

MEMORANDUM

TO: Al Linero

FROM: J. Kissel

DATE: April 3, 1997

SUBJECT: Farmland Hydro - PSD Question

Farmland made a request which we considered to be a modification subject to PSD review. They did not agree with this interpretation, and we submitted the case to the EPA (see attached letter to Brian Beals). Brian told both you and me that in cases like this we should interpret our own rules, and I'm writing this memo to request an interpretation from you in this case.

Florida's definition of modification requires "a change in the method of operation which would include an increase in the actual emissions" and states that "a change in the method of operation shall not include an increase in the . . . production rate unless such change would be prohibited under any federally enforceable permit condition."

We interpret the words "increase in actual emissions" to mean that for a PSD major facility, this increase refers to prior actual to future potential emissions (annual basis).

In this Farmland case, they have some federally enforceable permits which simply state "production is limited to 100 tons per hour" (using the example of the EPA letter). To change this to "production is limited to 100 tons per hour (30 day average) with a one hour maximum production rate of 120 tons per hour" appears to be a relaxation which may increase actual emissions as interpreted above. This seems consistent with your 1/29/97 e-mail to me (attached).

On the other side of this question is the fact that the Department has allowed similar situations to be processed without being subject to PSD review. Farmland has presented an example (attached 11/25/96 Koogler letter) to be considered as precedent in this case, and Pradeep has stated that you and Clair were involved. Pradeep has also made the point that the intent of past permit conditions should be considered, i.e., the prior permits simply state production rates as "100 tons per hour" and do not define production rates as a one hour maximum, thus leaving room for interpretation.

c: P. Raval, Koogler & Associates

c:\farml497 gjk



# Department of Environmental Protection

Lawton Chiles  
Governor

Southwest District  
3804 Coconut Palm Drive  
Tampa, Florida 33619

Virginia B. Wetherell  
Secretary

November 20, 1996

Mr. Brian Beals  
U.S. EPA, Region 4  
Atlanta Federal Center  
100 Alabama St. S.W.  
Atlanta, GA 30303-3104

*Brian*

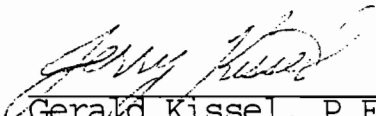
Dear ~~Mr.~~ Beals:

We have an applicant with a number of federally enforceable construction permits which include various emission limits, and production limits in the format: "production is limited to 100 tons per hour." The applicant has requested that these production limits be changed to the statement: "production is limited to 100 tons per hour (30 day average) with a one hour maximum production rate of 120 tons per hour." None of the allowable emission rates or annual production rates (as opposed to hourly production rates) will change. No capital expenditures are involved. Does this constitute a PSD modification?

The Florida definition of PSD modification mirrors the federal rule and is attached.

If I can clarify further, please call me at (813) 744-6100, Extension 107.

Sincerely,

  
Gerald Kissel, P.E.  
District Air Engineer

cc: Al Linero, Florida DEP

c:\epaf1196

**RECEIVED**

APR 07 1997

BUREAU OF  
AIR REGULATION

Date: 1/29/97 09:31:36 AM  
From: Alvaro Linero TAL  
Subject: Production Increase PSD Review Request - Novemebr 20, 1996

Hey Jerry. I got a call from Brian Beals. He wants us to handle this question. Before giving Pradeep Raval a final answer, I would ask him how the 3-hour and 24-hour standard(s) are affected (since it looks like the annual standards would not be affected).

I would also insist on a statement from someone who really knows what the units are capable of doing (efficiently and without a decline in pollution control equipment performance). The manufacturer or a design firm would be believable. A chemical or mechanical P.E. employed by the company would also be credible toward attaining reasonable assurance.

I understand that until recent years, we considered capacity to be 110% of the permitted rate. Sometime later, it was established that capacity is 100% of the permitted rate. As a matter of equity and fairness, some consideration was given to those who requested production increases to 110% of previous limits. Maybe Bill Thomas knows the issue better than you or me.

Please review the permitting history and see if they already got their "extra 10%." Not that it's a "given". Find out if the previous permitted rates were on a one-hour or 24-hour basis.

In general, however, if a company redefines a 1-hour production limit to a 30-day limit, this is a permit relaxation which increases actual emissions. \*  
Because actual emissions changes are based on comparisons of past actual emissions to future potential emissions, they can trip PSD. Again, I believe reasonable assurance must come from people knowledgeable about more than just permitting or pollution control - like process or mechanical engineering.

Thanks. Al.

\* J. K. COMMENT: We may not have to get into the detail of the rest of this memo because we can simply say: 1) This is a modification; 2) thus it's subject to PSD review (and we know prior actuals and future potential)



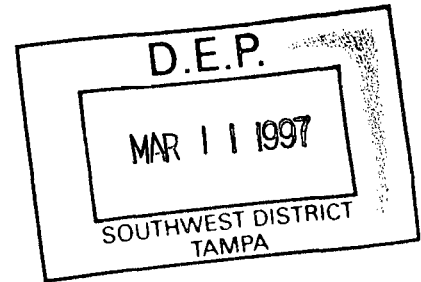
**KOGLER & ASSOCIATES**  
**ENVIRONMENTAL SERVICES**

4014 NW THIRTEENTH STREET  
GAINESVILLE, FLORIDA 32609  
352/377-5822 ■ FAX 377-7158

KA 102-96-04

November 25, 1996

Mr. Johnny Cole  
Florida Department of  
Environmental Protection  
Northeast District  
7825 Baymeadows Way, Suite B-200  
Jacksonville, FL 32256-7577



Subject: Hamilton County - AP  
PCS Phosphate  
Request for Minor Permit Modifications

Dear Mr. Cole:

This is a follow up to Pradeep Raval's telephone conversations on November 15, 1996, with Mr. Clair Fancy and you regarding a minor modification of the permitted operation rates of several emissions units at PCS Phosphate, located in Hamilton County, Florida.

As you are aware, this facility was previously owned and operated by Occidental Chemical Corporation. Occidental's permits contained a provision allowing operation of an emission unit above the permitted process/production rate so long as the maximum allowable emission rates were not exceeded. Over the years, the wording in FDEP permits has evolved to where hourly process/production rates are not allowed to exceed the permitted rates.

In order to regain previous operational flexibility, PCS is requesting a minor permit change to allow for normal fluctuations in plant operations. The units will continue to operate in a normal manner, except that periodically they may be operated at a higher rate (see Table 1).

We request that certain existing permits (see Table 1) be amended to reflect an hourly rate based on a 30 day, 12 month rolling average; and, also a maximum one hour rate. PCS suggests no changes in currently permitted emission rates, in order to facilitate and expedite the permitting process. Mr. Clair Fancy noted that this approach would be acceptable to FDEP given the specific units involved, and given that EPA does allow up to 30 day averaging periods for operation rates.

This request, as mentioned to Clair Fancy, is being submitted to FDEP's Jacksonville office because it is a minor modification for which a new construction permit will need to be issued. FDEP may opt to issue one or multiple permits, as deemed appropriate. Please note that these revisions will end up in one Title V operation permit.

Mr. Johnny Cole  
Florida Department of  
Environmental Protection

November 25, 1996  
Page 2

### PSD Applicability

As no changes are requested to the annual process/production rates, there will be no change in annual emission rates. Thus, PSD applicability, which is based on changes in annual emission rates, is not an issue.

### NSPS Applicability

Several emission units addressed herein are already subject to NSPS and so NSPS applicability is irrelevant in those cases. For all units, however, this request does not constitute a modification as defined pursuant to 40 CFR 60.14(e)(1) and (2); or reconstruction defined pursuant to 40 CFR 60.15(b)(1). Based on EPA guidance/interpretation, the NSPS rule provisions under 40 CFR 60.14(e)(2) do not qualify a production rate increase which is accomplished without capital expenditure as a modification. No capital expenditure is associated with this request. Furthermore, no physical modification of any plant is requested. The emission units will simply operate at higher short-term rates from time to time.

### Minor Modification

In accordance with past FDEP guidance for a minor modification via a construction permit application, enclosed are the facility information pages of the application form, duly signed by both the Responsible Official and the P.E. of record. It is our understanding that the remaining information, generally required on the application form, need not be resubmitted as it is already in FDEP files (Title V). The requested maximum hourly process/production rates are presented in Table 1. Also, a check in the amount of \$250 (application processing fee) is enclosed. Should FDEP decide to issue multiple permits, additional processing fees will be submitted, as appropriate.

Your kind assistance is greatly appreciated. If you have any questions, please call Pradeep Raval or me.

Very truly yours,

KOOGLER & ASSOCIATES

  
John B. Koogler, Ph.D., P.E.

JBK:par  
Enc.

c: Charles Pults, PCS  
Clair Fancy, FDEP





# Department of Environmental Protection

Lawton Chiles  
Governor

Southwest District  
3804 Coconut Palm Drive  
Tampa, Florida 33619

Virginia B. Wetherell  
Secretary

February 5, 1997

Mr. Charles Jenkins  
Manager of Environmental &  
Safety Services  
Farmland Hydro, L.P.  
Post Office Box 960  
Bartow, FL 33830 /

Dear Mr. Jenkins:

Re: Permit Modification Applications Received 11/12/96  
Farmland Hydro, L.P.

The Department has reviewed the permit modification applications and letter from Koogler & Associates received 11/12/96. The applications are incomplete and the Department is requesting the following information pursuant to Rule 62-4.070(1), F.A.C.:

1. Please provide data on whether a modification will occur, i.e., an increase in actual hourly emission rates at the higher production rates. If a modification occurs, these situations will have to be evaluated for PSD applicability. Note that this only applies to emission units which have federally enforceable limits, i.e., e.u.'s (emission units) 007, 009, and 029.
2. If a modification is triggered, three fees are required, one for e.u. 007, one for e.u. 009, and one for e.u. 029 (both units).

"Notice: Pursuant to the provisions of Section 120.660, Florida Statutes, and Rule 62-4.070(5), Florida Administrative Code, if the Department does not receive a response to this request for information within 90 days of the date of this letter, the Department will issue a final order denying your application. You need to respond within 30 days after you receive this letter, responding to as much of the information as possible and indicating when a response to any unanswered questions will be submitted. If the response will require longer than 90 days to develop, you should develop a specific time table for the submission of the requested information for Department review and consideration. Failure to comply with a time table accepted by the Department will be grounds for the Department to issue a Final Order for Denial for lack of timely response. A denial for lack of information or response will be unbiased as to the merits of the application. The applicant can reapply as soon as the requested information is available."

*"Protect, Conserve and Manage Florida's Environment and Natural Resources"*

Mr. George Jenkins  
Bartow, FL 33830

Page Two

Your applications for modification are being held as incomplete until the requested information is received. If you have any questions, please contact George Richardson at Ext. 105.

Sincerely,



---

Jerry Kissel, P.E.  
Air Permitting Supervisor  
Southwest District

cc: John B. Koogler, Ph.D., P.E., Koogler & Associates  
A. Linero, DEP, Tallahassee

Date: 1/29/97 9:31:36 AM  
From: Alvaro Linero TAL  
Subject: Production Increase PSD Review Request - Novemebr 20, 1996  
To: Gerald Kissel TPA  
CC: Clair Fancy TAL

Hey Jerry. I got a call from Brian Beals. He wants us to handle this question. Before giving Pradeep Raval a final answer, I would ask him how the 3-hour and 24-hour standard(s) are affected (since it looks like the annual standards would not be affected).

I would also insist on a statement from someone who really knows what the units are capable of doing (efficiently and without a decline in pollution control equipment performance). The manufacturer or a design firm would be believable. A chemical or mechanical P.E. employed by the company would also be credible toward attaining reasonable assurance.

I understand that until recent years, we considered capacity to be 110% of the permitted rate. Sometime later, it was established that capacity is 100% of the permitted rate. As a matter of equity and fairness, some consideration was given to those who requested production increases to 110% of previous limits. Maybe Bill Thomas knows the issue better than you or me.

Please review the permitting history and see if they already got their "extra 10%." Not that it a given. Find out if the previous permitted rates were on a one-hour or 24-hour basis.

In general, however, if a company redefines a 1-hour production limit to a 30-day limit, this is a permit relaxation which increases actual emissions. Because actual emissions changes are based on comparisons of past actual emissions to future potential emissions, they can trip PSD. Again, I believe reasonable assurance must come from people knowledgeable about more than just permitting or pollution control - like process or mechanical engineering.

Thanks. Al.

*Clair - See Gerry's Comment. I vaguely remember he called me and may have asked me a question (but not the whole question). He might have sent this letter to us instead & let us research it based on our interpretation of our rules.*

- Is Gerry's statement (from Pradeep) correct?*
- Is it time for a Guidance when averaging time is not previously specified? Al*



FOR RESERVATIONS  
1-800-766-2644



CHARLESTON  
1-803-577-2644

AL

12/10

On this one I believe  
rechange is probably  
OK, but Federally enforceable  
construction permit would  
need to be modified (public  
noticed). He should have asked  
US rather than written to EPA

Stay a little closer to home.

Clay



# Department of Environmental Protection

Lawton Chiles  
Governor

Southwest District  
3804 Coconut Palm Drive  
Tampa, Florida 33619

Virginia B. Wetherell  
Secretary

November 20, 1996

Mr. Brian Beals  
U.S. EPA, Region 4  
Atlanta Federal Center  
100 Alabama St. S.W.  
Atlanta, GA 30303-3104

*Brian*  
Dear ~~Mr.~~ Beals:

We have an applicant with a number of federally enforceable construction permits which include various emission limits, and production limits in the format: "production is limited to 100 tons per hour." The applicant has requested that these production limits be changed to the statement: "production is limited to 100 tons per hour (30 day average) with a one hour maximum production rate of 120 tons per hour." None of the allowable emission rates or annual production rates (as opposed to hourly production rates) will change. No capital expenditures are involved. Does this constitute a PSD modification?

The Florida definition of PSD modification mirrors the federal rule and is attached.

If I can clarify further, please call me at (813) 744-6100, Extension 107.

Sincerely,

*Gerald Kissel*  
Gerald Kissel, P.E.  
District Air Engineer

cc: Al Linero, Florida DEP

c:\epaf\1196

*Al - Pradeep didn't like my answer (that it's a modification & we must look at prior actuals vs. new allowables, etc.) & said Clair had taken a different view on a case in another district. Thus I consented to ask EPA on this one.*

*JP 11/20/96*

"Protect, Conserve and Manage Florida's Environment and Natural Resources"