By Senator Laurent

17-1147A-00

A bill to be entitled

An act relating to air pollution permits; authorizing citrus juice-processing facilities to comply with specified emissions standards in lieu of obtaining air pollution construction and operating permits under ch. 403, F.S.; providing for emissions trading; requiring fees; providing for exceptions; requiring rulemaking; providing for a report to the Legislature; requiring submission of the law for approval by the United States Environmental Protection Agency within specified time limits; authorizing the Department of Environmental Protection to explore alternative permitting; providing an effective date.

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

Section 1. Emissions standards.--Notwithstanding the permit requirements of sections 403.087(1) and 403.0872, Florida Statutes, effective July 1, 2002, all citrus juice-processing facilities must comply with this section in lieu of obtaining air-pollution construction and operation permits.

(1) DEFINITIONS.--As used in this section, the term:

(a) "Department" means the Department of Environmental Protection.

(b) "Existing sources" means emissions units constructed or modified before July 1, 2000.

(c) "Facility" means all emissions units at a plant that processes citrus fruit to produce single-strength or

frozen concentrated juice and other products and by-products 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.

(d) "New sources" means emissions units constructed or modified on or after 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 following emissions limits 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 emission limitations of its Title V permit until October 31, 2002, at which time the requirements of paragraphs (c)-(g) shall supersede the emission 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 as determined by the methodology described in sub-subparagraph (4)(a)1.a.

(d) After October 31, 2002, a facility may not 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 level, expressed in pounds

per million British Thermal Units of heat input, unless otherwise specified, established for the following types of new and existing sources:

1. Citrus peel dryer, regardless of production capacity, 15 lb/hour.

2. Pellet cooler or cooling reel, regardless of production capacity, 5 lb/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 lb/mmBtu.

c. A process steam boiler may not fire any fuel other than natural gas, propane, biogas, or fuel oil. A process steam boiler may not 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 lb/mmBtu;

d. A combustion turbine may not fire any fuel other than natural gas, propane, biogas, or fuel oil. A combustion turbine may not 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 lb/mmBtu;

c. A duct burner may not fire any fuel other than natural gas, propane, biogas, or fuel oil. A duct burner may not 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 g/kg of glass produced.

b. Existing sources with a maximum non-cullet material process input rate of 17.92 tons per hour, 0.54 g/kg of glass produced.

c. A glass plant furnace may not fire any fuel other than natural gas, propane, biogas, or fuel oil. A glass plant furnace may not fire used oil.

7. Biogas flare for anaerobic reactor, not limited.

8. Emergency generator, not limited.

9. Volatile organic compound emission control incinerator, not limited.

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

1. Citrus peel dryer:

a. Sources that are constructed or modified on or before 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 lb/mmBtu.

c. Sources that are constructed or modified after August 7, 1980, that fire residual fuel oil, 0.34 lb/mmBtu.

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 lb/mmBtu.

3. Combustion turbine:

a. Existing sources regardless of fuel:

(I) Existing combustion turbine of approximately 425 mmBtu/hr heat input capacity, 73 lb/hr;

(II) Existing combustion turbines of approximately 50 mmBtu/hr heat input capacity, each, constructed before July 1999, 168 ppmvd at 15 percent $O_{2<}$/;

(III) Existing combustion turbine of approximately 50 mmBtu/hr heat input capacity, constructed after July 1999, 50 ppmvd at 15 percent $O_{2<}$/;

b. New sources with less than 50 MW of mechanically generated electrical capacity, regardless of fuel, 25 ppmvd at 15 percent $O_{2<}$/.

c. New sources with greater than or equal to 50 MW of mechanically generated electrical capacity, regardless of fuel, 3.5 ppmvd at 15 percent $O_{2<}$/.

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 lb/mmBtu.

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 lb/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 level of visible emissions at all times during operation, expressed as a percent of opacity, 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 compound 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 must be certified as true, accurate, and complete by a responsible official of the facility. The term "responsible official," for purposes of this section, 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 must 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 the requirement.

(d) All emissions for which the facility is limited by paragraphs (2)(b) through (2)(f) must 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 must be determined for each emissions unit by means of recordkeeping, test methods, units, averaging periods, or other statistical conventions that 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 semi-annual 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 this section and all applicable department rules, upon request of the department.

(h) Records sufficient to demonstrate compliance with this section and all applicable department rules must be made and maintained available 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 and nitrogen oxides of paragraphs (2)(e) and (f) shall test emissions annually in accordance with department rules using EPA test methods.

1. Tests for particulate matter of 10 microns or less may be conducted using EPA Method 5, if all measured particulate matter is assumed to be 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 must 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 must be conducted using EPA Method 9. Annual tests for visible emissions are not required for biogas flares, emergency generators, and volatile organic compound emission control incinerators.

3. Tests for nitrogen oxides must be conducted using EPA Method 7E.

(j) Measurement of the sulfur content of fuel oil must be by the latest ASTM methods suitable for determining sulfur content. Sulfur dioxide emissions must be determined by material balance using the sulfur content and amount of the fuel 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 any emission limit listed at 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 as the excess, to meet all limits exceeded. Any facility that fails to meet any limit and fails to secure sufficient allowances that equal or exceed the emissions resulting from the failure to meet the limit is subject to enforcement in the same manner and to the same extent as if the facility had violated a permit condition. An allowance, for purposes of this section, means a credit equal to emissions of 1 ton per year of a pollutant listed at paragraph (2)(c), subject to the particular limitations of paragraphs (a) and (b).

(a) Emissions allowances may be obtained from any other facility authorized to operate under this section, if allowances are resulting from real excess, and are not resulting from the shutdown of an emissions unit. Emissions allowances must be obtained for each pollutant for which an excess over the emissions limit occurred in the calendar year. Allowances can be applied on a pollutant-specific basis only. A cross-pollutant trading is not 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 must 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 must 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 must be determined using methods approved by the department. Facilities may accept wet peel from off-site sources for drying if the facility receives sufficient recorded information from the off-site source to measure available oil and oil recovery at the off-site 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 IFAS and approved by the department.

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

(b) A facility located in an area designated as nonattainment for a pollutant is not allowed to acquire allowances of that pollutant for any regulatory purpose. A facility located in an area designated as nonattainment for ozone is not 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 as the facility would be subject to under the

department's Title V program. For purposes of determining fees until the effective date of the limitations of this section, emission fees must be based on the requirements of section 403.0872, Florida Statutes. Upon the effective date of the limitations of this section, the allowable annual emissions for fee purposes must 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 must be documented by making and maintaining records of operation of each source. Fees may not be based on stack test results. If adequate records of operation are not maintained, actual operation is assumed to occur at the source's maximum capacity from January 1 through May 31 and from October 1 through December 31 of the previous calendar year. All annual emissions fees are due and payable April 1 for the preceding calendar year. Failure to pay fees will result in interest and penalties 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 must be deducted and any allowances acquired must be included. All fees must 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 change to the method of operation shall comply with the requirements of this section at all times, except that any facility located in an area designated as nonattainment for any pollutant shall also comply with limits established by department rules for all

changes that increase emissions of that 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 to administer this section. The rules must, to the maximum extent practicable, assure compliance with substantive Clean Air Act requirements. To the extent the rules provide for establishing Best Available Control Technology, Lowest Achievable Emissions Rate, or case-by-case Maximum Achievable Control Technology, the rules are not subject to the requirement of section 120.54, Florida Statutes, for adoption of the lowest regulatory cost alternative.

(8) REPORT TO THE LEGISLATURE.--By March 2004, the department, after consultation with the citrus industry, shall report to the Legislature concerning implementation of this section and shall make recommendations for any changes necessary to improve implementation.

(9) FEDERAL APPROVAL.--By October 1, 2000, the department shall submit this law 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 this law as a revision of Florida's State Implementation Plan within 2 years after submittal, this law does not apply for construction requirements, and the facilities 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 this law as a revision of Florida's approved state Title V program within 2 years after submittal, this law does not apply for operation requirements, and the facilities must immediately comply with all Title V program requirements, and must make application for Title V operation permits within 3 months thereafter.

Section 2. Notwithstanding any law to the contrary, the Department of Environmental Protection is granted limited authority to explore alternatives to traditional methods of regulatory permitting if there is no material increase in pollution emissions. Working with industry, business associations, and other state agencies, the department is directed to look at specific limited projects to test new compliance measures. Any pilot projects initiated to carry out this section may operate for a period of no more than 3 years unless the Legislature enacts law to continue that pilot. The department shall submit a report to the President of the Senate and the Speaker of the House of Representatives before implementation of any regulatory activities under this section.

Section 3. This act shall take effect July 1, 2000.

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SENATE SUMMARY

Authorizes citrus juice-processing facilities to operate under specified emissions limitations rather than air pollution construction and operating permits under chapter 403, Florida Statutes, beginning July 1, 2002. Requires submission of the law for approval by the United States Environmental Protection Agency. Authorizes the Department of Environmental Protection to explore alternative permitting procedures.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.