



MNS:SLS:rcm
90-5-2-1653

February 19, 1986

David Dee, Esquire
Carlton, Fields, Ward, Emmanuel,
Smith & Cutler, P.A.
Lewis State Bank Bldg.
P.O. Drawer 190
Tallahassee, Florida 32302

DER

FEB 24 1986

BAQM

Re: Platt v. EPA, No. 85-3946
(11th Cir.)

Dear David:

We have carefully reviewed the comments made by Hillsborough County on the draft settlement agreement, preliminary determination and draft permit. Since we could not meet on February 14 and Hillsborough County is not available to meet this week, we thought that a written response might increase the productiveness of the meeting scheduled on February 27, 1986.

Settlement Agreement, paragraph 4

1. We propose the following language:

"If the terms and conditions of the final permit are substantially the same as, or do not alter the meaning of, the terms and conditions of the draft permit, Hillsborough County agrees not to seek judicial review of the agency action on the final permit. If the terms and conditions of the final permit are not substantially the same as, and alter the meaning of, the terms and conditions of the draft permit, Hillsborough County reserves the right to seek judicial review of all issues concerning EPA action on the final permit and Administrative Order, including the right to seek a judicial determination of EPA's authority to require the permit, and the right to seek judicial review of any other issues that Petitioners raised or could have raised in this case (No. 85-3946). EPA reserves the right to raise any defense it could have raised in this case (No. 85-3946)."

Hillsboro County File

TITLE

A RULE AMENDING CHAPTER 1-3 OF THE RULES OF THE HILLSBOROUGH COUNTY ENVIRONMENTAL PROTECTION COMMISSION RELATING TO AIR POLLUTION; PROVIDING FOR A STATEMENT OF INTENT AND DECLARATION OF LEGISLATIVE FINDINGS; PROVIDING PROHIBITIONS; REQUIRING PERMITS AND NECESSARY PRECAUTIONS; PROVIDING FOR EXCESS EMISSIONS; PROVIDING AMBIENT AIR QUALITY STANDARDS, MAXIMUM ALLOWABLE INCREASES AND AIR POLLUTION EPISODES; PROVIDING FOR PREVENTION OF SIGNIFICANT DETERIORATION; PROVIDING EMISSION LIMITING AND PERFORMANCE STANDARDS INCLUDING PARTICULATE, VISIBLE AND SPECIFIC SOURCE EMISSION LIMITS; PROVIDING FOR SOURCE SAMPLING AND MONITORING; PROVIDING FOR MOBILE SOURCES; AND PROVIDING FOR SEVERABILITY AND THE EFFECTIVE DATE.

WHEREAS, Chapter 84-446, Laws of Florida authorizes the Commission to adopt, revise and to amend from time to time rules and regulations necessary for the implementation of the Act, and

WHEREAS, the Commission is the head of an approved local program pursuant to Section 403.182 Florida Statutes and is obligated to enforce standards at least as strict as those required by the Florida Department of Environmental Regulation, and

WHEREAS, the Commission finds that the following rules and regulations are reasonably necessary to provide for the effective and continuing control and regulation of air pollution in Hillsborough County,

NOW, THEREFORE, the Environmental Protection Commission of Hillsborough County, in meeting this 26th day of February, 1986, enacted the following:

Section 1. Chapter 1-3 of the Rules of the Hillsborough County Environmental Protection Commission, Air Pollution, shall be amended to read as follows:

Rules of the Hillsborough County
Environmental Protection Commission

Chapter 1-3

Air Pollution

DER

- PART 1
- 1-3.10 Statement of Intent
- 1-3.11 Declaration of Legislative Findings
- 1-3.12 Definitions
- PART 2
- 1-3.20 Circumvention Prohibited
- 1-3.21 Permits Required
- 1-3.22 Prohibitions
- 1-3.23 Necessary Precautions
- 1-3.24 (Reserved)
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- PART 3
- 1-3.30 Ambient Air Quality Standards
- 1-3.31 Maximum Allowable Increases
- 1-3.32 Air Pollution Episodes
- PART 4
- (Reserved)
- PART 5
- 1-3.50 New Source Review
- PART 6
- 1-3.60 Emission Limiting and Performance Standards
- 1-3.61 Particulate Emissions
- 1-3.62 Visible Emissions
- 1-3.63 Specific Source Emissions
- PART 7
- 1-3.70 Source Sampling and Monitoring
- PART 8
- 1-3.80 Mobile Sources

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PART 1

1-3.10 Statement of Intent:

(1) The Commission promulgates this rule for the purpose of implementing the intent of the Florida Legislature as declared in Chapter 84-446, Laws of Florida to insure the atmospheric purity and freedom of the air of Hillsborough County from contaminants or synergistic agents injurious to human, plant, or animal life, which unreasonably interfere with comfortable enjoyment of life or property or the conduct of business. In so doing, the Commission recognizes that the Florida Department of Environmental Regulation has environmental regulatory and enforcement authority pursuant to Chapter 403, Florida Statutes. It is the intent of the Commission to require compliance with the Department's permitting rules and emission limits in Hillsborough County, except as may be otherwise provided herein, so as to further the policies of preventing significant deterioration, protecting air quality existing at the time the Department adopted its standards, and of upgrading air quality in the county.

increased source of air pollution poses a possibility of degrading existing high air quality or ambient air quality established by this rule, the Director shall not recommend issuance of a Department permit for such source or proposed source until he has received reasonable assurance that such source, construction or development will not violate this rule.

(2) Standards and provisions of the Department, as here adopted, are incorporated in the form existing on the date of adoption of this rule or relevant amendment.

(3) Department rules, as adopted herein and incorporated by reference, shall be interpreted consistently with official Department policy. For purposes of this rule, official Department policy shall include written policy statements signed by the Secretary of the Department, Chief of the Bureau of Air Quality Management or the Manager of the Southwest District Office. Other documented representations of Department policy may be used in support of a policy interpretation, but shall not themselves be official policy.

1-3.11 Declaration of Legislative Findings:

The Commission hereby finds that emissions into the atmosphere of Hillsborough County in excess of, or contributing to an exceedance of, the standards hereinafter provided may reasonably be expected to cause air pollution prohibited by Section 17 of the Act. The Commission also finds that emissions, while in compliance with source specific emission limiting standards, may at times constitute nuisances as defined by Section 3(12) and prohibited by Section 16 of the Act.

1-3.12 Definitions:

(1) Definitions contained in Chapter 84-446, Laws of Florida, apply to this rule.

(2) With the exception of the definitions for "Air Pollution", "Odor", "Particulate Matter", and "Standard Conditions", definitions contained in Section 17-2.100, F.A.C., shall, to the extent applicable apply to this

(3) The following specific definitions shall apply to this rule:

(a) "Commission" shall mean the Hillsborough County Environmental Protection Commission.

(b) "Director" shall mean the Director of the Commission or his authorized agent.

PART 2

1-3.20 Circumvention Prohibited:

No person shall circumvent any air pollution control device, or allow the emission of air pollutants without the applicable air pollution control device operating properly.

1-3.21 Permits Required:

(1) No air pollution source may be constructed, modified or operated in Hillsborough County without a valid permit as may be required by the Department pursuant to Section 17-2.210, F.A.C., Chapter 17-17, F.A.C., or as may be otherwise required by these rules.

(2) Application for or renewal of a Department permit, or copy where appropriate, shall be submitted to the Director for his review pursuant to Department requirements and recommendation according to this rule. Reasonable assurances shall be provided that all Department and Commission standards have or will be met by the applicant or the activity sought to be permitted. Activities under Citation at the time of application shall have the Citation resolved prior to the Director recommending approval of an application involving the same activity.

(3) No air pollution source may be constructed, modified or operated in Hillsborough County in violation of any conditions specified on the permit, whether issued by the Commission or by the Department, or certification authorizing the activity or as may be incorporated by reference within the conditions of the permit authorizing the activity. Violation of any such permit or certification condition is a violation of this rule.

1-3.22 Prohibitions:

(1) No person shall

operate, modify or rebuild an existing source or by any other means release or take action which would result in the release of air pollutants into the atmosphere of the County which will result in, including concentrations of existing air pollutants, ambient air concentrations greater than ambient air quality standards as defined in this rule.

(2) No person shall cause, let, permit, suffer or allow the discharge into the atmosphere of any pollutant from any source or activity in excess of emission standards herein established.

(3) No person shall cause, let, permit, suffer or allow the discharge into the atmosphere of any pollutant from any source or activity that causes or tends to cause or to contribute to an objectionable odor.

1-3.23 Necessary Precautions:

No person shall store, pump, handle, process, load, unload or use in any process or installation volatile organic compounds or organic solvents without applying known and existing vapor emission control devices or systems as may be necessary.

1-3.24 (Reserved)

1-3.25 Excess Emissions:

(1) Excess emissions specifically allowed by Section 17-2.250, F.A.C., shall not be violations of this rule unless they are determined to be nuisances. The Director may request written verification that any such emissions fall within the designated conditions.

(2) Excess emissions which are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure which may be reasonably prevented during start-up, shut down, or malfunction, are prohibited.

PART 3

1-3.30 Ambient Air Quality Standards:

(1) Standards established in Section 17-2.300(3), F.A.C., are adopted and here incorporated by reference.

(2) Standards established in Section 17-2.300(4), F.A.C., are adopted and here incorporated by reference.

formed in accordance with the State of Florida Department of Environmental Regulation "State-Wide Quality Assurance Plan, January 1985".

1-3.31 Maximum Allowable Increases:

Maximum increases allowed by Section 17-2.310, F.A.C., are adopted and here incorporated by reference.

1-3.32 Air Pollution Episodes:

(1) The Department Secretary has authority pursuant to Section 17-2.320 F.A.C. to declare that an air pollution episode exists. The Director shall notify the Secretary when such declaration is deemed appropriate for Hillsborough County or portion thereof according to Department criteria for determining an "alert", "warning", or "emergency".

(2) It shall be a violation of these rules for any person or facility to fail to comply with the curtailment provisions required by Section 17-2.320(2), F.A.C.

PART 4

(Reserved)

PART 5

1-3.50 New Source Review:

All provisions contained in Part V of Chapter 17-2, F.A.C., pertinent to Hillsborough County, are adopted and here incorporated by reference.

PART 6

1-3.60 Emission Limiting and Performance Standards:

All provisions contained in Part VI of Chapter 17-2, F.A.C., pertinent to Hillsborough County, are adopted and here incorporated by reference, except for Section 17-2.610(2), F.A.C., and except as may be modified herein.

1-3.61 Particulate Emissions:

In situations where the particulate emission limits under RACT, pursuant to Section 17-2.650(2), F.A.C., are less restrictive than process weight limits pursuant to Section 17-2.610, F.A.C., process weight limits shall apply, except as provided in Section 17-2.650(2)(c)1.c, F.A.C.

1-3.62 Visible Emissions:

Visible emissions in Hillsborough County from a single source or combination of sources sharing a common discharge point shall not have an opacity greater than 20% except as otherwise specifically provided in these rules. The ability to comply with all other standards does not relieve a source from this 20% opacity standard.

1-3.63 Specific Source Emissions:

Emissions for the following specific sources shall have the following limits in Hillsborough County regardless of provisions otherwise contained in this rule or in Part VI of Chapter 17-2, F.A.C.:

(a) sulfuric acid plants or plant sections manufacturing sulfuric acid - no visible emissions except for a 30 minute period during plant startup, with opacity for such period allowed up to 40%.

(b) nitric acid plants producing weak nitric acid (50 to 70%) by pressure or atmospheric pressure process - no visible emissions.

(c) existing fossil fuel steam generators - sulfur dioxide emissions shall be limited to 1.1 pounds per million BTU heat input when liquid fuel is burned.

(d) fossil fuel steam generators - visible emissions are limited to 20% opacity except for excess emissions and except for any two minute period in any hour where opacity to 40% is allowed.

PART 7

1-3.70 Source Sampling and Monitoring:

Source sampling and monitoring shall be performed in compliance with Department and EPA requirements so as to determine as accurately as possible actual operational emissions.

PART 8

1-3.80 Mobile Source:

(1) No person shall cause, let, permit, suffer or allow the emission of smoke from motor vehicles on public roadways which is visible within the

proximity of the roadway.

seconds.

(2) For purposes of this part:

(a) "smoke" is defined as small gasborne and airborne particles, exclusive of water vapor, from a process of combustion, in sufficient number to be visible

(b) "motor vehicle" is defined as any device powered by an internal combustion engine, excluding 2 cycle gasoline engines manufactured prior to 1976, and on or in which any person or property may be transported.

Section 2. Severability

It is declared to be the intent of the Environmental Protection Commission that the provisions of this rule be severable. If one or more of the sections, subsections, sentences, clauses or provisions are held invalid, for whatever reason, the remaining portions shall not be effected.

Section 3. Effective Date

This rule shall be effective upon approval in accordance with law.

Preliminary Determination

We propose the following language for paragraph 1,
page 1:

"In the summer of 1985, EPA became aware that the Florida Electrical Power Plant Siting Act (PPSA) under which the site certification was issued, restricts the authority of the State of Florida to implement any regulation containing to power plants other than those set out in the Act. Consequently, EPA determined that the Florida PSD regulations are superceded by the PPSA, and could not legally be approved by EPA as part of the State Implementation Plan (SIP) since the PPSA conflicts does not comply with EPA PSD regulations both procedurally and substantively. Thus, EPA concluded that the Hillsborough County energy recovery facility (ERF), which was under construction, did not possess a valid PSD permit. EPA's remedy for this situation was to issue an Order under Section 167 of the Clean Air Act for Hillsborough County to either cease construction or apply for a federal PSD permit under 40 C.F.R. 52.21."

We also propose to substitute the following paragraph after paragraph 1, page 1 in lieu of your suggested paragraph:

"Hillsborough County did not agree that it lacks a valid PSD permit and sought judicial review of the EPA order requiring a federal permit. Hillsborough County submitted to the federal PSD permitting process under protest. EPA and Hillsborough County entered into a settlement whereby EPA agreed to propose this draft permit and Hillsborough agreed to dismiss its petition for review."

3. We accept the proposed change in page 1, paragraph 3.
4. We do not accept the proposed change in page 5, paragraph 6. The final proposal by Hillsborough County, according to our records, was .021 gr/scf, which is equivalent to .42 lbs/ton.
5. We propose the following language for page 7, paragraph 1, (after striking the last five sentences of paragraph 1, starting on line 7) in lieu of your proposed change:

Based on an uncontrolled particulate emission rate of 30 lbs/ton of feed, the ESP efficiency would have to be at least 98.7% to meet the particulate limit of 0.021 gr/scf-12. Assuming, 98.7% of lead emissions are controlled by the ESP, the actual lead emission rate to the atmosphere would be 0.00029 lbs/mmBTU, or 0.0026 lbs/ton of feed. This is equivalent to 0.6 tons/year, which is equal to the significant emission rate for lead. The applicant disagrees that this emission rate can be met, but has submitted information showing that lead emissions can be expected to be no more than 5% of the particulate emissions. Recent tests conducted at the Pinellas County Resource Recovery Facility show that the lead emissions vary from 0.0026 lbs/ton to 0.0011 lbs/ton and the lead as a percent of particulate varies from 1.4% to 5.9% (the percentage of lead in the particulate does not vary consistently with the lead emission rate). Since a figure of 5% of particulate matter agrees with the information submitted by the applicant and with information available to the Department, that figure has been selected as BACT.

Draft Permit

6. With respect to page 17, paragraph 1.a.(4), we cannot accept a 24 hour average for the SO₂ limit. Because there is a 3 hour standard and a 3 hour increment for SO₂, the emission limitation must be expressed as a 3 hour limit. However, we can accept a SO₂ limit using a 3 hour average equivalent to the 3.2 lb./ton, maximum 24 hour average. Please provide an equivalent number, with appropriate documentation. However, please note the air quality impact analysis may need to be revised to reflect the 3 hour SO₂ average you propose.

7. We propose the following language in page 17, paragraph 1.a.(7), in lieu of your proposed change:

"The concentration of lead in the stack gas, as measured by method 12 under specific condition 2(k), shall not exceed 5% of the concentration of particulate matter in the stack gas, as measured by method 5 under specific condition 2(e). Compliance tests for lead and particulate shall be conducted simultaneously."

8. We do not accept the proposed change in page 18, paragraph 1.a.(11). As indicated in item 6, the 24 hour average for SO₂ should be converted to an equivalent 3 hour average. Although your letter states that the emission limits for other pollutants were based on 8 hour average, we have no information to verify that statement. Please indicate the source of your information.

9. With respect to the proposed change in page 20, paragraph 2, we understand that the stack was modelled at 220 feet. Since a stack less than, or in excess of, 220 feet could result in air quality impacts greater than the modelled impacts, we propose the following language:

"The height of the boiler exhaust stack shall be 220 feet (+ 2 feet) above grade at the base of the stack."

10. We do not accept the proposed change on page 20, paragraph 5. This information should have been submitted in the permit application. It should be available to Hillsborough County now and, if not, it should be submitted as soon as it is received.

Three other issues have been noted by the Agency. First, the permit application provides no information on auxiliary fuel to start the facility. It is my understanding from our discussion on Friday that Hillsborough County does not intend to use any auxiliary fuel. Second, the PPSA certification indicates that Hillsborough County intends to build a sewage treatment plant adjacent to the resource recovery facility. Depending on certain facts such as whether the plant is located on the same property as the facility, whether they will be built at the same time, and the type and levels of pollutants emitted, the sewage treatment plant and the resource recovery facility may be a single source requiring a single permit. Please provide me with this information and enough information to determine whether the two facilities will constitute one or two "establishments" under the SIC manual. Third, consistent with paragraph 5, page 8, of the preliminary determination the draft permit should contain the following condition:

"Design of the source shall include sufficient provisions for the future installation of a wet or dry flue gas scrubber system."

The Agency has accommodated both of Hillsborough County's major concerns: the lead emission limit and the SO₂ averaging time. Thus, we believe this proposal provides a suitable basis for settlement.

We are scheduled to meet with you at Region IV, 345 Courtland Street, N.E., Atlanta, Georgia on February 27, 1986. I would like to schedule that meeting for 12:30 p.m. in the hope that will allow everyone to make the trip in a single day. In the event that Hillsborough County finds this proposal acceptable, and can provide the necessary information on the sewage treatment plant, the meeting may be unnecessary.

If this proposal is acceptable, please notify me and I will proceed immediately to secure formal approval of senior EPA officials and the Assistant Attorney General. As I mentioned before, the approval process takes a minimum of five working days. I suggest that the approval of the Hillsborough County Commissioners and the State be sought simultaneously.

Please contact me as soon as possible with any comments you may have on this proposal.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By: *Susan L. Smith*

Susan L. Smith, Attorney
Environmental Defense Section

cc: Jewel Harper, Esquire
Roger Pfaff
Region IV - EPA

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CDM

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February 6, 1986

Mr. David S. Dee
Carlton, Fields, Ward, Emmanuel
215 S. Monroe, Suite 410
Tallahassee, FL 32302

Dear Mr. Dee:

This letter provides additional information pertaining to the lead emission factor for the proposed Hillsborough County solid waste energy recovery facility.

The 2.2 to 9.0 percent of particulate rate for lead emissions discussed in our letter dated February 3, 1986, is based on a review of permit applications and literature sources. These are presented below. The highest values (9-10 percent) appear in a 1978 article by Greenberg, et al. (Environmental Science & Technology, May 1978). The average lead in suspended particulate as presented in the article was 9.7 percent. It appears that some permitted values, as listed below, were based, in part, on the work by Greenberg:

<u>Plant Location</u>	<u>Proposed or Permitted Limit of Lead as Percent of Particulate</u>	<u>Particulate Control Device</u>	<u>Information Source</u>
Babylon, NY	3.2	Dry Scrubber ESP	PSD Permit. Vendor supplied.
Bergen County, NJ	5.0	ESP	PSD Permit Application. Vendor supplied.
Essex County, NJ	10.0	ESP	PSD Permit.
Boston, MA	2.2	ESP	PSD Permit Application. (withdrawn)
NESWC, North Andover, MA	9.0	ESP	PSD Permit.
Brooklyn (Navy Yard), NY	9.0	Dry Scrubber Fabric Filter	PSD Permit Application.

Mr. David S. Dee
 February 6, 1986
 Page 2

Upon rechecking numbers presented in our letter to you dated February 3, 1986, 5 percent of the particulate emission level equates to 0.021 lbs lead/ton of refuse fired rather than the 0.010 lbs lead/ton shown in the letter. We have also checked the effects of various emission factors on ground level concentrations for the Hillsborough County facility. The results are presented in the following table:

<u>Percent of Particulate*</u>	<u>Lead Emission Factor</u>	<u>Ground Level Concentration</u>	<u>Percent of NAAQS</u>
10	0.041 lbs/ton	0.029 ug/m ³	1.9
5.5	0.023 lbs/ton	0.016 ug/m ³	1.1
5	0.021 lbs/ton	0.015 ug/m ³	1.0

*Assumes particulate emission limitation of .021 grains/dscf corrected at 12% CO₂.

As shown in the table, under these scenarios, the ground level concentrations of lead is 1 to 2 percent of the ambient air quality standard and also thus agrees with the statement by EPA that "The amount of lead emitted is not considered to have a significant impact upon the environment."

Based on a review of the stack test data for lead and particulates as presented in the CARB report and the data supplied to EPA by Ogden Martin Systems, Inc. on January 20, 1986, it is apparent that the data exhibits a fairly wide range of emission levels. However, given that the database for lead in refuse and for lead in particulate as a function of incinerator type and of air pollution control system type is so sparse as to be statistically invalid, we do not believe that the approach of setting BACT by lead as a percent of particulates is defensible.

A standard for lead emissions must incorporate the range of the data available commensurate with environmental impact. Since the predicted impact for lead emissions is small, even at 10 percent of the emitted particulate value, 1.9 percent of the NAAQS (see table above), it appears reasonable to issue a permit with a value for lead emissions near 5.5 percent of the emitted particulate.

Very truly yours,

CAMP DRESSER & MCKEE INC.



William R. Swanson

WRS/jms/187-13