



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 31 2008

Michael W. Sole
Secretary
Florida Department of Environmental Protection
Marjory Stoneman Douglas Building, MS-10
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Dear Mr. Sole:

The purpose of this letter is to notify the State of the Environmental Protection Agency's (EPA's) approval of the State-adopted variance to Florida water quality standards for the Premier Chemicals LLC discharge to a barge basin of the Gulf County Canal. The variance and supporting documentation were submitted for EPA review in a letter dated September 24, 2007, from Thomas M. Beason, General Counsel for the Florida Department of Environmental Protection (FDEP), to James Palmer, EPA Region 4 Regional Administrator. The variance was granted by FDEP on December 1, 2003, and the letter submitting the variance for EPA review included a certification "that the enclosed variance, representing a temporary change to surface water quality standards, was duly adopted pursuant to state law."

The variance was granted by the State under authorities of Section 403.201(1)(a), Florida Statutes, which allow variances to Florida water quality standards in cases where no practicable means are known or available for the adequate control of pollution in a discharge. The variance will expire at the expiration of National Pollutant Discharge Elimination System Permit Number FL00022607. The terms of the variance require the discharge from the Premier facility: (1) meet the requirements of F.A.C 62-302.500(1)(a)(4) at a distance no greater than 45 meters from the discharge point in the barge basin, and (2) meet the requirements of F.A.C. 62-4.244(3)(a) at a distance of 30 meters from the discharge point.

F.A.C. 62-302.500(1)(a)(4) [Surface Waters: Minimum Criteria, General Criteria] requires the following:

All surface waters of the State shall at all places and at all times be free from: Domestic, industrial, agricultural, or other man-induced non-thermal components of discharges which, alone or in combination with other substances or in combination with other components of discharges (whether thermal or non-thermal): ... are acutely toxic ...

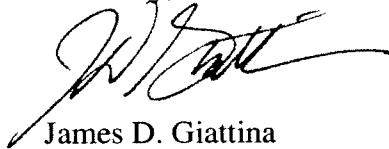
F.A.C. 62-4.244(3)(a) [Mixing Zones, Surface Waters] requires the following:

Waters within mixing zones shall not be degraded below the minimum standards prescribed for all waters at all times in Rule 62-302.500, F.A.C. In determining compliance with the provisions of subsection 62-302.500(1), F.A.C., the average concentration of wastes in the mixing zone shall be measured or computed using generally accepted scientific techniques; provided that, the maximum concentration of wastes in the mixing zone shall not exceed the amount lethal to 50% of the test organisms in 96-hours (96 hr. LC50) for a species significant to the indigenous aquatic community, except as provided in paragraph (b), (c) or (d) below...

Based on EPA's review, the variance complies with the requirements applicable to state adopted variances, including a demonstration that meeting the standard is unattainable, based on one of the factors outlined in the regulations for removing a designated use, in this case, 40 CFR 131.10(g)(6). Please note that the provisions of 40 CFR § 131.20(a) require that each variance to state water quality standards be "... re-examined every three years to determine if any new information has become available. If such new information indicates that the uses specified in Section 101(a)(2) of the [Clean Water] Act are attainable, the State shall revise its standards accordingly."

EPA's approval of this revision to Florida water quality standards is based on the authorities of Section 303(c) of the Clean Water Act. If you have questions, please contact Fritz Wagener of my staff at 404/562-9267.

Sincerely,



James D. Giattina
Director,
Water Management Division

cc: Thomas M. Beason, FDEP
Nancy Ross, FDEP