CHAPTER 2003-144

Committee Substitute for
Committee Substitute for Senate Bill No. 1300

An act relating to citrus; amending s. 403.08725, F.S.; redefining the terms "new sources" and "existing sources"; amending permitted emissions limits; providing for the Department of Environmental Protection to develop, by a specified deadline, management practices to prevent or minimize certain pollutants that are not specifically named in this section; postponing the date by which certain actions must be accomplished; providing specific contents of rules adopted by the department; providing additional emissions limits; providing for the expiration of the program created under this section; providing prerequisites to salary adjustments for certain employees of the Department of Citrus; requiring the Department of Citrus to publish an annual travel report; providing requirements for the contents of that report; providing an effective date.

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

Section 1. Subsections (1), (2), (5), (7), and (8) of section 403.08725, Florida Statutes, are amended, and subsection (10) is added to that section, to read:

403.08725 Citrus juice processing facilities.—

(1) COMPLIANCE REQUIREMENTS; DEFINITIONS.—Effective July 1, 2002, all existing citrus juice processing facilities shall comply with the provisions of this section in lieu of obtaining air pollution construction and operation permits, notwithstanding the permit requirements of ss. 403.087(1) and 403.0872. For purposes of this section, "existing juice processing facility" means any facility that currently has air pollution construction or operation permits issued by the department with a fruit processing capacity of 2 million boxes per year or more. 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, "department" means the Department of Environmental Protection. Notwithstanding any other provision of law to the contrary, for purposes of the permitted emission limits of this section, "new sources" means emissions units constructed or added to a facility on or after July 1, 2002 ~~2000~~, and "existing sources" means emissions units constructed or modified before July 1, 2002 ~~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) Any applicable standard promulgated by the United States Environmental Protection Agency.

(b) Each facility shall comply with the emissions limitations of its Title V permit, and any properly issued and certified valid preconstruction permits, until October 31, 2002, at which time the requirements of this section shall supersede the requirements of the permits. Nothing in this paragraph shall preclude the department's authority to evaluate past compliance with all department rules.

(c) After October 31, 2004 ~~2002~~, for volatile organic compounds, the level of emissions achievable by a 50 percent recovery of oil from citrus fruits processed as determined by the methodology described in subparagraph (4)(a)1. One year after EPA approval pursuant to subsection (9), 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 subparagraph (4)(a)1.

(d) After October 31, 2004 ~~2002~~, ~~except as otherwise provided herein,~~ no facility shall fire fuel oil containing greater than 0.1 ~~0.5~~ percent sulfur by weight. ~~Those facilities without access to natural gas shall be limited to fuel oil containing no greater than 1 percent sulfur by weight.~~ No source shall fire any fuel other than fuel oil, natural gas, ethanol, propane, d-limonene, or biogas. No source shall fire used oil. ~~In addition, facilities may use fuel oil with no greater than 1.5 percent sulfur by weight for up to 400 hours per calendar year. 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) All new boilers and coolers must have a stack height of at least 2.5 times the height of adjacent buildings, and no more than 65 meters, measured from the ground-level elevation at the base of the stack.

(f)~~(e)~~ After October 31, 2004 ~~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. Sources fired with natural gas, ethanol, propane, ~~ethanol,~~ biogas, or d-limonene and existing sources fired with fuel oil: not limited.

b. New sources fired with fuel oil: 0.05 ~~0.10~~ pounds per million British thermal units.

~~No process steam boiler shall fire any fuel other than natural gas, propane, ethanol, biogas, d-limonene, 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, ethanol, ~~or~~ biogas, or d-limonene: 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, ethanol, propane, ~~or~~ biogas, or d-limonene: 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: existing sources with a maximum noncullet material process input rate of 18 tons per hour; hourly emissions limited as determined by the following equation: Emission limit (pounds per hour) = 3.59 x (process rate, tons per hour raised to the 0.62 power). ~~No glass plant furnace shall fire any fuel other than natural gas, propane, biogas, d-limonene, 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.

(g)~~(f)~~ After October 31, 2004 ~~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 fire natural gas, propane, ethanol, biogas, or d-limonene: not limited.

b. Sources that fire fuel oil: 0.34 pounds per million British thermal units.

2. Process steam boiler:

a. New sources with a heat input capacity of 67 million British thermal units per hour or less and existing sources regardless of heat input capacity: not limited.

b. New sources with a heat input capacity of more than 67 million British thermal units per hour: 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: 42 parts per million volume dry at 15 percent oxygen.

(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, or biogas: not limited.

b. Sources fired with 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.

(h)~~(g)~~ After October 31, 2004 ~~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: 20 percent.

8. Emergency generator: 20 percent.

9. Lime storage silo: 10 percent.

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

(i) The department may develop, with the cooperation of the Florida Citrus Processors association, management practices for the prevention or minimization of any other pollutant that is specifically regulated under the Clean Air Act but not specifically addressed by this section. Such management practices must be developed before the United States Environmental Protection Agency issues its final approval of the program under this section. Once such management practices are developed, each source subject to this section shall comply with such practices. The department shall adopt such practices by rule when practicable.

(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 October 31, 2004 ~~2002~~, emission fees shall be based on the requirements of s. 403.0872. Commencing July 1, 2004 ~~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 actual operation rates and heat input are not maintained, actual operation shall be assumed to occur at the source's maximum capacity during hours of actual operation, if adequately documented. In the event that adequate records of hours of operation are not maintained, the source shall be assumed to have operated 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.

(7) RULES.—The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section. Such rules shall, to the maximum extent practicable, assure compliance with substantive federal Clean Air Act requirements. The department shall require the registration of facilities and shall provide for such participation by the public and the United States Environmental Protection Agency as is required by Title V of the Clean Air Act.

(8) LEGISLATIVE REVIEW.—By March 2007 ~~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.

(10) ADDITIONAL EMISSIONS LIMITS AND EXPIRATION OF THIS PROGRAM.—

(a)1. No later than June 15 of each calendar year, each citrus processing facility subject to this section shall provide the total facility fruit throughput, in standard box measurement, for the previous June 1 through May 31 period, to the Florida Citrus Processors Association. The facility's responsible official must certify such information as true, complete, and correct. By June 30 of each calendar year, the Florida Citrus Processors Association shall provide to the department the aggregate fruit throughput for all facilities that are subject to this section. In addition, for purposes of assuring compliance with this section, the Florida Citrus Processors Association shall provide the department with throughput information for individual facilities upon request of the department.

2. On July 31 following the close of a production year (June 1 through May 31) during which the industrywide fruit throughput exceeds 350 million boxes, the terms and conditions of paragraphs (1)-(4) and (6) shall expire and all facilities subject to those provisions shall become subject to all then-existing department air-permitting requirements for the construction and operation of major air-pollution sources and all generally applicable air-pollution-limiting department rules. Such facilities shall apply for individual Title V permits on or before July 31 of that year, and all facility emissions limits and unit emissions limits effective as of July 30 of that year shall continue to be the effective limits for such units and facilities unless changed through normal department air-pollution preconstruction permit processes. Each facility's fruit throughput is limited to the actual throughput of the most recent production year (June 1 through May 31) unless the throughput level is changed through normal department air-pollution preconstruction permit processes. Any throughput increase above such a throughput level is considered to be a relaxation of a restriction on pollutant-emitting capacity and is subject to Rule 62-212.400(2)(g), Florida Administrative Code.

3. If a facility makes timely application for a Title V permit in accordance with this section and provides information to make the application complete in accordance with department rules, that facility is not considered to be operating without a permit during the processing of the Title V permit if the facility continues to provide the department with all Title V compliance reports and monitoring reports required by 40 C.F.R. part 70 during that period.

(b)1. The department shall, 3 and 6 years after the full implementation of this regulatory program, evaluate the program to determine if it is successful. The evaluation must address the consolidation of the industry to date and the related changes of emissions units and emissions and modeling of the impacts of such emissions changes, and must be reported to the United States Environmental Protection Agency's Region 4 office, with a copy to the Florida Citrus Processors Association and the federal Class I area land management agencies. The department, in consultation with the United States Environmental Protection Agency, shall determine the success of the program by a comparison of industrywide aggregate air emissions increases and reductions resulting from regulation under this program versus emissions increases and reductions that would have resulted from regulation under the federal new source review program during each 3-year evaluation period. During the evaluation period, the department shall track new sources added to citrus facilities and estimate the emissions limitations that would have resulted from the federal new source review regulations in effect at the time of the addition of each source. As used in this paragraph, the term "regulations in effect" means those regulations that the United States Environmental Protection Agency has published in the Federal Register as a final regulation.

2. If, at the end of each evaluation period, the comparison of emissions increases and decreases shows that this program results in an overall emissions benefit that is consistent with the intention of the program and is protective of air quality, this regulatory program shall be considered successful. For purposes of this review, the target emissions increases and decreases for this program are:

a. This program is intended to significantly reduce allowable and actual emissions of volatile organic compounds and sulfur dioxide.

b. This program is intended to reduce allowable emissions of particulate matter.

c. This program is not intended to reduce actual emissions of carbon monoxide or nitrogen oxides.

d. This program is intended to result in an overall emissions benefit that is equal to or better than the benefit that would have resulted from regulation under the federal new source review program, considering the industrywide aggregate of regulated air emissions.

3. If this program is not considered successful, on July 31 following the date of completion of the evaluation, the terms and conditions of paragraphs (1)-(4) and (6) shall expire, and all facilities subject to such provisions shall

become subject to all then-existing department air-permitting requirements for construction and operation of major air pollution sources and all generally applicable air pollution-limiting department rules. Such facilities must apply for individual Title V permits on or before July 31 of that year, and all facility emissions limits and unit emissions limits effective as of July 30 of that year shall continue to be the effective limits for such units and facilities, with the exception of any emissions limits required under paragraph (10)(c), unless changed through normal department air-pollution preconstruction permit processes.

4. If a facility makes timely application for a Title V permit in accordance with this section, and provides information to make such an application complete in accordance with department rules, that facility is not considered to be operating without a permit during the processing of the Title V permit if the facility continues to provide the department with all Title V compliance reports and monitoring reports required by 40 C.F.R. part 70 during that period.

(c) If the program is not considered successful, the department shall identify each air pollutant, PM10, NOx, SO2 and VOC, for which the industrywide emissions increases are greater than would have resulted under the federal new source review program and shall quantify the extent to which such emissions exceed such levels. For each pollutant so identified, the facilities subject to this section shall individually reduce emissions of such pollutants to the levels equivalent to those that would have resulted under the federal new source review program. This may be done by reducing emissions at one or more emissions units operated within the industry, or by making reductions of such pollutants elsewhere within the peninsular portion of this state, as long as such reductions are real, accurately quantifiable, practically enforceable, and not required or used for any other air-quality purposes. If emissions reductions are taken at emissions units operated within the industry, each applicable facility shall receive emissions limits at such units in Title V permits in addition to limits that would result under paragraph (10)(b).

Section 2. Any change in the salary of an employee of the Department of Citrus which is at or above $100,000 annually must be approved by the full membership of the Florida Citrus Commission at the meeting of the commission in July 2003, or at the first subsequent meeting, and before any subsequent salary adjustment is made.

Section 3. The Department of Citrus shall, at the end of each fiscal year, publish an annual travel report that states, for each staff member of the Department of Citrus and each member of the Florida Citrus Commission who has traveled during that year, the name of the person, the person's position title, the date on which a claim for reimbursement was submitted, the dates of travel, the destinations, the purpose of the travel, and all expenditures that resulted from the travel.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor June 12, 2003.

Filed in Office Secretary of State June 12, 2003.