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UTILITIES & SOLID WASTE DEPARTMENT
P.O. Box 9000 • Stuart, FL 34995-9000

John E. Polley
Director

Phone (561) 221-1442
Fax (561) 221-1447

May 14, 2002

File: uss02l.031.aw

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MAY 17 2002

BUREAU OF AIR REGULATION

Ms. Cindy Phillips, P.E.
Bureau of Air Regulation
Florida Department of Environmental Protection
MS 5505
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Subject: Request for MACT **Applicability Determination** Pursuant to 40 CFR 63.52(d)
Martin County Palm City II Landfill (Facility ID No: 0850120)

Dear Ms. Phillips:

In accordance with Mr. Sheplak's letter dated April 12, 2002, we hereby request a determination of the applicability of Section 112(j) of the Clean Air Act to the Martin County Palm City II Landfill. As you know, the Martin County Utilities and Solid Waste Department has a title V Air Operating Permit, No. 0850120-AV, for this Landfill. The Landfill is a "Major Source" or a "Title V Source", as defined in Rule 62-212.200(159). The landfill has a Title V permit, and is a major source, because it is subject to the Emissions Guidelines for Municipal Solid Waste Landfill, 40 CFR 60 Subpart Cc. It is not a major source of hazardous air pollutants (HAPs). Calculations submitted to the Department with our 1998 Title V application show the potential emission rate of all HAPs to be less than two tons per year, well below the major source thresholds of 10 tons per year for a single HAP, or 25 tons per year for all HAPs. Mr. Sheplak's April 12th letter required that we notify you if we think our facility is a major source of HAPs, and is in an affected industry type source category for which the U.S. EPA must write Maximum Achievable Control Technology (MACT) standards. Since our Landfill is not a major source of HAPs, we are not required to notify you. However, since it is unclear whether or not Section 112(j) of the Clean Air Act applies, we are submitting this **Part I Application**, as described below, along with a request for an applicability determination, in order to ensure that we comply with these evolving requirements.

The Clean Air Act (CAA) authorizes EPA to issue National Emission Standards for Hazardous Air Pollutants (NESHAP) to regulate hazardous air pollutant emissions from significant emission sources. Section 112(e) of the CAA requires EPA to establish a schedule for issuing NESHAP source categories that have been listed under Section 112(c) of the CAA.

Under Section 112(j) of the CAA, if EPA fails to promulgate a NESHAP within 18 months of the Section 112(e) schedule, the owner or operator of a source in the Section 112(c) category must submit an application for a Title V permit or a Title V permit modification requesting an emission limitation equivalent to the standard that EPA would have issued for that source category.

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RUSS BLACKBURN
County Administrator

STEPHEN FRY
County Attorney

TELEPHONE
561-288-5400

WEB ADDRESS
<http://www.martin.fl.us>

This permit application must be submitted to the permitting authority by the date 18 months after the Section (112e) scheduled promulgation date.

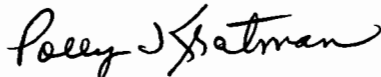
Under Section 112(c), EPA listed a NESHAP source category for municipal solid waste (MSW) landfills, and this source category was scheduled under Section 112(e) to be promulgated by November 15, 2000. On November 7, 2000, EPA proposed a NESHAP for MSW landfills (65 FR 66672). However, EPA will not promulgate a final NESHAP for MSW landfills by the Section 112(j) "hammer" deadline of 18 months after November 15, 2000, or by May 15, 2002. Therefore, it is incumbent on the owner or operator of any MSW landfill subject to Section 112(j) of the CAA to submit a permit application to the Title V permitting authority no later than May 15, 2002, as required by EPA regulation at 40 CFR 63.52(a).

While it is apparent that the Landfill would be subject to the MSW landfill NESHAP proposed, it is less clear that the landfill is subject to Section 112(j) of the CAA as implemented in EPA regulations at 40 CFR 63.50 to 63.56. Specifically, 40 CFR 63.52(a) identifies sources subject to Section 112(j) as of the Section 112(j) deadline as being "major sources that include, as of the Section 112(j) deadline, one or more sources in a category or subcategory for which the Administrator has failed to promulgate an emission standard under this part on or before an applicable Section 112(j) deadline." As describe above, the Landfill is only major for criteria pollutants.

Therefore, as allowed under EPA regulation at 40 CFR 63.52(d), we respectfully request that the Department make an applicability determination to clarify whether Section 112(j) of the CAA applies to the Landfill. We are also submitting an application meeting the requirements of EPA regulation at 40 CFR 63.53(a); see enclosure.

The Martin County Utilities and Solid Waste Department is committed to complying with all applicable requirements. We look forward to your timely response to our request. Should you have any questions regarding this letter or the enclosure, please call me at (772) 221-1440.

Very truly yours,



Polly Kratman
Solid Waste Administrator

Enclosure

cc: John Polley, Utilities and Solid Waste Director
Dan Hudson, Deputy County Administrator
Patrick Graham, Landfill Operations Superintendent
Doug Neeley, U.S. EPA Region IV
Patricia Forgang, CDM
Scott Trainer, CDM

Martin County Palm City II Landfill
Facility ID No. 0850120
Part 1 MACT Application (40 CFR 63.53(a))

- (1) The name and address (physical location) of the major source.
 - (a) Name: Palm City II Landfill
 - (b) Address: 9101 S.W. Busch Street, Palm City, FL 34990

- (2) A brief description of the major source and an identification of the relevant source category.
 - (a) Description of source: The Martin County Palm City II Landfill is an approximately 55-acre active municipal solid waste landfill that began accepting waste in 1985. The Landfill is subject to the MSW Landfill Emissions Guidelines (40 CFR 60, Subpart Cc) and has Title V Air Operating Permit No. 0850120-001-AV.
 - (b) Relevant source category: Municipal Solid Waste Landfills (40 CFR 63, Subpart AAAA).

- (3) An identification of the types of emission points belonging to the relevant source category.
 - (a) At the time of this application, the significant point sources of emissions at the Landfill include the following:
 - (A) EU ID 001 MSW Landfill with active gas collection and open flare system

 - (b) At the time of this application, fugitive sources of emissions at the Landfill include the following.
 - (A) EU ID 002 Fugitive Landfill Gas Emissions
 - (B) EU ID 003 Fugitive dust from travel and activity on unpaved surfaces

- (4) An identification of any affected sources for which a Section 112(g) MACT determination has been made.
 - (a) Section 112(g) of the Clean Air Act does not apply to the Martin County Palm City II Landfill, so there are no affected sources for which a Section 112(g) MACT determination has been made.

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3 To Recipient's Name Mrs. Cindy Phillips PE Phone 850 488-0300

Company FDEP Bureau of Air Regulation MS 5505

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* FedEx Envelope/Letter Rate not available Minimum charge: One-pound rate

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Department of Environmental Protection

Jeb Bush
Governor

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

David B. Struhs
Secretary

June 14, 2002

Ms. Polly Kratman
Solid Waste Administrator
Martin County Utilities
& Solid Waste Department
P.O. Box 9000
Stuart, FL 34995-9000

Re: Request for Determination of MACT Applicability
Palm City II Landfill, Facility ID 0850120

Dear Ms. Kratman:

In response to your letter dated May 14, 2002 which requests that the Department make a determination of MACT applicability for the Palm City II Landfill, I have attached Chapter 28-105, F.A.C., Declaratory Statements, which specifies the procedure that you must follow in order for us to comply with your request.

The Department's Agency Clerk is Kathy Carter. Her address is:

Kathy Carter, Agency Clerk
Florida Department of Environmental Protection
MS 35
3900 Commonwealth Boulevard
Tallahassee FL 32399-3000

Thank you for submitting the 112(j) notification information. Your information submittal appears to meet our current 112(j) requirements.

Please be aware that, although your letter refers to this information submittal as a "Section 112(j) Part 1 Permit Application," the Department does not recognize your submittal as a state permit application and has no plans to process it as such.

No further 112(j) information is needed from you at this time. If you have any questions, concerning this matter, please contact me at 850/921-9534.

Sincerely,

Cindy L. Phillips, P.E.
Bureau of Air Regulation

attachment

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CHAPTER 28-105, F.A.C.

DECLARATORY STATEMENTS

28-105.001 Purpose and Use of Declaratory Statement.

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory statement may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from an agency. A petition for declaratory statement must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

28-105.002 The Petition.

A petition seeking a declaratory statement shall be filed with the clerk of agency that has the authority to interpret the statute, rule, or order at issue and shall provide the following information:

(1) The caption shall read:

Petition for Declaratory Statement

Before (Name of Agency)

(2) The name, address, telephone number, and any facsimile number of the petitioner.

(3) The name, address, telephone number, and any facsimile number of the attorney or qualified representative (if any) of the petitioner.

(4) The statutory provision(s), agency rule(s), or agency order(s) on which the declaratory statement is sought.

(5) A description of how the statutes, rules, or orders may substantially affect the petitioner in the petitioner's particular set of circumstances.

(6) The signature of the petitioner or of the petitioner's attorney or qualified representative.

(7) The date.

28-105.003 Agency Disposition.

The agency may hold a hearing to consider a petition for declaratory statement. If the agency is headed by a collegial body, it shall take action on a petition for declaratory statement only at a duly noticed public meeting. If a hearing is held, it shall be conducted in accordance with Sections 120.569 and 120.57(2), F.S. The agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Within 90 days of the filing of the petition, the agency shall render a final order denying the petition or issuing a declaratory statement.