department of State's web site to make sure that the applicant is properly registered. If a business entity is not registered, or has been administratively dissolved, you may include this as an RAI item rather than rejecting the application, since in many cases the registration problem may be easily cured. However, we should not issue the permit, including renewals, to a business entity that is not properly registered.

¹ This registration can be verified at the DOS web page: <http://ccfcorp.dos.state.fl.us/index.html>

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Section 865.09, F.S., allows any person or business entity to transact business under a fictitious name. The only real limitations on this are that the fictitious name must be registered with the Secretary of State, and the fictitious name cannot contain the word "corporation" or "incorporated" (or their abbreviations) unless the person is actually a registered corporation. The fictitious name is not a person's legal name, and we cannot issue a permit to a fictitious name. For example, if John Brown, d/b/a Brown's Landfill, applies for a permit, we should issue the permit to John Brown or to John Brown d/b/a Brown's Landfill but not to Brown's Landfill. This also applies to the financial assurance mechanism.

It is important that the name on the permit be the same as the name on the permit application and on the financial assurance mechanism. Our financial assurance section will not approve any mechanism if the grantor is not either an individual or a registered business entity, nor if the grantor is not the permit applicant. Since this approval will be issued before the permit is issued, the District reviewing staff should make sure that the permit is issued in the correct name.

It would also be good practice to check a corporate permittee's status as part of the file review prior to inspections. If a permittee has changed its name without notifying the Department, or if a business entity has been administratively dissolved, this could be a noncompliance item and could also affect the usefulness of the financial assurance mechanism.

Finally, a reminder that a real person must sign an application, and that real person must be someone who is authorized to act on behalf of a business entity. Generally speaking, this means that only the president of a corporation can sign for that corporation; only a general partner can sign for a limited or general partnership; and only a managing member or manager can sign for a limited liability company. If you get an application signed by anyone else (e.g., a corporate vice president), you should request documentation that this person is authorized to act on behalf of the business entity.

cc: Fred Wick, Financial Coordinator

**Florida Tire Terminal
P.O. Box 1733 / 400 Feagin St.
Avon Park, Fl. 33825
800-749-5788**

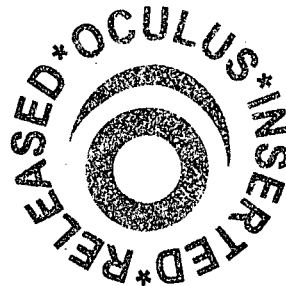
Dear Mr. Minhaj,

I am sending this request for a 1 week extension for our Waste Tire Processor Application. I have to leave the state unexpectedly and this will cause me to miss my deadline of April 3, 2006. The application is in it's finished form, but copying and collating cannot take place until I return next week. Please contact me if this extension is not accepted otherwise you will have the 4 copies in their finished form no later than April 11th, 2006. I thank you in advance of your decision.

Truly,



Robert A. Reisig



RECEIVED

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D.E.P. - SOUTH DISTRICT