By Representative Alexander

A bill to be entitled

An act relating to environmental control; creating s. 403.08725, F.S.; providing requirements for citrus juice processing facilities with respect to obtaining air pollution, construction, and operations permits; providing definitions; providing emissions limits for such facilities; requiring certification of information submitted by citrus juice processing facilities to the Department of Environmental Protection; providing requirements with respect to determination and reporting of facility emissions; requiring the submission of annual operating reports; requiring maintenance of records; providing requirements, specifications, and restrictions with respect to air emissions trading; providing for annual emissions fees; providing penalty for failure to pay fees; providing for deposit of fees in the Air Pollution Control Trust Fund; providing requirements with respect to construction of new facilities or modification of existing facilities; providing for the adoption of rules by the department; requiring the department to provide a report to the Legislature; providing for submission of the act to the United States Environmental Protection Agency; providing for applicability of the act and compliance requirements for facilities in the event of federal nonapproval; directing the department

to explore alternatives to traditional methods of regulatory permitting for citrus juice processing facilities and pilot projects to test new compliance measures; providing limits on pilot projects; providing reporting requirements; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 403.08725, Florida Statutes, is created to read:

403.08725 Citrus juice processing facilities.--

(1) COMPLIANCE REQUIREMENTS; DEFINITIONS.--Notwithstanding the permit requirements of ss. 403.087(1) and 403.0872, effective July 1, 2002, all citrus juice processing facilities shall comply with the provisions of this section in lieu of obtaining air pollution, construction, and operation permits required under ss. 403.087(1) and 403.0872. For purposes of this section, "facility" means all emissions units at a plant that processes citrus fruit to produce single-strength or frozen concentrated juice and other products and byproducts identified by Major Group Standard Industrial Classification Codes 2033, 2037, and 2048 which are located within a contiguous area and are owned or operated under common control, along with all emissions units located in the contiguous area and under the same common control which directly support the operation of the citrus juice processing function. For purposes of this section, facilities that do not operate a citrus peel dryer are not subject to the requirements of paragraph (2)(c). For purposes of this section, "new sources" means emissions units

constructed or modified on or after July 1, 2000, and "existing sources" means emissions units constructed or modified before July 1, 2000.

(2) PERMITTED EMISSIONS LIMITS.--All facilities authorized to construct and operate under this section shall operate within the most stringent of the emissions limits set forth in paragraphs (a)-(g) for each new and existing source:

(a) The lowest emissions limit required by any standard promulgated by the United States Environmental Protection Agency.

(b) Each facility shall comply with the emissions limitations of its Title V permit until October 31, 2002, at which time the requirements of this subsection shall supersede the emissions limitations of its Title V permit.

(c) After October 31, 2002, for volatile organic compounds, the level of emissions achievable by a 65-percent recovery of oil from citrus fruits processed shall be as determined by the methodology described in sub-subparagraph (4)(a)1.

(d) After October 31, 2002, no facility shall fire fuel oil containing greater than 0.5 percent sulfur by weight. The use of natural gas is not limited by this paragraph. The use of d-limonene as a fuel is not limited by this paragraph.

(e) After October 31, 2002, for particulate matter of 10 microns or less, the emissions levels, expressed in pounds per million British thermal units of heat input, unless otherwise specified, are established for the following types of new and existing sources:

1. Citrus peel dryer, regardless of production capacity: 15 pounds per hour.

2. Pellet cooler or cooling reel, regardless of production capacity: 5 pounds per hour.

3. Process steam boiler:

a. Existing sources fired with natural gas, propane, biogas, d-limonene, or fuel oil, and new sources fired with natural gas, propane, or biogas: not limited.

b. New sources fired with fuel oil: 0.10 pounds per million British thermal units.

No process steam boiler shall fire any fuel other than natural gas, propane, biogas, or fuel oil. No process steam boiler shall fire used oil.

4. Combustion turbine:

a. Existing sources regardless of fuel: not limited.

b. New sources fired with natural gas, propane, or biogas: not limited.

c. New sources fired with fuel oil: 0.10 pounds per million British thermal units.

No combustion turbine shall fire any fuel other than natural gas, propane, biogas, or fuel oil. No combustion turbine shall fire used oil.

5. Duct burner:

a. New and existing sources fired with natural gas, propane, or biogas: not limited.

b. New and existing sources fired with fuel oil: 0.10 pounds per million British thermal units.

No duct burner shall fire any fuel other than natural gas, propane, biogas, or fuel oil. No duct burner shall fire used oil.

6. Glass plant furnace:

a. Existing sources with a maximum non-cullet material process input rate of 13.75 tons per hour: 0.64 grams per kilogram of glass produced.

b. Existing sources with a maximum non-cullet material process input rate of 17.92 tons per hour: 0.54 grams per kilogram of glass produced.

No glass plant furnace shall fire any fuel other than natural gas, propane, biogas, or fuel oil. No glass plant furnace shall fire used oil.

7. Biogas flare for anaerobic reactor: not limited.

8. Emergency generator: not limited.

9. Volatile organic compounds emission control incinerator: not limited.

(f) After October 31, 2002, for nitrogen oxides, the emissions levels, expressed in pounds of nitrogen dioxide per million British thermal units of heat produced, unless otherwise specified, are established for the following types of new and existing sources:

1. Citrus peel dryer:

a. Sources that are constructed or modified on or prior to August 7, 1980: not limited.

b. Sources that are constructed or modified after August 7, 1980, that fire natural gas, propane, biogas, d-limonene, or distillate oil: 0.20 pounds per million British thermal units.

c. Sources that are constructed or modified after August 7, 1980, that fire residual fuel oil: 0.34 pounds per million British thermal units.

2. Process steam boiler:

a. Existing sources fired with natural gas, propane, biogas, d-limonene, or fuel oil: not limited.

b. New sources fired with natural gas, propane, biogas, d-limonene or fuel oil: 0.10 pounds per million British thermal units.

3. Combustion turbine:

a. Existing sources regardless of fuel:

(I) Existing combustion turbine of approximately 425 million British thermal units per hour heat input capacity: 73 pounds per hour.

(II) Existing combustion turbines of approximately 50 million British thermal units per hour heat input capacity each, constructed prior to July 1999: 168 parts per million volume dry at 15 percent oxygen.

(III) Existing combustion turbine of approximately 50 million British thermal units per hour heat input capacity, constructed after July 1999: 50 parts per million volume dry at 15 percent oxygen.

b. New sources with less than 50 megawatts of mechanically generated electrical capacity, regardless of fuel: 25 parts per million volume dry at 15 percent oxygen.

c. New sources with greater than or equal to 50 megawatts of mechanically generated electrical capacity, regardless of fuel: 3.5 parts per million volume dry at 15 percent oxygen.

4. Duct burner:

a. Existing sources fired with natural gas, propane, biogas, or fuel oil: not limited.

b. New sources fired with natural gas, propane, biogas, or fuel oil: 0.20 pounds per million British thermal units.

5. Glass plant furnace:

a. Existing sources regardless of production capacity: not limited.

b. New sources firing gaseous fuels or fuel oil, regardless of production capacity: 5.5 pounds per ton of glass produced.

6. Biogas flare for anaerobic reactor: not limited.

7. Emergency generator: not limited.

8. Volatile organic compound emission control incinerator: not limited.

(g) After October 31, 2002, for visible emissions, the levels of visible emissions at all times during operation, expressed as a percent of opacity, are established for the following types of emission sources:

1. Citrus peel dryer: 20 percent.

2. Pellet cooler or cooling reel: 5 percent.

3. Process steam boiler: 20 percent.

4. Combustion turbine: 10 percent.

5. Duct burner: limited to the visible emissions limit of the associated combustion turbine.

6. Glass plant furnace: 20 percent.

7. Biogas flare for anaerobic reactor: 5 percent.

8. Emergency generator: 20 percent.

9. Lime storage silo: 5 percent.

10. Volatile organic compounds emission control incinerator: 5 percent.

(3) EMISSIONS DETERMINATION AND REPORTING.--

(a) All information submitted to the department by facilities authorized to operate under this section shall be certified as true, accurate, and complete by a responsible official of the facility. For purposes of this section,

"responsible official" means that person who would be allowed to certify information and take action under the department's Title V permitting rules.

(b) All emissions for which the facility is limited by any standard promulgated by the United States Environmental Protection Agency must be determined and reported by a responsible official of the facility in accordance with the promulgated requirement. Reports required by this section shall be certified and submitted to the department.

(c) All emissions units subject to any enhanced monitoring requirement under any regulation promulgated by the United States Environmental Protection Agency must comply with such requirement.

(d) All emissions for which the facility is limited by paragraphs (2)(b)-(f) shall be determined on a calendar-year basis and reported to the department by a responsible official of the facility no later than April 1 of the following year. Emissions shall be determined for each emissions unit by means of recordkeeping, test methods, units, averaging periods, or other statistical conventions which yield reliable data; are consistent with the emissions limit being measured; are representative of the unit's actual performance; and are sufficient to show the actual emissions of the unit.

(e) Each facility authorized to operate under this section shall submit annual operating reports in accordance with department rules.

(f) Each facility shall have a responsible official provide and certify the annual and semiannual statements of compliance required under the department's Title V permitting rules.

(g) Each facility shall have a responsible official provide the department with sufficient information to determine compliance with all provisions of this section and all applicable department rules, upon request of the department.

(h) Records sufficient to demonstrate compliance with all provisions of this section and all applicable department rules shall be made available and maintained at the facility for a period of 5 years, for inspection by the department during normal business hours.

(i) Emission sources subject to limitations for particulate matter, nitrogen oxides, and visible emissions pursuant to paragraphs (2)(e)-(g) shall test emissions annually, except as provided in subparagraphs 1.-3., in accordance with department rules using United States Environmental Protection Agency test methods.

1. Tests for particulate matter of 10 microns or less may be conducted using United States Environmental Protection Agency Method 5, provided that all measured particulate matter is assumed to be particulate matter of 10 microns or less. Tests for compliance with the particulate matter emission limit of subparagraph (2)(e)2. for the pellet cooler or cooling reel are waived as long as the facility complies with the visible emissions limitation of subparagraph (2)(g)2. If any visible emissions test for the pellet cooler or cooling reel does not demonstrate compliance with the visible emissions limitation of subparagraph (2)(g)2., the emissions unit shall be tested for compliance with the particulate matter emission limit of subparagraph (2)(e)2. within 30 days after the visible emissions test.

2. Tests for visible emissions shall be conducted using United States Environmental Protection Agency Method 9. Annual tests for visible emissions are not required for biogas flares, emergency generators, and volatile organic compounds emission control incinerators.

3. Tests for nitrogen oxides shall be conducted using Environmental Protection Agency Method 7E.

(j) Measurement of the sulfur content of fuel oil shall be by latest American Society for Testing and Materials methods suitable for determining sulfur content. Sulfur dioxide emissions shall be determined by material balance using the sulfur content and amount of the fuel or fuels fired in each emission source, assuming that for each pound of sulfur in the fuel fired, two pounds of sulfur dioxide are emitted.

(4) EMISSIONS TRADING.--If the facility is limited by the emission limit listed in paragraph (2)(c) for any such limit which the facility exceeded during the calendar year, the facility must obtain, no later than March 1 of the reporting year, sufficient allowances, generated in the same calendar year in which the limit was exceeded, to meet all limits exceeded. Any facility which fails to meet the limit and fails to secure sufficient allowances that equal or exceed the emissions resulting from such failure to meet the limit shall be subject to enforcement in the same manner and to the same extent as if the facility had violated a permit condition. For purposes of this section, an "allowance" means a credit equal to emissions of 1 ton per year of a pollutant listed in paragraph (2)(c), subject to the particular limitations of paragraphs (4)(a) and (b).

(a) Emissions allowances may be obtained from any other facility authorized to operate under this section, provided such allowances are real, excess, and are not resulting from the shutdown of an emissions unit. Emissions allowances must be obtained for each pollutant the emissions limit of which was exceeded in the calendar year. Allowances can be applied on a pollutant-specific basis only. No cross-pollutant trading shall be allowed.

1. Real allowances are those created by the difference between the emissions limit imposed by this section and the lower emissions actually measured during the calendar year. Measurement of emissions for allowance purposes shall be determined in the manner described in this subparagraph. For purposes of measuring whether an allowance was created, a single stack test or use of emissions estimates cannot be used. Measurement of recovery of oil from citrus fruits processed shall be by material balance using the measured oil in the incoming fruit, divided into the sum of the oil remaining in juice, the cold press oil recovered, d-limonene recovered, and oil remaining in the dried pellets, expressed as a percentage. Measurement of recovery of oil shall be made each operational day and averaged over the days of facility operation during each calendar year. The oil contents of the fruit and peel shall be determined using methods approved by the department. Facilities may accept wet peel from offsite sources for drying, provided that the facility receives sufficient recorded information from the offsite source to measure available oil and oil recovery at the offsite source, and accounts for those values in determining compliance with the limitation of paragraph (2)(c) and the number of allowances that are required to be obtained, if any.

Methodologies for determining oil contents shall be developed by the Institute of Food and Agricultural Sciences and approved by the department.

2. Excess allowances are those not used for any other regulatory purpose.

(b) No facility located in an area designated as a nonattainment area for a pollutant shall be allowed to acquire allowances of that pollutant for any regulatory purpose. No facility located in an area designated as a nonattainment area for ozone shall be allowed to acquire allowances of any nitrogen oxide, including nitrogen dioxide, or of volatile organic compounds for any regulatory purpose.

(5) EMISSIONS FEES.--All facilities authorized to operate under this section shall pay annual emissions fees in the same amount to which the facility would be subject under the department's Title V program. For purposes of determining fees until July 1, 2002, emission fees shall be based on the requirements of s. 403.0872. Commencing July 1, 2002, the allowable annual emissions for fee purposes shall be computed as the emissions limits established by this section multiplied by the actual operation rates, heat input, and hours of operation of each new and existing source for the previous calendar year. Actual operation rates, heat input, and hours of operation of each new and existing source shall be documented by making and maintaining records of operation of each source. Fees shall not be based on stack test results. In the event that adequate records of operation are not maintained, actual operation shall be assumed to occur at the source's maximum capacity from January 1 through May 31 and October 1 through December 31 of the previous calendar year. All such annual emissions fees shall be due and payable April

1 for the preceding calendar year. Failure to pay fees shall result in penalties and interest in the same manner and to the same extent as failure to pay fees under the department's Title V program. For purposes of determining actual emissions for fee purposes, any allowances traded away shall be deducted and any allowances acquired shall be included. All fees shall be deposited into the Air Pollution Control Trust Fund.

(6) MODIFICATIONS AND NEW CONSTRUCTION.--Any new facility or any facility authorized to operate under this section which makes any physical change or any change to the method of operation of the facility shall comply with the requirements of this section at all times, except that any facility located in an area designated as a nonattainment area for any pollutant shall also comply with limits established by department rules for all changes which increase emissions of such pollutant, and except that any facility that becomes subject to the federal acid rain program is no longer authorized to construct or operate under this section and must obtain proper department permits.

(7) RULES.--The department shall adopt rules pursuant to ss. 120.54 and 120.536(1) to implement the provisions of this section. Such rules shall, to the maximum extent practicable, assure compliance with substantive federal Clean Air Act requirements. To the extent such rules provide for establishing best available control technology, lowest achievable emissions rate, or case-by-case maximum achievable control technology, such rules shall not be subject to the requirement of s. 120.54 for adoption of the lowest regulatory cost alternative.

(8) LEGISLATIVE REVIEW.--By March 2004, the department, after consultation with the citrus industry, shall

report to the Legislature concerning the implementation of this section, and shall make recommendations for any changes necessary to improve implementation.

Section 2. No later than October 1, 2000, the department shall submit section 403.08725, Florida Statutes, as created by this act, to the United States Environmental Protection Agency as a revision of Florida's state implementation plan and as a revision of Florida's approved state Title V program. If the United States Environmental Protection Agency fails to approve section 403.08725, Florida Statutes, as created by this act, as a revision of Florida's state implementation plan within 2 years after submittal, section 403.08725, Florida Statutes, as created by this act, shall not apply with respect to construction requirements for facilities subject to regulation under the act, and the facilities subject to regulation thereunder must comply with all construction permitting requirements, including those for prevention of significant deterioration, and must make application for construction permits for any construction or modification at the facility which was not undertaken in compliance with all permitting requirements of the Florida state implementation plan, within 3 months thereafter. If the United States Environmental Protection Agency fails to approve section 403.08725, Florida Statutes, as created by this act, as a revision of Florida's approved state Title V program within 2 years after submittal, section 403.08725, Florida Statutes, as created by this act, shall not apply with respect to operation requirements, and all facilities subject to regulation under the act must immediately comply with all Title V program requirements and must make application for Title V operation permits within 3 months thereafter.

Section 3. Notwithstanding any provision of law to the contrary, the Department of Environmental Protection is granted limited authority to explore alternatives to traditional methods of regulatory permitting for citrus juice processing facilities, provided that such alternative methods do not produce a material increase in pollution emissions. Working with industry, business associations, and other state agencies, the department is directed to examine specific limited pilot projects to test new compliance measures for citrus juice processing facilities. Any pilot projects initiated for the purpose of carrying out the provisions of s. 403.08725, Florida Statutes, as created by this act, may operate for a period of no more than 3 years, unless a pilot project is continued by legislative enactment. The department shall submit a report to the Speaker of the House of Representatives and the President of the Senate prior to the implementation of any regulatory activities which are the result of a pilot project initiated for the purpose of carrying out the provisions of s. 403.08725, Florida Statutes, as created by this act.

Section 4. This act shall take effect July 1, 2000.

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HOUSE SUMMARY

Provides compliance requirements for citrus juice processing facilities with respect to obtaining air pollution, construction, and operations permits. Defines terms for purposes of the act. Provides emissions limits for such facilities. Requires certification of information submitted by citrus juice processing facilities to the Department of Environmental Protection. Provides requirements with respect to determination and reporting of facility emissions. Requires the submission of annual operating reports. Requires maintenance of records. Provides requirements, specifications, and restrictions with respect to air emissions trading. Provides for annual emissions fees. Provides penalty for failure to pay fees. Provides for deposit of fees in the Air Pollution Control Trust Fund. Provides requirements with respect to construction of new facilities or modification of existing facilities. Provides for the adoption of rules by the department. Requires the department to provide a report to the Legislature. Provides for submission of the act to the United States Environmental Protection Agency. Provides for applicability of the act and compliance requirements for facilities in the event of federal nonapproval. Directs the department to explore alternatives to traditional methods of regulatory permitting for citrus juice processing facilities and pilot projects to test new compliance measures. Provides limits on pilot projects. Provides reporting requirements.