



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
VIOLATION AND NOTICE TO SHOW CAUSE

FORM 850-040-26
SYSTEMS PLANNING
01/99
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PART 1: IDENTIFICATION INFORMATION

TO: NAME _____ DATE _____
ADDRESS _____
CITY _____ STATE _____ ZIP _____ APPLICATION/PERMIT NUMBER _____

PART 2: VIOLATION NOTICE

YOU ARE HEREBY ADVISED:

Pursuant to the applicable provisions of the Florida Statutes and Florida Administrative Code, you are hereby charged:

1. That the facility at the site identified below is in violation of those provisions of the Florida Statutes and the Florida Administrative Code cited herein, for the reasons indicated:

SITE IDENTIFICATION

STATE ROAD NO. _____ SECTION NO. _____

MILEPOST NO. _____ CONSTRUCTION JOB NO. _____

COUNTY _____ STATION NO. _____

GEOGRAPHICAL DESCRIPTION _____

VIOLATION

FLORIDA STATUTE _____

FLORIDA ADMINISTRATIVE CODE _____

DESCRIPTION OF VIOLATION(S): _____

In accordance with Section 120.57, Florida Statutes, you may request a formal proceeding pursuant to Section 120.57(1), Florida Statutes, if you disagree with the facts stated in _____ (hereinafter the "Notice"). If you do not disagree with the facts stated in the Notice, or if you would prefer an informal proceeding, you may request an informal proceeding pursuant to Section 120.57(2), Florida Statutes. You must mail or deliver the written request to:

Clerk of Agency Proceedings
Department of Transportation
Haydon Burns Building
605 Suwannee Street, M.S. 58
Tallahassee, Florida 32399-0458

The written request for an administrative proceeding must conform to the requirements of Rules 28-106.104 and 28-106.111, Florida Administrative Code, and must be received no later than 21 days after you have received the Notice. If a timely written request for an administrative proceeding is not received, the Notice will become conclusive and final and Department action will be taken as stated in the Notice.

PART 2 (Continued) VIOLATION NOTICE

THE WRITTEN REQUEST MUST CONTAIN THE FOLLOWING:

1. Your name, address, and telephone number, and the Department application/permit number, if known.
2. An explanation of how you are affected by the action described in the Notice.
3. A statement of how and when you received the Notice.
4. A statement of whether you disagree with the facts stated in the Notice and, if so, what facts are disputed.
5. A statement of whether you disagree with any non-factual matters in the Notice (e.g., policy or legal statements) and, if so, what non-factual matters are disputed.
6. A statement of the basic facts that support opposition or modification to the action to be taken under the Notice.
7. A statement identifying any rules or statutes that are relied upon to support opposition or modification to the action to be taken under the Notice.
8. A statement of the relief that you seek.
9. A statement whether you are requesting a formal or informal proceeding.**
10. A statement of any other information that you contend is material.
11. A complete copy of the Notice, including this Notice of Appeal Rights.

****FORMAL VS. INFORMAL PROCEEDING**

In accordance with Section 120.57, Florida Statutes, you may request either a formal proceeding pursuant to Section 120.57(1), Florida Statutes, or an informal proceeding pursuant to Section 120.57(2), Florida Statutes. However, to be entitled to a formal proceeding, there must be disputed issues of materials fact (i.e., facts at issue that are relevant under law or agency rule). If there are not disputed issues of materials fact, an informal proceeding will be held. If you do not expressly request a formal proceeding, your request will be treated as a request for an informal proceeding.

If a formal proceeding is requested and it is determined that you are entitled to a formal hearing, this matter will be referred to the Division of Administrative Hearings, where you may present witnesses and evidence and cross examine other witnesses before a hearing officer, who will issue a recommended order that will be reviewed by the Secretary of Transportation. You will be notified of the time, place, and date of the hearing by the Division of Administrative Hearings.

If an informal proceeding is held, you will have to provide the Department with any written documentation or legal arguments which you wish the Department to consider. If you wish to make an oral presentation (in person or by telephone), you must so state in your request for an informal proceeding. You will be notified as to the time period within which to submit written documentation as well as a date at which an oral presentation may be made if you have requested such an opportunity.

In either case, if a request for administrative proceeding is not received within 21 days the described violation(s) shall be considered true and the Department of Transportation reserves the right to take such action as the law permits, including but not limited to the revocation of the permit.

By: _____
PRINT

SIGNATURE

(DISTRICT SECRETARY OR DESIGNEE)

DATE: _____

