



Jeb Bush
Governor

Department of Environmental Protection

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

David B. Struhs
Secretary

January 3, 2003

VIA CERTIFIED MAIL

Mr. Tony Austin
Martin Gas Sales, Inc.
4118 Pendola Point Road
Tampa, Florida 33619

Dear Mr. Austin:

Attached is the Order Granting Variance that the Department of Environmental Protection has issued in response to your Petition for Variance from Rule 62-212.600(2)(c), Florida Administrative Code. The Notice of Disposition regarding this petition will be published on the department's "Official Notices" website and noticed in the Florida Administrative Weekly today, January 3, 2003.

A workshop to gather comments concerning the department's proposal to submit the Order Granting Variance to the United States Environmental Protection Agency (EPA) as a proposed revision to the State Implementation Plan (SIP) was held on December 10, 2002 at the department's Southwest District Office. A newspaper notice announcing that workshop appeared in the November 8 edition of the Tampa Tribune. The department is nearing completion on the document that will be submitted to the EPA requesting approval of the Order Granting Variance as a proposed revision to the SIP.

If you have any questions, please call Mr. John Glunn, Office of Policy Analysis and Program Management, at 850/921-9548.

Sincerely,

for Howard L. Rhodes
Director

Division of Air Resource Management

HLR/fjg

Cc: John Glunn, OPAPM
Pat Comer, OGC
Jerry Kissel, Southwest District Office
Jerry Campbell, Hillsborough County EPC
Eugene Masters, Ash Engineering

"More Protection, Less Process"

Printed on recycled paper.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of a request
for variance by:

Martin Gas Sales, Inc.
4118 Pendola Point Road
Tampa, Florida 33619

ORDER GRANTING VARIANCE

By this order the Department of Environmental Protection (Department) takes agency action in response to a petition for variance filed by Martin Gas Sales, Inc., under Section 120.542, Florida Statutes (F.S.), which permits the granting of a variance when the person subject to a rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means or when application of a rule would create a substantial hardship or would violate principles of fairness. The petitioner seeks a variance from Rule 62-212.600(2)(c), Florida Administrative Code (F.A.C.).

Having considered Petitioner's request for variance and supporting documentation, the following Findings of Fact, Conclusions of Law, and Order are entered:

FINDINGS OF FACT

1. Petitioner's request for variance from the postconstruction monitoring requirements of Rule 62-212.600(2)(c), F.A.C., was received by the Department on August 14, 2002.
2. On September 12, 2002, the Department requested the submittal of additional information from Petitioner pursuant to Section 120.542(7), F.S. On September 25, 2002, the Department received the additional information from Petitioner.
3. A notice of receipt of petition for variance was published in the Florida Administrative Weekly (F.A.W.) on September 20, 2002, in Volume 28, Number 38, page 4054. No comments were received concerning this petition for variance.

4. Rule 62-212.600(2)(c), F.A.C., requires any new or modified sulfur storage and handling facility, with a throughput of elemental sulfur in all forms equal to or greater than 5,000 tons per year, to conduct postconstruction air quality and deposition monitoring of sulfur particulate emissions from the facility for two years from the date of issuance of the initial air operation permit for the facility, and, through the permitting process, to determine the period of time, if any, such monitoring must be continued. The data collected must be provided to the Department as specified in the permit. All ambient air quality monitoring must be done using the appropriate ambient test method(s) referenced in Rule 62-204.220(3), F.A.C. Particulate deposition monitoring must be done in accordance with the provisions of DEP Reference Method for Monitoring Deposition of Sulfur Particulate, adopted and incorporated by reference in Rule 62-212.600(2)(c), F.A.C.

5. Petitioner is subject to the applicable emission limiting standards, monitoring and recordkeeping requirements of Rule 62-296.411, F.A.C. According to the Petitioner's permit (number 0570477-007-AC), effective December 4, 2002, the facility must comply with particulate visible emission limits, a throughput limit, numerous recordkeeping and maintenance procedures, and annual visible emissions tests, designed to reduce and document sulfur emissions.

6. Petitioner estimates that potential sulfur particulate emissions from the facility are 1.07 tons (2,140 pounds) per year.

7. The conditions of this variance will provide a significant cost savings. Petitioner estimates the cost of compliance with Rule 62-212.600(2)(c), F.A.C., will be \$3,000 to \$10,000 per year.

CONCLUSIONS OF LAW

1. The Department has jurisdiction to consider the petitioner's request pursuant to Section 120.542, Florida Statutes. However, the rule from which a variance is requested has been approved by the U.S. Environmental Protection Agency (EPA) into the Florida State Implementation Plan (SIP) at 40 CFR Part 52, Subpart K. The Department is not authorized under the SIP to issue any variance or waiver from the rule except as a program change to the SIP in accordance with the procedures of 40 CFR Parts 51 and 52. Section 120.542, Florida Statutes, does not grant authority to issue this variance except in conformity with the federally delegated or approved program processes. Therefore, this variance cannot be effective until the EPA has approved the variance as a SIP change after publication in the Federal Register.

2. The Department has determined that the petitioner has complied with the requirements of the law and has provided sufficient information to enable the Department to evaluate the merits of the request.

3. In Section 403.021(3), F.S., the legislature declared the purpose of the Florida Air and Water Pollution Control Act to be, in part, “to achieve and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property,” The Department’s duty under Section 403.061(9), F.S., is to “[a]dopt a comprehensive program for the prevention, control, and abatement of pollution of the air and waters of the state, and from time to time review and modify such program as necessary.” The Department’s authority and duty to “[c]ause field studies to be made and samples to be taken out of the air and from the waters of the state periodically and in a logical geographic manner,” is declared in Section 403.061(12)(a), F.S. Further, under Section 403.061(13), F.S., the Department is granted the authority to “[r]equire persons engaged in operations which may result in pollution to file reports which may contain information relating to . . . rate and period of emission.”

4. Petitioner’s low annual sulfur particulate emissions (1.07 tons), coupled with the applicable emission limiting standards, monitoring and recordkeeping requirements of Rule 62-296.411, F.A.C, demonstrate that the health and environmental concerns addressed by the underlying statute will be met without postconstruction air quality and deposition monitoring of sulfur particulate emissions, thus avoiding the onerous and costly requirements of Rule 62-212.600(2)(c), F.A.C.

ORDER

Having considered Petitioner’s request for variance and supporting documentation, it is hereby ordered that:

1. Petitioner’s request for variance from the postconstruction monitoring requirements of Rule 62-212.600(2)(c), F.A.C., is granted subject to the terms of this Order.

2. The variance will permanently exempt Martin Gas Sales, Inc., from the postconstruction air quality and deposition monitoring requirements of Rule 62-212.600(2)(c), F.A.C, provided that Petitioner does not exceed the permitted maximum molten sulfur throughput of 700 thousand long tons per any consecutive 12 month period.

3. The Department retains the right to reinstate the postconstruction air quality and deposition monitoring requirements of Rule 62-212.600(2)(c), F.A.C., if the maximum molten sulfur throughput is exceeded.

4. The variance shall not apply to any other new or existing state or federal rule that may require monitoring.

5. This variance shall not be effective until approved by the EPA as a revision to Florida’s SIP.

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this ORDER GRANTING VARIANCE was sent by certified mail before the close of business on 1/3/03 to the person(s) listed or as otherwise noted:

Tony Austin, Martin Gas Sales, Inc., 4118 Pendola Point Road, Tampa, Florida 33619

The undersigned duly designated deputy agency clerk hereby certifies that a copy of this ORDER GRANTING VARIANCE was sent by U.S. Mail before the close of business on 1/3/03 to the person(s) listed or as otherwise noted:

Eugene R. Masters, Ash Engineering, Inc.,
5313 Johns Road, Suite 201
Tampa, Florida 33634

Clerk Stamp

FILING AND ACKNOWLEDGEMENT FILED, on this date, pursuant to § 120.52(7), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Martha Jane Wise
(Clerk)

1/3/03
(Date)

RIGHT TO APPEAL

Once this variance becomes final and effective, any party to this variance has the right to seek judicial review of the variance pursuant to Section 120.68, Florida Statutes, by the filing of 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, Mail Station 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 Courts of Appeal. The Notice of Appeal must be filed within 30 days from the date the Final Order is filed with the Clerk of the Department.

Executed in Tallahassee, Florida.

Issued this 17th day
of December, 2002

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Howard L. Rhodes, Director
Division of Air Resource
Management

HLR/fjg

cc: John Glunn, OPAPM
Pat Comer, Office of General Counsel
Jerry Kissel, Southwest District Office
Jerry Campbell, Hillsborough Co. EPC

M E M O R A N D U M

DATE: July 24, 2002

TO: Richard D. Garrity, Ph.D.

FROM: Rob Kalch **THRU:** Alice H. Harman, P.E.

**SUBJECT: Construction Permit - Martin Gas Sales, MLP
Permit No.: 0570477-007-AC**

Attached is Permit No. 0570477-007-AC for an increase in the facility molten sulfur throughput. The annual throughput has been increased to 700,000 LT/yr from 450,000 LT/yr. The facility has requested from FDEP a variance from the requirements of Rule 62-212.600(2), F.A.C. The permit contains the conditions of Rule 62-212.600(2), F.A.C. with the stipulation that the condition will be superceded if the variance is approved.

Based on my review, I recommend the issuance of this permit.

rsk:0570477-007-AC

TECHNICAL EVALUATION
AND
PRELIMINARY DETERMINATION

FOR

Martin Gas Sales, MLP

Hillsborough County

Construction Permit

Application Number

0570477-007-AC

Environmental Protection Commission of

Hillsborough County

Tampa, FL

July 24, 2002

I. Project Description

A. Applicant: Bruce Anthony Austin
Terminal Manager
Martin Gas Tampa Marine Terminal
Martin Gas Sales, MLP
4118 Pendola Point Road
Tampa, FL 33619

B. Engineer: Eugene R. Masters, Ph.D., P.E.
Ash Engineering, Inc.
5313 John Road, Suite 201
Tampa, FL 33634

P.E. No.: 27568

C. Project and Location:

The project is for an increase in the annual molten sulfur throughput of the facility. There are no construction activities required for the increase. An earlier variance was issued by DEP staff allowing the facility to avoid the pre-construction review requirements of Rule 62-212.600(2), F.A.C. The applicant has requested another variance be issued with the new increased throughput (700,000 LT/yr). The variance is under review with DEP.

The project has been assigned NEDS Source Classification Code No. 3-01-070-02 for Others, Not Classified. The Standard Industrial Code for the project is No. 51, Wholesale Trade - Non-durable Goods. The project is located at 4118 Pendola Point Road, Tampa, FL 33619. UTM Coordinates of the location are 17-358.9 E and 5086.8 N.

D. Process and Controls:

The applicant has requested a construction permit for an increase in the annual throughput of the facility. The throughput will be increased to 700,000 LT/yr from 450,000 LT/yr. There are no emissions controls on the tanks. Any emissions pass through tank vents or vents on the trucks during truck loading.

Molten sulfur is pumped from vessels to a storage tank with a 16,000 LT capacity (Tank No. 13) via enclosed piping. The facility handles recovered molten sulfur not mined molten sulfur. From the tank, the molten sulfur is transferred through enclosed piping to the load out stations where it is loaded into tanker trucks and/or railcars. Loading activities utilize an arm that is lowered into the opening of the tanker. The molten sulfur is heated by steam from two natural gas boilers. The boilers are not being modified. In addition, located onsite are tanks for asphalt, fuel oils, and sulfuric acid.

E. Application Information:

Received on: February 28, 2002

Information Requested: March 28, 2002

Application Complete: April 23, 2002

II. Rule Applicability

This project is subject to the preconstruction review requirements of Chapter 403, Florida Statutes, Chapters, 62-204, 62-210, 62-212, 62-296, and 62-297, Florida Administrative Code (F.A.C.) and Chapter 1-3 of the Rules of the Environmental Protection Commission of Hillsborough County.

This project is not subject to the requirements of Rule 62-212.400, Prevention of Significant Deterioration, F.A.C. or Rule 62-212.500, New Source Review for Nonattainment Areas, F.A.C., since the facility is minor by state definition.

This project is subject to the requirements of Rule 62-212.300, Sources Not Subject to Prevention of Significant Deterioration or Nonattainment Requirements, F.A.C., since the proposed modification requires a permit.

This project is subject to the requirements of Rule 62-212.600, Sulfur Storage and Handling Facilities, F.A.C., since the facility throughput is greater than 5,000 tpy of elemental sulfur in all forms.

This project is subject to the requirements of Rule 62-296.320, General Pollutant Emission Limiting Standards, F.A.C., since the facility is a potential source of odor, visible emissions, and particulate matter.

This project is subject to the requirements of Rule 62-296.401 through 62-296.417, Specific Emission Limiting and Performance Standards, F.A.C., because the facility is subject to Rule 62-296.411, F.A.C., Sulfur Storage and Handling Facilities.

This project is not subject to the requirements of Rule 62-296.500, Reasonably Available Control Technology, F.A.C., since there is not an applicable category.

This project is not subject to the requirements of Rule 62-296.600, Reasonably Available Control Technology, F.A.C., since the facility is not a source of lead emissions.

This project is not subject to the requirements of Rule 62-296.700, Reasonably Available Control Technology, F.A.C., although it is located within the Hillsborough County Maintenance Area for the pollutant particulate matter. The molten sulfur handling operations emit less than 3 tpy of particulate matter.

This project is not subject to the requirements of Rule 62-204.800, Federal Regulations Adopted by Reference, F.A.C., since there is no applicable source specific category in this rule.

This project is subject to the requirements of Chapter 84-446, Laws of Florida and Chapter 1-3, Rules of the Environmental Protection Commission of Hillsborough County.

III. Summary of Emissions

<u>Regulated Pollutants</u>	<u>Estimated Actual Emissions</u>		<u>Allowable Emissions</u>	
	lbs./hr.	TPY	lbs./hr.	TPY
VOC	3.0	3.2	3.0	3.2
PM	2.5	2.6	2.5	2.6
SO ₂	0.3	0.4	NA	NA

* Although the facility-wide estimated molten sulfur particulate matter emissions are greater than 1.0 tpy, each emission unit emits less than 1.0 tpy. Therefore, Rule 62-296.411(1)(c), F.A.C., emission limiting standard, does not apply per Rule 62-296.411(5)(b), F.A.C.

Inventory of Title III pollutants is estimated to be less than 10 TPY (none) individually and less than 25 TPY (none) collectively.

IV. Conclusions:

The emission limits proposed by the applicant will meet all of the requirements of Chapters 62-204, 62-210, 62-212, 62-296, and 62-297, F.A.C., and Chapter 1-3, Rules of the Commission.

The General and Specific Conditions listed in the proposed permit (attached) will assure compliance with all the applicable requirements of Chapters 62-204, 62-210, 62-212, 62-296, and 62-297, F.A.C.

V. Proposed Agency Action:

Pursuant to Section 403.087, Florida Statutes and Rule 62-4.070, Florida Administrative Code the Environmental Protection Commission of Hillsborough County hereby gives notice of its intent to issue a permit to construct the aforementioned air pollution source in accordance with the draft permit and its conditions as stipulated (see attached).

CERTIFIED MAIL

In the Matter of an
Application for Permit by:

File No.: 0570477-007-AC
County: Hillsborough

Bruce Anthony Austin
Terminal Manager
Martin Gas Tampa Marine Terminal
Martin Gas Sales, MLP
4118 Pendola Point Road
Tampa, FL 33619

INTENT TO ISSUE

The Environmental Protection Commission of Hillsborough County (EPC), as delegated by the Florida Department of Environmental Protection (DEP) gives notice of its intent to issue a permit (copy attached) for the proposed project as detailed in the application specified above, for the reasons stated below.

The applicant, Bruce Anthony Austin, for Martin Gas Sales, MLP, applied on February 28, 2002 to the EPC for a permit to increase the annual throughput of molten sulfur from 450,000 LT/yr to 700,000 LT/yr at their facility located at 4118 Pendola Point Road, Tampa, Hillsborough County, FL 33619.

The EPC has permitting jurisdiction under Chapter 403 Florida Statutes (F.S.) and Florida Administrative Code (F.A.C.) Chapters 62-4 and 62-210. The project is not exempt from permitting procedures. The EPC has determined that an air pollution construction permit is required to commence or continue operations at the described facility.

The EPC intends to issue this permit based on the belief that reasonable assurances have been provided to indicate that operation of the source will comply with the appropriate provisions of Florida Administrative Code (F.A.C.) Chapters 62-204 through 62-297 and 62-4.

Pursuant to Section 403.815 and 403.0872, F.S. and Rules 62-103.150 and 62-210.350(3), F.A.C., you (the applicant) are required to publish at your own expense the enclosed Notice of Intent to Issue Permit. The notice shall be published one time as

soon as possible, in the legal advertisement 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 EPC at the address or telephone number listed below. **The applicant shall provide proof of publication to the EPC, Air Permitting Section, at 1410 N. 21st Street, Tampa, Florida 33605 (Phone 813-272-5530 - FAX 813-272-5605) within 7 (seven) 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 pursuant to Rule 62-103.150(6), F.A.C.

The EPC will issue the final permit with the attached conditions unless a timely petition for an administrative hearing is filed pursuant to Section 120.569 and 120.57 F.S. before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Legal Department of the EPC at 1900 9th Avenue, Tampa, Florida 33605, Phone 813-272-5960, Fax 813-272-5157. Petitions filed by the permit applicant or any of the parties listed below must be filed within 14 (fourteen) days of receipt of this notice of intent. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3), F.S. must be filed within 14 (fourteen) days of publication of the public notice or within 14 (fourteen) days of receipt of this notice of intent, whichever occurs first. Under Section 120.60(3), however, any person who asked the EPC for notice of agency action may file a petition within 14 (fourteen) days of receipt of that notice, regardless of the date of publication. A 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, F.S.; or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the EPC's action is based 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, and telephone number of the petitioner and the name, address, and telephone number of each petitioner's representative, if any, which shall be the address for service purposes during the course of the proceedings; and an explanation of how the petitioner's substantial interests will be affected by the EPC's determination;

(c) A statement of how and when the petitioner received notice of the EPC action;

(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 the petitioner contends warrant reversal or modification of the EPC's proposed action;

(f) A statement of specific rules or statutes the petitioner contends requires reversal or modification of the EPC's proposed action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the EPC to take with respect to the EPC's proposed action.

A petition that does not dispute the material facts upon which the EPC'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 EPC'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 EPC on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation under section 120.573, F.S. is not available in this proceeding.

This action is final and effective on the date filed with the Clerk of the EPC unless a petition is filed in accordance with above. Upon the timely filing of a petition, this order will not be effective until further order of the EPC.

In addition to the above, a person subject to regulation has a right to apply to the Department of Environmental Protection for a variance from or waiver of the requirements of particular rules, on certain conditions, under Section 120.542, F.S. The relief provided by this state statute applies only to state rules, not statutes, and not to any federal regulatory requirements. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have in relation to the action proposed in this notice of intent.

The application for a variance or waiver is made by filing a

petition with the Office of General Counsel of the Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, FL 32399-3000. The petition must specify the following information:

(a) The name, address, and telephone number of the petitioner,

(b) The name, address, and telephone number of the attorney or qualified representative of the petitioner, if any,

(c) Each rule or portion of a rule from which a variance or waiver is requested,

(d) The citation to the statute underlying (implemented by) the rule identified in (c) above,

(e) The type of action requested,

(f) The specific facts that would justify a variance or waiver for the petitioner,

(g) The reason by the variance or waiver would serve the purposes of the underlying statute (implemented by the rule), and

(h) A statement whether the variance or waiver is permanent or temporary and, if temporary, a statement of the dates showing the duration of the variance or waiver requested.

The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of the those terms is defined in Section 120.542(2), F.S., and that the purpose of the underlying statute will be or has been achieved by other means by the petitioner.

Persons subject to regulation pursuant to any federally delegated or approved air program should be aware that Florida is specifically not authorized to issue variances or waivers from any requirements of any such federally delegated or approved program.

The requirements of the program remain fully enforceable by the Administrator of United States Environmental Protection Agency and by any person under the Clean Air Act unless and until the Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

Any person listed below may request to obtain additional information, a copy of the application (except for information entitled to confidential treatment pursuant to Section 403.111, F.S.), all relevant supporting materials, and all other materials available to the EPC that are relevant to the permit decision. Interested persons may contact Alice H. Harman, P.E., at the above address or call (813) 272-5530, for additional information.

Any party to this order has the right to seek judicial review of it under Section 120.68 of the Florida Statutes, by filing a notice of appeal under rule 9.110 of the Florida rules of Appellate Procedure with the EPC's Legal Office at 1900 9th Ave., Tampa, Florida 33605 and with the clerk of the 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 must be filed within thirty days after this order is filed with the clerk of the Department.

Executed in Tampa, Florida

ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY

Richard D. Garrity, Ph.D.
Executive Director

cc: Florida Department of Environmental Protection, SW District
(Internet email memorandum)
Eugene R. Masters, Ph.D., P.E., Ash Engineering, Inc.

CERTIFICATE OF SERVICE

The undersigned duly designated clerk hereby certifies that this INTENT TO ISSUE and all copies were mailed by certified mail before the close of business on _____ to the listed persons.

FILING AND ACKNOWLEDGEMENT
FILED, on this date, pursuant to Section 120.52(7), Florida Statutes, with the designated clerk, receipt of which is hereby acknowledged.

clerk

Date

ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
NOTICE OF INTENT TO ISSUE PERMIT

The Environmental Protection Commission of Hillsborough County (EPC), as delegated by the Florida Department of Environmental Protection (DEP) gives notice of its intent to issue an air pollution Permit No.: 0570477-007-AC to Martin Gas Sales, MLP, for an increase in the annual throughput of molten sulfur from 450,000 LT/yr to 700,000 LT/yr at their facility located at 4118 Pendola Point Road, Tampa, Hillsborough County, FL 33619. The permittee is Bruce Anthony Austin, Terminal Manager, Martin Gas Sales, MLP, 4118 Pendola Point Road, Tampa, FL 33619.

A Best Available Control Technology (BACT) determination was not required.

The EPC will issue the Final permit with the conditions of the DRAFT permit unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57, F.S. before the deadline for filing a petition. The procedures for petitioning for hearing are set forth below.

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Legal Department of the EPC at 1900 9th Avenue, Tampa, Florida 33605, Phone 813-272-5960, Fax 813-272-5157. Petitions filed by the permit applicant or any of the parties listed below must be filed within 14 (fourteen) days of receipt of this notice of intent. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3), F.S. must be filed within 14 (fourteen) days of publication of the public notice or within 14 (fourteen) days of receipt of this notice of intent, whichever occurs first. Under Section 120.60(3), however, any person who asked the EPC for notice of agency action may file a petition within 14 (fourteen) days of receipt of that notice, regardless of the date of publication. A 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, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205 of the F.A.C.

A petition that disputes the material facts on which the EPC's action is based 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, and telephone number of the petitioner, and the name, address, and telephone number of each petitioner's representative, if any, which shall be the address for service purposes during the course of the proceedings; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of how and when petitioner received notice of the EPC action;

(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 the petitioner contends warrant reversal or modification of the EPC proposed action;

(f) A statement of specific rules or statutes the petitioner contends requires reversal or modification of the EPC's proposed action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the EPC to take with respect to the EPC's proposed action.

A petition that does not dispute the material facts upon which the EPC'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.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the EPC'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 EPC on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation under section 120.573, F.S. is not available in this proceeding.

This action is final and effective on the date filed with the Clerk of the EPC unless a petition is filed in accordance with above. Upon the timely filing of a petition this order will not be effective until further order of the EPC.

Any party to this order has the right to seek judicial review of it under Section 120.68 of the Florida Statutes, by filing a notice of appeal under rule 9.110 of the Florida rules of Appellate Procedure with the EPC's Legal Office at 1900 9th Ave., Tampa, Florida 33605 and with the clerk of the 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 must be filed within thirty days after this order is filed with the clerk of the Department.

The complete project file 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 Environmental Protection Commission of Hillsborough County, 1410 N. 21st Street, Tampa, FL 33605. The complete project file includes the proposed Permit, the application, and the information submitted by the responsible official, exclusive of confidential records under Section 403.111, F.S. Interested persons may contact Alice H. Harman, P.E., at the above address, or call 813-272-5530, for additional information. Any written comments filed shall be available for public inspection. If written comments received result in a significant change in the proposed agency action, the EPC shall revise the proposed permit and require, if applicable, another Public Notice.

ENVIRONMENTAL PROTECTION COMMISSION OF
HILLSBOROUGH COUNTY, as Delegated by

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF PERMIT

Bruce Anthony Austin
Terminal Manager
Martin Gas Tampa Marine Terminal
Martin Gas Sales, MLP
4118 Pendola Point Road
Tampa, FL 33619

Dear Mr. Austin:

Re: Hillsborough County - AP

Enclosed is Permit Number 0570477-007-AC to increase the annual throughput of molten sulfur from 450,000 LT/yr to 700,000 LT/yr at your facility, issued pursuant to Section 403.087, Florida Statutes.

Any party to this order (permit) has the right to seek judicial review of the permit pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the EPC in the Legal Department at 1900 9th Avenue, Tampa, FL 33605; 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 30 days from the date this Notice is filed with the clerk of the EPC.

Executed in Tampa, Florida.

Sincerely,

Richard D. Garrity, Ph.D.
Executive Director

RDG/RSK/rsk

cc: Florida Department of Environmental Protection (Internet
email memorandum)

Eugene R. Masters, Ph.D., P.E., Ash Engineering, Inc.

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.

Clerk Stamp
FILED, on this date, pursuant to
Section 120.52(7), Florida Statutes,
with the designated clerk, receipt of
which is hereby acknowledged.

clerk

Date

PERMITTEE: PERMIT/CERTIFICATION
Bruce Anthony Austin Permit No.: 0570477-007-AC
Terminal Manager County: Hillsborough
Martin Gas Tampa Marine Terminal Expiration Date: 07/30/2003
Martin Gas Sales, MLP Project: Increased Annual Molten
4118 Pendola Point Road Sulfur Throughput
Tampa, FL 33619

This permit is issued under the provisions of Chapter 403, Florida Statutes, and Florida Administrative Code Rules 62-204, 62-210, 62-212, 62-296, 62-297, and 62-4. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents, attached hereto or on file with the EPC and made a part hereof and specifically described as follows:

For an increase in the annual molten sulfur throughput from 450,000 LT/yr to 700,000 LT/yr (long tons per year). Molten sulfur is pumped from vessels to a storage tank with a 16,000 LT capacity (Tank No. 13) via enclosed piping. The facility handles recovered molten sulfur not mined molten sulfur. From the tank, the molten sulfur is transferred through enclosed piping to the load out stations where it is loaded into tanker trucks and/or railcars. Loading activities utilize an arm that is lowered into the opening of the tanker. The molten sulfur is heated by steam from two natural gas boilers. The boilers are exempt from permitting per Rule 62-210.300, F.A.C. In addition, located onsite are tanks for asphalt, fuel oils, and sulfuric acid.

Location: 4118 Pendola Point Road, Tampa, FL 33619

UTM: 17-358.934 E and 5086.81 N

NEDS No.: 0570477

Point ID:	002	Ship Unloading
	003	Truck Loading Station Nos. 1 and 2
	004	Tank No. 13
	005	Railcar Loading

Modifies Permit No.: 0570477-003-AO

PERMITTEE:
Bruce Anthony Austin
Terminal Manager
Martin Gas Sales, MLP

PERMIT/CERTIFICATION
Permit No.: 0570477-007-AC
County: Hillsborough
Project: Increased Annual
Molten Sulfur Throughput

SPECIFIC CONDITIONS: Cont.

1. A part of this permit is the attached General Conditions. [Rule 62-4.160, F.A.C.]
2. All applicable rules of the Environmental Protection Commission of Hillsborough County including design discharge limitations specified in the application shall be adhered to. The permit holder may also need to comply with county, municipal, federal, or other state regulations prior to construction. [Rule 62-4.070(7), F.A.C.]
3. Issuance of this permit does not relieve the permittee from complying with applicable emission limiting standards or other requirements of Chapters 62-204, 62-210, 62-212, 62-296 and 62-297, F.A.C., or any other requirements under federal, state, or local law. [Rule 62-210.300, F.A.C.]
4. The permittee shall not cause, suffer, allow or permit the discharge of air pollutants which cause or contribute to an objectionable odor. [Rule 62-296.320, F.A.C.]
5. The use of property, facilities, equipment, processes, products, or compounds, or the commission of paint overspraying or any other act, that causes or materially contributes to a public nuisance is prohibited, pursuant to the Hillsborough County Environmental Protection Act, Section 16, Chapter 84-446, Laws of Florida, as Amended.
6. All reasonable precautions shall be taken to prevent and control generation of unconfined emissions of particulate matter in accordance with the provision in Rule 62-296.320, F.A.C. These provisions are applicable to any source, including, but not limited to, vehicular movement, transportation of materials, construction, alterations, demolition or wrecking, or industrial related activities such as loading, unloading, storing and handling.
7. Visible emissions from any emissions point in the molten sulfur system shall not exceed 10% opacity (six minute average) except during periods of ship unloading when visible emissions from the molten sulfur storage tanks shall not exceed 15% opacity (six minute average). [Rule 62-296.411(1)(g) and (i), F.A.C.]
8. In order to limit the potential to emit for particulate matter, hydrogen sulfides, and volatile organic compounds from

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Bruce Anthony Austin
Terminal Manager
Martin Gas Sales, MLP

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SPECIFIC CONDITIONS: Cont.

this facility, the maximum throughput of molten sulfur shall not exceed 700,000 LT per any 12 consecutive month period. [Applicant's request and Rule 62-212.300, F.A.C.]

9. The hours of operation are not limited (i.e. 8760 hrs/yr). [Rule 62-4.070(3), F.A.C.]

10. The permittee shall implement the necessary recordkeeping, maintenance, and work practices in order to minimize emissions from the molten sulfur system as follows: [Rules 62-296.411(1) and 62-4.070(3), F.A.C.]

- A) All molten sulfur transfer shall be through enclosed piping systems. Contact surfaces between moveable unloading cars and stationary pipes shall seat effectively around the entire circumference to minimize spills.
- B) All truck loading shall be accomplished through dropped tubes.
- C) All tanks shall be filled using submerged loading.
- D) All areas surrounding points where molten sulfur pipes are routinely disconnected and areas where molten sulfur is transferred to trucks or railcars shall be paved and curbed within 20 feet of the point of disconnection or transfer to contain any spilled molten sulfur, or shall be provided with non-corrosible drip pans or other secondary containment, positioned to collect spills, that are adequate to contain amounts of molten sulfur that may escape during routine disconnection, reconnection or operation of the piping system.
- E) All spilled molten sulfur shall be collected and properly disposed of whenever the containment area is filled to one-half its containment capacity, or monthly, whichever is more frequent. Spills of molten sulfur outside of a containment area, or an area subject to vehicular traffic, shall be collected and disposed of as soon as possible, but no later than 24 hours after the spill occurred. Drip pans or other secondary containment shall be cleaned as needed to prevent exceedance of capacity, but at least weekly.
- F) All vent surfaces shall be cleaned monthly to remove captured particles.
- G) Maintain records of spills outside of containment areas and of collection and disposal of spilled sulfur. Such records shall be retained for a minimum of two years and shall be available for inspection by the EPC upon request.

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SPECIFIC CONDITIONS: Cont.

11. In accordance with Permit No.: 0570477-003-AO the facility is required to conduct tests for visible emissions on or within 60 days prior February 4, 2003 and is required to conduct a test Tank No. 13 for volatile organic compound emissions while being filled at a rate of 1430 LT/hr prior to October 30, 2002. Two copies of test data shall be submitted to the Air Compliance Section of the Air Management Division of the Environmental Protection Commission of Hillsborough County within 45 days of such testing. The visible emissions testing shall consist of one test on the point of highest opacity from the ship, one test from the point of highest opacity from the storage tank(s) during filling, and one test from the point of highest opacity from the truck loading. The duration of each visible emissions test shall be 30 minutes. Testing procedures shall be consistent with the requirements of Rule 62-297.310, F.A.C.

12. Compliance with the emission limitations of Specific Condition No. 7 shall be determined using EPA Methods 1, 2, 4, 5 and 9 contained in 40 CFR 60, Appendix A and adopted by reference in Rule 62-297, F.A.C. The minimum requirements for stack sampling facilities, source sampling and reporting, shall be in accordance with Rule 62-297, F.A.C. and 40 CFR 60, Appendix A.

13. Testing of emissions shall be conducted with the source operating at capacity. Capacity is defined as 90-100% of the capacities listed on the following page. If it is impracticable to test at capacity, then the source may be tested at less than capacity; in this case subsequent source operation is limited to 110% of the test load until a new test is conducted. Once the unit is so limited, then operation at higher capacities is allowed for no more than fifteen days for purposes of additional compliance testing to regain the rated capacity in the permit, with prior notification to the EPC. The filling/transfer rates for each source shall be specified in the test results. Failure to submit the operating rate and actual operating conditions may invalidate the test. This may include the molten sulfur temperature, the approximate purge airflow rate, and the origin of the sulfur (mined or recovered). [Rules 62-4.070(3) and 62-297.310(2)(b), F.A.C.]

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SPECIFIC CONDITIONS: Cont.

<u>Source</u>	<u>Operation</u>	<u>Capacity</u>
Tank Vents	Breathing Losses	NA
Facility	Ship Unloading to Tanks	1430 LT/hr
Truck Loading	Truck Loadout to Truck transfer	200 LT/hr/station

14. In order to demonstrate compliance with Specific Condition Nos. 8 and 10, the permittee shall maintain the following records of operations for the most recent two year period. The records shall be made available to the Environmental Protection Commission of Hillsborough County, state or federal air pollution agency upon request. The records shall include, but not limited to, the following: [Rule 62-296.500(2)(b)1., F.A.C.]

- A) Date (mm/dd/yyyy)
- B) Molten sulfur throughput (LT)
- C) Monthly total of molten sulfur throughput (LT)
- D) Rolling twelve month total of molten sulfur throughput (LT)
- E) Documentation the tank vents are cleaned monthly
- F) Documentation of spilled sulfur and disposal of spilled sulfur

15. When the Environmental Protection Commission of Hillsborough County (EPC) after investigation, has good reason (such as complaints, increased visible emissions or questionable maintenance of control equipment) to believe that any applicable emission standard contained in Rules 62-204, 62-210, 62-212, 62-296, or 62-297, F.A.C., or in a permit issued pursuant to those rules is being violated, it may require the owner or operator of the source to conduct compliance tests which identify the nature and quantity of pollutant emissions from the source and to provide a report on the results of said tests to the EPC. [Rule 62-297.310(7)(b), F.A.C.]

16. The permittee shall provide timely notification to the Environmental Protection Commission of Hillsborough County prior to implementing any changes that may result in a modification to this permit pursuant to Rule 62-210.200(187), F.A.C.,

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Terminal Manager
Martin Gas Sales, MLP

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SPECIFIC CONDITIONS: Cont.

Modification. The changes do not include normal maintenance, but may include, and are not limited to, the following, and may also require prior authorization before implementation: [Rules 62-210.300 and 62-4.070(3), F.A.C.]

- A) Alteration or replacement of any equipment or major component of such equipment.
- B) Installation or addition of any equipment which is a source of air pollution.
- C) Any increases in molten sulfur throughput.

17. If the permittee wishes to transfer this permit to another owner, an "Application for Transfer of Permit" (DEP Form 62-210.900(7)) shall be submitted, in duplicate, to the Environmental Protection Commission of Hillsborough County within 30 days after the sale or legal transfer of the permitted facility. [Rule 62-4.120, F.A.C.]

18. The permittee shall perform the following analysis and monitoring in accordance with Rule 62-212.600(2), F.A.C. If the variance requested of FDEP is approved, the requirements of this Specific Condition (Specific Condition No. 18) shall be superceded by the variance and any conditions required as part of the variance. [Rules 62-4.070(3) and 62-212.600(2), F.A.C.]

- A) Ambient Air Quality Analysis. The permittee shall provide the Air Management Division of the Environmental Protection Commission of Hillsborough County and the Department an analysis of the probable particulate matter ambient air quality impacts that could result from the operation of the facility, in accordance with Rule 62-212.600(3), F.A.C., Emission Estimates, and Rule 62-204.220(4), F.A.C., Air Quality Models.
- B) Sulfur Deposition Analysis. The permittee shall provide the Air Management Division of the Environmental Protection Commission of Hillsborough County and the Department an analysis of the probable annual and maximum monthly sulfur deposition rates that could occur as a result of the operation of the facility. The particle size distribution used in the model shall be determined in accordance with the provisions of Rule 62-212.600(3), F.A.C.
- C) Post-construction Monitoring. The permittee shall conduct post-construction air quality and deposition monitoring of sulfur particulate emissions from the facility for two years

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SPECIFIC CONDITIONS: Cont.

from the date of issuance of the initial air operation permit for the facility, and, through the permitting process, shall determine the period of time, if any, such monitoring must be continued after that time. The data collected shall be provided to the Department as specified in the permit. All ambient air quality monitoring shall be done using the appropriate ambient test method(s) referenced in Rule 62-204.220(3), F.A.C. Particulate deposition monitoring shall be done in accordance with the provisions of DEP Reference Method for Monitoring Deposition of Sulfur Particulate, hereby adopted and incorporated by reference.

19. In accordance with Permit No.: 0570477-003-AO the permittee shall apply, by October 30, 2002, for a renewal of the permit using the current version of the permit renewal application form at least sixty days before the expiration of the operating permit. This permitting action may be incorporated into the operating permit at that time. The permittee shall apply for a renewal of the permit using the current version of the permit renewal application form. A renewal application shall be timely and sufficient. If the application is submitted prior to sixty days before the expiration of the permit, it will be considered timely and sufficient. If the renewal application is submitted at a later date, it will not be considered timely and sufficient unless it is submitted and made complete prior to the expiration of the operation permit. When the application for renewal is timely and sufficient, the existing permit shall remain in effect until the renewal application has been finally acted upon by the EPC or, if there is court review of the final agency action, until a later date is required by Section 120.60, Florida Statutes. [Rule 62-4.090, F.A.C.]

ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY

Richard D. Garrity, Ph.D.
Executive Director