

File Copy



Florida Department of Environmental Regulation

Southwest District • 3804 Coconut Palm Dr. • Tampa, Florida 33619

Lawton Chiles, Governor

Carol M. Browner, Secretary

FACSIMILE TRANSMISSION SHEET

Feb. 19, 1993
Date

TO: BRUCE MITCHELL

Dept.: DARM

Phone: _____

FROM: DONALD A. GARREPY

Dept.: DER, Southwest District

Phone: (813) 744-6100 SunCom 542-6100

EXT. 482

OPERATOR: _____ EXT. _____

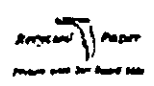
SUBJECT: PINELLAS COUNTY RESOURCE RECOVERY

Total Number of Pages, Including Cover Page: 2

THIS LETTER IS FOR YOUR INFO ON
SUBJECT CASE

Air Program FAX Number is (813) 744-6063

SunCom 542-6083



CARLTON, FIELDS, WARD, EMMANUEL, SMITH & CUTLER, P. A.

ATTORNEYS AT LAW

ONE HARBOUR PLACE P.O. BOX 8836 TAMPA, FLORIDA 33601 (813) 222-7000 FAX (813) 222-4193	PISTATE TOWER P.O. BOX 1171 ORLANDO, FLORIDA 32802 (407) 840-0200 FAX (407) 840-0088	HARBOURVIEW BUILDING P.O. BOX 18448 PENSACOLA, FLORIDA 32503 (904) 434-0142 FAX (904) 434-8266	FIRST FLORIDA BANK BUILDING P.O. DRAWER 190 TALLAHASSEE, FLORIDA 32302 (904) 224-1899 FAX (904) 222-0399	LEFRANTE P.O. BOX 180 WEST PALM BEACH, FLORIDA 33401 (407) 856-7070 FAX (407) 856-7488	BARNETT TOWER P.O. BOX 2861 ST. PETERSBURG, FLORIDA 33781 (813) 881-7000 FAX (813) 888-3788
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PLEASE REPLY TO :

February 18, 1993

Tallahassee

VIA TELECOPY

Bill Thomas
Department of Environmental Regulation
3804 Coconut Palm Drive
Tampa, Florida 33619

Re: SO2 Emission Limits for
Pinellas County Resource Recovery Facility

Dear Mr. Thomas:

I am sending you this letter to confirm the information I left on your voice mail system earlier today.

On January 12, 1993, Mr. Hamilton S. Owen informed Pinellas County by letter that the Florida Department of Environmental Regulation (DER) could not modify the SO2 emission limits for the Pinellas County resource recovery facility. Since DER's decision was based on discussions that it had with the United States Environmental Protection Agency (EPA), I have been trying to reach the appropriate officials at EPA to discuss the Pinellas County case with them. I also wrote to EPA on February 3, 1993, and advised EPA about Pinellas County's concerns. Today Mr. Scott Davis told me that he and other EPA representatives have been evaluating Pinellas County's situation. He expects EPA to send a written response to me within the next two weeks.

Since you and I previously agreed that DER should not take any further action on this matter until I had an opportunity to discuss it with EPA, I would like to respectfully request that you continue to defer any action on this issue until I receive EPA's letter. Of course, I will report to you promptly thereafter.

Thank you for your cooperation and understanding.

Sincerely,


David S. Dee

cc: Richard Garrity
Bob VanDeman
Julie Yard
Susan Churuti

CHF
Buck Owen
Richard Donegan

} 2/22/93 BSM

Bruce -
Good, may need
to send original to
Pinellas County
Clair



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IV - ATLANTA, GEORGIA
AIR, PESTICIDES & TOXICS MANAGEMENT DIVISION

AIR ENFORCEMENT BRANCH
FACSIMILE TRANSMISSION SHEET

DATE: Feb 18, 1993 # OF PAGES: 3
TO: Clair Fancy PHONE #: 904-488-1344
ADDRESS: FDER FAX: 904-922-6979
FROM: Brian Beuls / Scott Davis

If the following pages are received poorly, please
call Scott Davis at (404) 347-5614

SPECIAL INSTRUCTIONS FOR RECEIVER:

Contact Scott Davis with any comments
on the enclosed draft

345 COURTLAND STREET, N.E.
ATLANTA, GEORGIA 30365
FAX (404) 347-3059

DRAFT

4APT-AEB

Mr. David S. Dee
Carlton, Fields, Ward, Emmanuel,
Smith & Cutler, P.A.
First Florida Bank Building
P.O. Drawer 190
Tallahassee, Florida 32302

Dear Mr. Dee:

This letter is in response to your correspondence, dated February 3, 1993, concerning the existing sulfur dioxide emission limits at the Pinellas County Resource Recovery Facility. The County is attempting to revise its permitted limits at the facility to allow the allowable SO₂ limit to be the average of the emissions for the three combustor units. This issue originated in correspondence, dated August 8, 1991, between Mr. Robert Van Deman, of the Pinellas County Department of Solid Waste Management, and Mr. Hamilton Oven, of the Florida Department of Environmental Regulation (FDER).

Consultation between EPA and FDER on this issue was initiated on November 18, 1992. The decision reached by Mr. Scott Davis and Mr. Gregg Worley of my staff was that the modification proposed by the County would constitute bubbling, with respect to meeting the permitted emission limits established as a result of Best Available Control Technology review. Therefore, the bubbling of emissions would be prohibited at the Pinellas County facility, as referenced by the Emissions Trading Policy Statement (Federal Register, December 4, 1986, page 43846). This decision was discussed with Mr. Oven on January 4, 1993. FDER responded to Mr. Van Deman on January 12, 1993, denying the modification request. Further discussions held subsequent to the receipt of your latest correspondence, between Mr. Brian Beals of my staff and Mr. Clair Fancy of FDER, have not resulted in any change in the original decision. Therefore, we must once again conclude that no modification can be made to the permitted emission limits for SO₂ for the Pinellas County facility at the present time if it involves averaging emissions among the three units.

DRAFT

-2-

Presently, the options available to Pinellas County include compliance with the existing SO₂ emission limits through controlling the waste stream to eliminate the processing of gypsum wallboard or applying for a permit modification to revise the SO₂ emission limits for each individual unit at the facility. If you have any questions or comments, please contact Scott Davis of my staff at (404) 347-5014.

Sincerely yours,

Jewell A. Harper, Chief
Air Enforcement Branch
Air, Pesticides, and Toxics
Management Division

DRAFT

File Copy



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IV - ATLANTA, GEORGIA
AIR, PESTICIDES & TOXICS MANAGEMENT DIVISION

AIR ENFORCEMENT BRANCH
FACSIMILE TRANSMISSION SHEET

DATE: Feb 18, 1993 # OF PAGES: 3
TO: Bruce Mitchell PHONE #: 404-488-1344
ADDRESS: FDER FAX: 904-922-6979
FROM: Brian Beals / Scott Davis

If the following pages are received poorly, please
call Scott Davis at (404) 347-5014

SPECIAL INSTRUCTIONS FOR RECEIVER:
Contact Scott Davis with any comments
on the enclosed draft

345 COURTLAND STREET, N.E.
ATLANTA, GEORGIA 30365
FAX (404) 347-3059

DRAFT

4APT-AEB

Mr. David S. Dee
Carlton, Fields, Ward, Emmanuel,
Smith & Cutler, P.A.
First Florida Bank Building
P.O. Drawer 190
Tallahassee, Florida 32302

Dear Mr. Dee:

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Consultation between EPA and FDER on this issue was initiated on November 18, 1992. The decision reached by Mr. Scott Davis and Mr. Gregg Worley of my staff was that the modification proposed by the County would constitute bubbling, with respect to meeting the permitted emission limits established as a result of Best Available Control Technology review. Therefore, the bubbling of emissions would be prohibited at the Pinellas County facility, as referenced by the Emissions Trading Policy Statement (Federal Register, December 4, 1986, page 43846). This decision was discussed with Mr. Oven on January 4, 1993. FDER responded to Mr. Van Deman on January 12, 1993, denying the modification request. Further discussions held subsequent to the receipt of your latest correspondence, between Mr. Brian Beals of my staff and Mr. Clair Fancy of FDER, have not resulted in any change in the original decision. Therefore, we must once again conclude that no modification can be made to the permitted emission limits for SO₂ for the Pinellas County facility at the present time if it involves averaging emissions among the three units.

DRAFT

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Sincerely yours,

Jewell A. Harper, Chief
Air Enforcement Branch
Air, Pesticides, and Toxics
Management Division

DRAFT

cc'd/showed to:

CHF

PH

Buck Owen

Richard Donelan

BM

2-18-93

} 2-18-93 RBW

Spoke w Scott Davis - OK on the draft.

RBW

Patty

File Copy
11

CARLTON, FIELDS, WARD, EMMANUEL, SMITH & CUTLER, P. A.
ATTORNEYS AT LAW

ONE HARBOUR PLACE P.O. BOX 3239 TAMPA, FLORIDA 33601 (813) 223-7000 FAX (813) 229-4133	FIRSTSTATE TOWER P.O. BOX 1171 ORLANDO, FLORIDA 32802 (407) 849-0300 FAX (407) 648-9099	HARBOURVIEW BUILDING P.O. BOX 12426 PENSACOLA, FLORIDA 32582 (904) 434-0142 FAX (904) 434-5366	FIRST FLORIDA BANK BUILDING P.O. DRAWER 190 TALLAHASSEE, FLORIDA 32302 (904) 224-1585 FAX (904) 222-0398	ESPERANTE P.O. BOX 150 WEST PALM BEACH, FLORIDA 33402 (407) 659-7070 FAX (407) 659-7368	BARNETT TOWER P.O. BOX 2861 ST. PETERSBURG, FLORIDA 33731 (813) 821-7000 FAX (813) 822-3768
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February 3, 1993

PLEASE REPLY TO :
Tallahassee

FEDERAL EXPRESS

Scott Davis
Environmental Protection Agency
345 Courtland Street, Northeast
Atlanta, Georgia 30365

RECEIVED

FEB 05 1993

Re: Pinellas County Resource Recovery Facility

Division of Air
Resources Management

Dear Scott:

This law firm is assisting Pinellas County with its efforts to resolve a dispute concerning the proper interpretation of the SO₂ emission limits contained in the facility's PSD permit. The County's position concerning this issue is thoroughly described in the attached letter dated August 8, 1991 from Pinellas County to Mr. Hamilton S. Oven, Jr., who works for the Florida Department of Environmental Regulation. On January 12, 1993, Mr. Oven sent a letter (enclosed, with attachments) which advised Pinellas County that DER could not grant the relief requested by the County. Mr. Bruce Mitchell (DER) recently told me that DER's position is based in part upon its understanding of EPA's regulations, which were explained to DER in discussions involving you, Mr. Mitchell and Mr. Greg Worley.

The dispute concerning the SO₂ emission limits for the Pinellas County resource recovery facility is extremely important to the County. Accordingly, the County has asked me to discuss this issue with you immediately and determine whether there is any means by which the County can obtain relief in this case. For these reasons, I would sincerely appreciate it if you would promptly review the enclosed materials and then call me at your earliest convenience.

Thank you for your cooperation and assistance with this matter.

Sincerely,
David S. Dee
David S. Dee

cc: Greg Worley (w/enclosures)
Bruce Mitchell
Bill Thomas

Bob VanDeman
Susan Churuti
Julie Yard

CHF
Buck Oven }
Richard Donelan } 2/22/93 BZ

CARLTON, FIELDS, WARD, EMMANUEL, SMITH & CUTLER, P.A.

ATTORNEYS AT LAW

ONE HARBOUR PLACE
P.O. BOX 3234
TAMPA, FLORIDA 33601
(813) 223-7000
FAX (813) 226-4133

FIRST STATE TOWER
P.O. BOX 1174
ORLANDO, FLORIDA 32807
(407) 849-0300
FAX (407) 648-4099

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P.O. BOX 12426
PENSACOLA, FLORIDA 32562
(904) 434-0142
FAX (904) 434-5366

FIRST FLORIDA BANK BUILDING
P. O. DRAWER 199
TALLAHASSEE, FLORIDA 32302
(904) 224-1585
FAX (904) 222-0308

ONE CLARLAKE CENTRE
P. O. BOX 150
WEST PALM BEACH, FLORIDA 33402
(407) 656-7070
FAX (407) 659-7165

**PLEASE REPLY TO:
Tallahassee**

DATE: February 19, 1993

TO: PATTY ADAMS

COMPANY:

TELECOPIER TEL. NO.: 922-6979

FROM: VICKIE/SECRETARY TO DAVID S. DEE

CLIENT/MATTER NO.: 24385/57771

TOTAL NO. OF PAGES TRANSMITTED (INCLUDING COVER LETTER): 2

MESSAGE:

WE ARE TRANSMITTING FROM AN OMNIFAX 9S FAX MACHINE.

**IF THERE ARE ANY PROBLEMS OR COMPLICATIONS, PLEASE NOTIFY US IMMEDIATELY AT
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DATE: _____ TIME: _____

**PLEASE CALL BACK AS SOON AS POSSIBLE
IF YOU DO NOT RECEIVE ALL OF THE PAGES INDICATED**

TELECOPIER OPERATOR: VICKIE CANTLEY

CARLTON, FIELDS, WARD, EMMANUEL, SMITH & CUTLER, P. A.

ATTORNEYS AT LAW

ONE HARBOUR PLACE P.O. BOX 3339 TAMPA, FLORIDA 33601 (813) 223-7000 FAX (813) 228-4133	PRISTATE TOWER P.O. BOX 1171 ORLANDO, FLORIDA 32802 (407) 849-0300 FAX (407) 848-9099	HARBOURVIEW BUILDING P.O. BOX 12426 PENSACOLA, FLORIDA 32502 (904) 434-0142 FAX (904) 434-0366	FIRST FLORIDA BANK BUILDING P.O. DRAWER 190 TALLAHASSEE, FLORIDA 32302 (904) 224-1585 FAX (904) 222-0398	ESPERANTE P.O. BOX 150 WEST PALM BEACH, FLORIDA 33402 (407) 659-7070 FAX (407) 659-7368	BARNETT TOWER P.O. BOX 2861 ST. PETERSBURG, FLORIDA 33731 (813) 821-7000 FAX (813) 822-3768
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PLEASE REPLY TO:
Tallahassee

February 3, 1993

FEDERAL EXPRESS

Scott Davis
Environmental Protection Agency
345 Courtland Street, Northeast
Atlanta, Georgia 30365

Re: Pinellas County Resource Recovery Facility

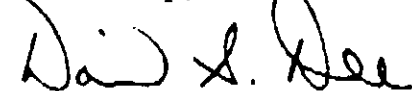
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Thank you for your cooperation and assistance with this matter.

Sincerely,



David S. Dee

cc: Greg Worley (w/enclosures)
Bruce Mitchell
Bill Thomas

Bob VanDeman
Susan Churuti
Julie Yard

File Copy



State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee	
To _____	Location _____
To _____	Location _____
To _____	Location _____
From _____	Date _____

Interoffice Memorandum

TO: Buck Oven

THRU: Clair Fancy *CF*

FROM: Bruce Mitchell *BM*

DATE: January 5, 1993

SUBJ: Pinellas County BCC Request of August 8, 1991, to Modify Their PPSA Certification and PSD Permit to Allow a Change in SO₂ Compliance Strategy

In April 1979, Pinellas County received site certification pursuant to the PPSA for the construction and operation of a RRF with two 1,050 TPD combustion units (Nos. 1 and 2). The facility was expanded in 1984, when another 1,050 TPD unit was added (No. 3). The SO₂ emission limits for the facility are "170 lbs/hr each unit" (see Final Order Modifying Conditions of Certification). On August 8, 1991, Pinellas County BCC requested a modification to the condition of certification and PSD permit (PSD-FL-098) to be changed to "170 lbs/hr each unit, calculated as the average of three units". Note, the SO₂ allowable limit was established as BACT under PSD-FL-098 (Preliminary Determination was mailed on June 12, 1986; FD by EPA Region IV was issued early 1987).

Based on discussions with Mr. Scott Davis (EPA Region IV) about the above referenced issue, the change requested should not be allowed. Pursuant to the Federal Register, December 4, 1986 issue, page 43846 (attached), under section "e. Existing-Source Credits Cannot Be Used to Meet Applicable Technology-Based Requirements for New Sources.", the intent is that an emitting unit, that has been given an allowable emission rate through NSPS or BACT, must be capable of demonstrating compliance of that rate on its own. Consequently, there cannot be any aggregate averaging or "bubbling" allowed to demonstrate compliance where a source's emission rate was established through NSPS or BACT (PSD areas; LAER in NAA).

BM/rbm

Attachments

Clair Fancy -> B. Thomas, SWD
 Reading File
 Hand Delivered to Buck Oven @ 11:00 am
 Bill Thomas, SWD

} 1-7-93 Res



State of Florida
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee	
To _____	LOCATION _____
To _____	LOCATION _____
To _____	LOCATION _____
From _____	Date _____

Interoffice Memorandum

TO: Bill Thomas
Clair Fancy
John Brown

FROM: Buck Oven *HSD*

DATE: October 30, 1992

SUBJECT: Pinellas County Resource REcovery Facility
PA 83-18

To the best of my recollection, I sent a copy of the Pinellas County request for modification to BAR sometime back, but never received any guidance. I do recall discussing with Steve Smallwood that such a concept would be similar to bubbling which we and EPA usually do not approve. If the Division of Air Resources Management concurs, I will inform Pinellas County that we will not approve their request.

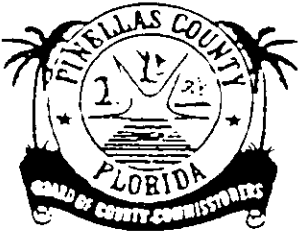
cc: Howard Rhodes
Gary Smallridge

RECEIVED

NOV 02 1992

Division of Air
Resources Management

Vet

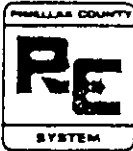


BOARD OF COUNTY COMMISSIONERS

COMMISSIONERS

BARBARA SHEEN TODD - CHAIRMAN
GEORGE GREER - VICE CHAIRMAN
JOHN CHESNUT, JR.
CHARLES E. RAINEY
BRUCE TYNDALL

DEPARTMENT OF SOLID WASTE MANAGEMENT
2800 110TH AVENUE NORTH
ST. PETERSBURG, FLORIDA 33716
PHONE (813) 892-7565



P. O. BOX 21623
ST. PETERSBURG, FLORIDA 33742-1623

8/13
Steve Smallwood

This is the request
to you on the phone about
i.e. having a separate 602 permit
for each unit or 1 for the whole facility.
We told the County that our
enforcement action would
await the determination
on this request.

August 8, 1991

Dr. Rick Garrity
Deputy Assistant Secretary
Department of Environmental Regulation
Southwest District Office
4520 Oak Fair Boulevard
Tampa, FL 33610-7347

D. E. R.
AUG - 9 1991

SOUTHWEST DISTRICT
TAMPA

Re: Pinellas County Resource Recovery Facility
PA 83-18; OGC File No. 85-4070

Dear Dr. Garrity:

We have attached your copy of Pinellas County's formal request for permit modification. In accordance with our Thursday, July 18, 1991 meeting, the request was transmitted no later than August 8, 1991.

We thank you again for your cooperation in this matter.

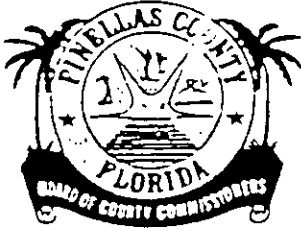
Sincerely,

Robert Van Deman, P.E., Director
Solid Waste Management

RVD:rvt
att.
1870V

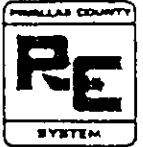
Butler
re Bill Thomas





BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF SOLID WASTE MANAGEMENT
2800 110TH AVENUE NORTH
ST. PETERSBURG, FLORIDA 33716
PHONE (813) 892-7565



COMMISSIONERS

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GEORGE GREER - VICE CHAIRMAN
JOHN CHESNUT, JR.
CHARLES E. RAINEY
BRUCE TYNDALL

P. O. BOX 21623
ST. PETERSBURG, FLORIDA 33742-1623

August 8, 1991

Hamilton S. Oven, Jr.,
Siting Coordination Section
Department of Environmental Regulation
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399

Re: Pinellas County Resource Recovery Facility
PA 83-18; OGC File No. 85-4070

Dear Mr. Oven:

As you know, Pinellas County has a resource recovery (waste-to-energy) facility which was certified pursuant to the Florida Electrical Power Plant Siting Act (PPSA). See DER File No. PA 83-18 and OGC File No. 85-0470. Pinellas County believes the conditions of certification for the resource recovery facility should be modified slightly to resolve an issue that has arisen with regard to the proper interpretation of those conditions. Accordingly, Pinellas County hereby formally requests the Department to modify the conditions of certification and PSD permit for the facility to state that the sulphur dioxide (SO₂) emissions from the plant shall be limited to "170 lbs/hr each unit, calculated as the average of three units". The remainder of this letter describes the factual background to this issue and explains why Pinellas County's request should be granted.

Factual Background

In April 1979, Pinellas County received site certification pursuant to the Florida Electrical Power Plant Siting Act (PPSA) for the construction and operation of a resource recovery facility with two 1,000 ton per day (tpd) combustion units (Units 1 and 2). The facility was expanded in 1984, when the County added another 1,000 tpd unit (Unit 3). The emission limits for the facility are established in the "Final Order Modifying Conditions of Certification" (Final Order), which describes the facility's sulphur dioxide emission limit as follows: "SO₂-170 lbs/hr each unit". A copy of the Final Order is attached hereto.

- 1 -

"PINELLAS COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER"

Member-Pinellas Partnership for a Drug Free Workplace



printed on recycled paper

The Pinellas County resource recovery facility consists of three "mass burn" combustion units. Household refuse and other waste materials are dumped into a large pit located within an enclosed facility. The material in the pit is mixed with an orange-peel bucket and then it is fed into three separate hopper chutes that lead into the three individual combustion units. Each combustion unit is followed by a separate electrostatic precipitator (ESP) that removes particulate matter from the exhaust gases.

The Pinellas County resource recovery facility, like the facilities utilized by the City of Tampa and Hillsborough County, does not have acid gas scrubbers. Refuse is a heterogeneous mixture, unlike coal and oil which have a predictable sulphur content. Consequently, the sulphur dioxide emissions from the facility fluctuate in direct relation to the sulphur content of the refuse that is being combusted. Sulphur dioxide emissions are indicative of the sulphur content of the fuel, but they are not indicative of whether the plant is operating properly.

At Pinellas, sulphur dioxide emissions from the plant are checked in annual stack tests. Pursuant to DER and EPA approved procedures, the County conducts three one-hour tests for each unit and then calculates an average sulphur dioxide emission rate for each unit. The stack test data show that the facility consistently complied with all of its emission limits, including the emission limit for sulphur dioxide, prior to 1990.

Last year the County conducted its annual stack tests on April 3-6, 1990. The tests for Unit No. 1 were conducted on April 3 and 4, 1990, and they showed an average sulphur dioxide emission rate of 177 lbs/hr, which is based on emissions of 117, 123 and 290 lbs/hr in the three separate test runs. The tests for Unit No 2 were conducted on April 5 and they showed an average SO₂ emission rate of 153 lbs/hr, with individual tests of 105, 123, and 231 lbs/hr. The tests for Unit No 3 were performed on April 6, 1990, and they showed an average SO₂ emission rate of 92 lbs/hr, which resulted from test rates of 72, 76, and 126 lbs/hr. The tests demonstrated that the average SO₂ emission rate for the resource recovery facility was 140 lbs/hr (92 + 153 + 177 divided by 3 = 140), based on the average rate for the three units.

The County retested Unit No. 1 within one week after verbally receiving the preliminary test data. The retest was conducted on May 16, 1990, and the average sulphur dioxide emission rate for Unit No. 1 was 142 lbs/hr resulting from three-one hour tests of 87, 141, and 197 lbs/hr.

The County's resource recovery facility was tested again in April 1991. The 1991 tests confirmed once more that the facility is operating within its permit limits. The average SO₂ emission rates were 80, 113, and 61 lbs/hr for Units 1, 2, and 3 respectively. Unit 1 had test results of 66, 70, and 105 lbs/hr. Unit 2 had emissions of 82, 107, and 149 lbs/hr. Unit 3 had emissions of 52, 65, and 67 lbs/hr. The average emission rate for the facility as a whole was 85 lbs/hr.

On August 3, 1990, Pinellas county received a DER warning notice (WN90-0032AP52SWD) which indicated that the Department was concerned about the April 3, 1990 test for Unit 1. During subsequent discussions with the Department's Southwest District Office, Pinellas County was advised that the Department believes the SO₂ emission limit of 170 lbs/hr should be enforced for each unit separately. We respectfully disagree with this approach, but to resolve this dispute, we agreed to file this formal request for modification of the facility's permit conditions.

Basis for Pinellas County's Request

Pinellas County believes the SO₂ emission limit for its resource recovery facility should be based on the average value of the SO₂ emissions from the entire facility (i.e., all three units). There are several reasons why this approach is appropriate. Each of these reasons is discussed separately below.

1. Measuring the SO₂ emissions from any one combustion unit does not produce meaningful plant emission data. As previously noted, the SO₂ emissions from an individual unit simply reflect the amount of sulphur in the fuel supplied to that particular unit at the time when the emissions are measured. The SO₂ emissions may fluctuate upward or downward in relation to the sulphur content of the fuel, but these fluctuations are not the result of a malfunction or improper operation. Consequently, the SO₂ data for an individual unit should not be used for the purpose of determining whether the plant is in compliance and, for an uncontrolled emission such as SO₂, only total plant emissions have meaning. By adopting the wording change proposed by Pinellas, nine-one hour tests would be averaged. This is the logical method of plant performance concerning SO₂.
2. The County recognizes that it is appropriate to have emission limitations for each unit when DER is evaluating controlled emissions (e.g., particulate, opacity, etc.). With regard to controlled emissions, the "per unit" limitation allows the Department to assess the performance of the separate pollution control equipment for each combustion train. This logic is not applicable to the SO₂ emission limit, however, because the emissions are uncontrolled and there is no equipment to evaluate.

3. It should be remembered that Pinellas County has no financial incentive or other reason to increase the SO₂ emissions from any particular unit. The County has always used its best efforts to operate the plant properly and the County will continue to do so in the future.
4. In the instant case, the emission average for Unit 1 slightly exceeded the 170 lbs/hr limit in April 1990, only because one of the three hourly tests had a dramatically elevated level of SO₂ (290 lbs/hr). This one test was 25% and 59 lbs/hr higher than the second highest SO₂ emission rate measured in 1990 (231 lbs/hr). It is almost 100% greater than the highest SO₂ emission rate measured during the 1991 tests (149 lbs/hr). The County believes the increased SO₂ emissions in Unit 1 in April 1990, were attributable solely to an anomalous condition. Although we cannot conclusively identify the cause of the increased emissions, Pinellas County believes that they resulted from the disposal of wallboard (gypsum) in a load of other waste materials. Wallboard normally is not processed through resource recovery. However, wallboard sometimes is mixed with other wastes in the community and deposited in the refuse pit at the resource recovery facility. To minimize this potential problem, the County uses its best efforts to screen the refuse before it is placed in the pit. Further, the County removes any wallboard that is discovered in the refuse pit. Nonetheless, a relatively small amount of wallboard could have caused the elevated SO₂ emissions in Unit 1 because wallboard produces a great deal of SO₂ when burned.

It is worth noting that relatively small fluctuations in the waste composition may upset the SO₂ emission rate from a single unit, but these fluctuations normally are offset or balanced when the entire facility is viewed as a whole. Even when one unit is experiencing an elevated emission rate, the other units usually have lower emission rates, which bring the facility as a whole into compliance with the emission limits set in the conditions of certification. Indeed, the facility has always complied with the SO₂ emission limit when the emissions were evaluated from the facility as a whole.

5. The use of a facility-wide average for SO₂ eliminates the likelihood that one anomalous test could result in a DER finding of noncompliance, as occurred in this case. The use of an average emission rate should be appropriate because EPA and DER already recognize that averages should be used when evaluating the emissions for each unit. As previously noted, EPA and DER test methods require that three one-hour tests be conducted when measuring SO₂ and then the results are reported as the average of the three tests. Clearly, SO₂ emission calculated by averaging nine separate one hour tests are statistically more significant for compliance purposes.

6. Based on our review of the operating permits for other resource recovery facilities, it is our understanding that the Department has evaluated SO₂ emissions from the City of Tampa and Hillsborough County facilities on the basis of facility-wide emissions, rather than per unit emissions.

The City of Tampa's permit contains an SO₂ emission limit of 170 lbs/hr per 1000 tons per day of refuse fired (the same as the emission limit for each Pinellas unit). However, compliance with the permit limit is established by totalling the SO₂ emissions from the City's four units each rated at 250 tpd. The Department's stipulation of this approach for the City of Tampa's permit confirms our belief that it is an acceptable method and reflects more current thinking concerning uncontrolled emission.

Hillsborough County was only required to test SO₂ emissions at the time of the plant's initial start-up. Subsequent annual SO₂ compliance tests are not required. Start-up compliance test protocol provide that SO₂ emissions were measured from only one unit of the facility (which contains three units). The protocol expressly recognized that the facility's SO₂ emissions would simply reflect the fuel's sulphur content and it was implicitly recognized that extensive or annual testing of SO₂ emissions would not provide meaningful information about whether the facility was operating properly. Since Hillsborough's testing protocol and test data were accepted by DER as proof that the facility was in compliance with its SO₂ emission limit, we believe the Hillsborough County case supports our request for this permit modification.

The timing of the Hillsborough County case is noteworthy. The original conditions of certification for Hillsborough County's resource recovery facility provided that each unit within the facility would be tested annually. See Conditions of Certification II. A.3.c (revised 11/6/84), DER File PA 83-19. However, when the PSD permit for the Hillsborough County facility was issued on July 7, 1986, it did not require annual tests for SO₂. Apparently DER and EPA recognized in 1986 that annual tests for SO₂ were unproductive and unnecessary because SO₂ emissions are fuel-related. We believe this same attitude could have been applied to Pinellas County's facility, which was certified before the Hillsborough County facility.

When determining compliance with SO₂ emission limits, we are unaware of any rational basis for differentiating between the Pinellas County, Hillsborough County, and City of Tampa facilities. All three of these facilities use mass burn technology and electrostatic precipitators for pollution control. None of the facilities have controls for sulphur dioxide. Since they are fundamentally similar facilities, the Department should use the same procedure when calculating whether the facilities have complied with their SO₂ emission limits.

We recognize that the precise language used in the permits for these three facilities is slightly different. We have tried to determine whether there was any factual or legal justification for the different language used in the different permits at the times they were issued. So far as we have been able to determine, there was none.


7. By using a facility average to determine compliance, the Department would avoid the illogical results that would be reached in the instant case by applying per unit emission limits. The conditions of certification for Pinellas County's resource recovery facility indicate that the facility can emit 170 lbs/hr of SO₂ from each of the county's three combustion units. Thus, the facility can lawfully emit 510 lbs/hr (170 x 3 = 510). In the instant case, however, under the Department's "per unit" approach, DER would penalize the County and impose monetary fines based on actual emissions of only 422 pounds per hr. (177 + 153 + 92). The citizens of Pinellas County would be fined even though the facility's emissions were 118 pounds less than the amount authorized by the County's certification. We believe these facts make it clear why DER's approach is inappropriate. In light of DER's willingness to use a facility-wide emission limit for the Tampa and Hillsborough County facilities, DER's actions in this case are unfair and inconsistent.

Conclusion

For all of the reasons described above, we believe the Department should modify the conditions of certification and PSD permit for the Pinellas County resource recovery facility. The modification would simply clarify the method by which the County and the Department would determine compliance with the SO₂ emission limits for the facility.

Please call us if you need any additional information. Thank you for your cooperation and assistance with this matter.

Sincerely,



Robert Van Deman, P.E., Director
Solid Waste Management

RVD:rvt
1869V

cc: Fred E. Marquis
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pollutant, states may generally allow trades consisting of equivalent increases and decreases of actual emissions of that pollutant within a single plant or contiguous plants. Once the relevant NESHAP is promulgated, every source, regardless of any previously approved trade involving emissions of that pollutant, must meet the requirements of that promulgation.

Where EPA has decided that one or more source categories which emit a listed pollutant do not require regulation solely because of limited national exposure, emissions of that pollutant will continue to be treated the same as emissions of any other pollutant listed under section 112.

Where EPA has issued a formal Notice-of-Intent-Not-to-List a pollutant under section 112, that pollutant will ordinarily be treated as non-hazardous. However, where the decision not to list or not to regulate was based on limited national exposure, but the individual risk was sufficiently high that EPA committed in the announcement of its decision to support (through some formal mechanism such as a Memorandum of Understanding (MOU)) state-level efforts to develop regulations, the pollutant will be treated as listed for trading purposes in order to assure that such state efforts are not compromised. The model for the intended scope of this classification is EPA's acrylonitrile decision. (50 FR 24319; June 10, 1985).

If a substance is neither listed nor regulated as hazardous under section 112, nor meets any of the other conditions specified above, but has been formally listed or regulated as toxic under any comparable health-based federal statute, the Administrator may consider this fact in evaluating trades which may increase emissions of that substance. This authority has not been delegated within EPA by the Administrator. See Clean Air Act section 301(a)(1), 42 U.S.C. 7601(a)(1).⁴⁴

⁴⁴ Trades involving emission streams partially or wholly composed of any pollutants subject to special considerations under this section must meet two separate and distinct tests to be approved. First, such trades must be approvable under the criteria and principles which apply to all trades, as discussed throughout this policy (i.e., such trades must meet baseline and other requirements for the relevant criteria pollutant). Second, such trades must be approvable with respect to the hazardous pollutant fraction of the criteria pollutant emission stream. This means that there must be no net increase in emissions of the pollutants addressed in this section, as a result of such trades. Where a NESHAP has been promulgated or proposed, the baseline for determining whether such an increase has occurred is the lower-of-actual-or-NESHAP-allowable emissions for the hazardous component of the trade, for the source which emits that component. The promulgated or proposed NESHAP limit not only is used to define the allowable

Exception. Trades which involve the pollutants addressed in this section but do not meet the special restrictions discussed above, may also be approved where surplus reductions in those pollutants compensate for increases in non-hazardous emissions of the same criteria pollutant. For example, a source emitting benzene may trade with a source emitting a non-hazardous VOC without meeting these special restrictions, if the benzene emissions are reduced as a result of the trade (i.e., "traded down"). As long as such a trade would not result in an increase in either actual or allowable emissions of a pollutant subject to the preceding paragraphs at any source, it would not differ in nature or requirements from a trade involving only non-hazardous VOC emissions.

e. Existing-Source Credits Cannot Be Used to Meet Applicable Technology-Based Requirements for New Sources. Under Clean Air Act section 111 and EPA implementing regulations, new affected facilities must satisfy technology-based New Source Performance Standards (NSPS), regardless of the attainment status of the area in which they are located. Under sections 185 and 173 and EPA implementing regulations, new or modified major sources must also satisfy technology-based control requirements associated with preconstruction permits. These requirements prohibit use of credits from existing sources to meet or avoid applicable NSPS, and bar use of such credits to meet applicable new source review requirements for best available control technology (BACT) in PSD areas, or lowest achievable emission rate control technology (LAER) in nonattainment areas.⁴⁵

However, modifications of existing major sources in PSD and nonattainment areas with an EPA-approved "plantwide" definition of source can use "contemporaneous" reductions in actual emissions from within the same source to "net out of" New Source Review.⁴⁶ Under such

emissions for that source, but serves as an absolute ceiling on the source as well. Where a NESHAP has not yet been promulgated or proposed, the baseline for determining whether such an increase has occurred is generally actual emissions for the hazardous pollutant component of the trade. But cf. today's Policy Statement at n. 8.

⁴⁵ Today's notice does not address whether or under what circumstances facilities subject to NSPS, BACT or LAER may surpass applicable permit limits reflecting such requirements in order to create credits for existing-source trades.

⁴⁶ "Contemporaneous" means a reasonable period for accumulating increases and decreases in emissions, as specified by the state. See 40 CFR 51.18(j)(1)(vi) and 51.24(b)(3)(b) (b).

"netting," sourcewide increases in potential emissions that do not exceed designated levels of significance (see 40 CFR 51.18(j)(1)(x), 51.24(b)(23), and 52.21(b)(23)) will not be considered "major modifications" of the source under 40 CFR 51.18, 51.24, 51.22, 51.307, 52.20, or 52.27. Thus, while these source changes must still meet applicable NSPS, NESHAPs, preconstruction applicability review requirements under 40 CFR 51.18 (a)-(h) and (l), and SIP requirements, they are not subject to new source review requirements for major modification because they are not considered "major."⁴⁷

f. Trades Involving Open Dust Emissions. Trades involving open dust sources of particulate emissions may be approved through case-by-case SIP revisions based on modeled demonstrations of ambient equivalence. Sources proposing such trades must commit, as part of the trade's approval, to (i) undertake a post-approval monitoring program to evaluate the impact of their control efforts, and (ii) make further enforceable reductions if post-trade monitoring indicates initial open dust controls do not produce the predicted air quality results.

g. Interstate Trades. EPA will approve trades which involve sources located in neighboring states where such trades meet the criteria below and all other approval criteria applicable under today's notice. Where state trading requirements differ, EPA will require that trades with increasing and decreasing sources in different states meet the substantive requirements of the more stringent state. In general, in order to avoid complex accounting problems, EPA will deem ERCs created in another state to contribute to progress in the state where used, to the extent of that use. Such trades must be accomplished through case-by-case SIP revisions.

⁴⁷ Netting also applies under the narrower "dual definition" of "source" in certain circumstances. For example, firms may use reductions within the plant to compensate for increases at several emitting units which, while not individually significant, might otherwise add up to a significant increase plantwide.

Under current EPA regulations, if a nonattainment area is subject to a moratorium on new preconstruction permits for major sources or modifications and the area does not have an approved New Source Review program, then the area automatically uses a plantwide definition. See 40 CFR 52.24.

EPA's general expansion of opportunities for states to use the plantwide source definition for certain nonattainment areas (49 FR 50706, October 14, 1984) was affirmed by the U.S. Supreme Court on June 25, 1984. *Chevron U.S.A., Inc. v. Natural Resources Defense Council*, 104 S. Ct. 2778, 14 ELR 20507, overruling *Natural Resources Defense Council, Inc. v. Gorsuch*, 685 F.2d 710, 12 ELR 20942 (D.C. Cir. 1982).