

**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
COMMISSIONER'S BOARD ROOM  
MARCH 19, 1998  
10:00 AM - 12 NOON**

*Noted  
April  
Discuss - Air Quality  
Problems*

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Any person who might wish to appeal any decision made by the Environmental Protection Commission regarding any matter considered at the forthcoming public hearing or meeting is hereby advised that they will need a record of the proceedings, and for such purpose they may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based.



**AGENDA ITEM COVER SHEET**

**Date:** March 19, 1998

**Agenda Item:** Public Hearing

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**Description/Summary:**

The Commission requested CEAC to review its rules to streamline, clarify and update them. In conjunction with staff, CEAC has reviewed Chapter 1-4, Open Burning and submits the attached document for your consideration.

The proposed rule amendment clarifies definitions and includes polyethylene plastic potting containers in the definition of Agricultural Plastic; clarifies that the open burning prohibition includes burning of maintenance clearing yard trash; deletes references to the County's Energy Recovery Facility; clarifies when written authorization of the Director is not required although permission of other agencies may be; references the National Fire Protection Association Standards for emergency training instruction; correct references to state regulations; allows and provides conditions for the open burning of agricultural plastic potting containers; and provides for severability and an effective date.

Notice of Public Hearing was published in the Tampa Tribune.

**Board Action Recommended:**

Approve and adopt proposed amendments to Chapter 1-4.

A RULE

AMENDING CHAPTER 1-4 OF THE RULES OF THE ENVIRONMENTAL PROTECTION COMMISSION RELATING TO OPEN BURNING, CLARIFYING DEFINITIONS AND INCLUDING POLYETHYLENE PLASTIC POTTING CONTAINERS IN THE DEFINITION OF AGRICULTURAL PLASTIC; CLARIFYING THAT THE OPEN BURNING PROHIBITION INCLUDES BURNING OF MAINTENANCE CLEARING YARD TRASH; DELETING REFERENCES TO THE COUNTY'S ENERGY RECOVERY FACILITY; CLARIFYING WHEN WRITTEN AUTHORIZATION OF THE DIRECTOR IS NOT REQUIRED, ALTHOUGH PERMISSION OF OTHER AGENCIES MAY BE; REFERENCING THE NATIONAL FIRE PROTECTION ASSOCIATION STANDARDS FOR EMERGENCY TRAINING INSTRUCTION; CORRECTING REFERENCES TO STATE REGULATIONS; ALLOWING AND PROVIDING CONDITIONS FOR THE OPEN BURNING OF AGRICULTURAL PLASTIC POTTING CONTAINERS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Environmental Protection Commission of Hillsborough County is empowered by Chapter 84-446, Laws of Florida to adopt and amend from time to time rules and regulations necessary for the implementation of the Act,

WHEREAS, the Commission finds that limited and controlled open burning is an efficient and environmentally sound method of disposing of certain agricultural plastics, including agricultural plastic potting containers, and

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

NOW, THEREFORE, the Environmental Protection Commission of Hillsborough County in regular public meeting this \_\_\_\_\_ day of March, 1998, enacts the following:

**Section 1.** Chapter 1-4, Rules of the Commission, is amended to read as follows:

1 **1-4.01 STATEMENT OF INTENT:**

2 1. The Commission promulgates this rule for the purpose of implementing the intent of  
3 the Florida Legislature as declared in the Environmental Protection Act of Hillsborough County  
4 ~~Chapter 84-446, Laws of Florida~~ to insure the atmospheric purity and freedom of the air of  
5 Hillsborough County from combustion contaminants or synergistic agents injurious to human,  
6 plant, or animal life, which unreasonably interfere with comfortable enjoyment of life or property  
7 or the conduct of business. In so doing with regard to open burning, the Commission recognizes

1 that the Florida Department of Environmental Protection has certain concurrent jurisdiction  
2 pursuant to Chapter 403, Florida Statutes. It is the intent of the Commission to require  
3 compliance with the Department's rules in Hillsborough County, except as may be otherwise  
4 provided herein so as to further the policy of protecting air quality existing at the time the  
5 Department adopted its standards, and of upgrading or enhancing air quality.

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

8  
9 **1-4.02 DECLARATION OF LEGISLATIVE FINDINGS:**

10 The Commission hereby finds and declares that the open burning of materials outdoors and  
11 the use of outdoor heating devices result in or contribute to air pollution. The Commission finds  
12 that regulation of open burning and outdoor heating devices will reduce air pollution significantly.  
13 The Commission further finds that emissions from open burning, while in compliance with  
14 specific authorization requirements, may at times constitute nuisances, as defined and prohibited  
15 by ~~Section 3(12) and as prohibited by Section 16~~ of the Act.

16  
17 **1-4.03 DEFINITIONS:**

18 1. Definitions contained in ~~the Act Chapter 84-446, Laws of Florida,~~ apply to this rule.

19 2. Definitions contained in Section 256.200 F.A.C., as amended, shall ~~to the extent~~  
20 ~~applicable and as not otherwise provided herein,~~ apply to this rule unless otherwise provided  
21 herein.

22 3. The following specific definitions shall apply to this rule:

23 a. ~~"Commission" shall mean the Environmental Protection Commission of~~  
24 ~~Hillsborough County.~~

25 b. "Director" shall mean the Executive Director of the Commission or his  
26 authorized agent.

27 b. e. "Land Clearing Operation" shall mean the initial uprooting or clearing of  
28 vegetation in connection with construction for buildings, rights-of-way, residential, commercial,  
29 or industrial development, mineral operations, roads, flood control and water drainage channels,  
30 or initial clearing of agricultural lands, and does not include maintenance clearing of yard trash.

31 ~~d. "Energy Recovery Facility" shall mean the Hillsborough County Energy Recovery~~  
32 ~~Facility~~

1            ~~c.e.~~ "Agricultural Plastic" shall mean either plastics used in normal agricultural  
2 practices which are composed primarily of polyethylene, or plastics found to be ~~under~~ below  
3 USEPA toxicity/hazard threshold levels when used solely in agricultural mulch or twine  
4 applications, for tropical fish farm or hatchery operations, or related aquacultural operations, or  
5 polyethylene plastic potting containers used in nursery operations.

6            ~~d.f.~~ "Portable Air Curtain Incinerator Unit" shall mean an incinerator unit which is  
7 operated at any one site for a period of less than six (6) months.

8            ~~e.g.~~ "Stationary Air Curtain Incinerator Unit" shall mean an incinerator unit which is  
9 operated at any one site for more than six (6) months, or at any Florida Department of  
10 Environmental Protection permitted landfill for any length of time.

11  
12 **1-4.04 PROHIBITIONS:**

13            1. All open burning is prohibited in Hillsborough County except as may be specifically  
14 allowed pursuant to this rule. This prohibition includes open burning associated with the  
15 maintenance clearing of yard trash. No person shall ignite, cause to be ignited, permit to be  
16 ignited, suffer, allow, burn, conduct or maintain any prohibited open burning.

17            2. The open burning of tires, rubber material, Bunker C residual oil, asphalt, roofing  
18 materials, tar, railroad cross ties and other creosoted lumber, plastics not otherwise allowed by this  
19 rule, or garbage is prohibited and may not be authorized.

20            3. No person shall use or operate any outdoor heating device or burn any unapproved  
21 fuel for cold or frost protection except as provided in this rule.

22            4. The Commission, the Hillsborough County Fire Department, the Division of Forestry,  
23 or any authorized fire control agency empowered by law or ordinance to extinguish unlawful  
24 burning, may extinguish or cause to be extinguished any fire that is unauthorized or does not  
25 comply with this rule. Any person responsible for unlawful open burning shall bear any  
26 applicable costs involved in extinguishing the fire.

27            5. Any open burning that is allowed pursuant to this rule is restricted to the site where the  
28 material was generated and materials may not be transported to another property to be open  
29 burned, except as provided in rule Section 1-4.08(7) and (8)/

30            6. Open burning within one thousand (1,000) feet of any active runway of a Department  
31 of Transportation approved public airport is prohibited.

1 7. Allowed or authorized open burning may be temporarily suspended when the  
2 Commission determines that ambient air concentrations of ~~total suspended~~ particulate matter or  
3 ozone may near or exceed the primary or secondary standards for these pollutants.

4 8. No open burning may be conducted during a National Weather Service Air Stagnation  
5 Advisory, a Florida Department of Environmental Protection Air Stagnation Advisory or Air  
6 Pollution Episode, or if the appropriate authorities determine that weather conditions are  
7 unfavorable for proper open burning.

8  
9 **1-4.05 LIMITATIONS:**

10 Nothing in this rule may be construed to allow open burning which causes or constitutes a  
11 hazard to air traffic, which reduces visibility on public roadways to less than 500 feet, or which  
12 violates other laws, rules, regulations or ordinances. ~~Each person intending to conduct open~~  
13 ~~burning, including use of Air Curtain Incinerators, is advised to consult with the County to insure~~  
14 ~~that the material does not have to be taken to Energy Recovery Facility.~~

15  
16 **1-4.06 ALLOWED BURNING (NO WRITTEN EPC AUTHORIZATION REQUIRED)**

17 ~~No written authorization from the Commission shall be required for the following open~~  
18 ~~burning and such open burning is allowed~~ Open burning under the following conditions is  
19 allowed without written authorization of the Director so long as the provisions of rule Sections 1-  
20 4.04, 1-4.05, and 1-4.09 are not violated (written authorization from other agencies may be  
21 required):

22 1. Agricultural Open Burning:

23 a. Upon proper authorization from the Division of Forestry, open burning for  
24 range improvement, maintenance and continuation of the grazing of animals or burning incidental  
25 to other continuous agricultural activities, and initial agricultural land clearing but excluding other  
26 land clearing operations described in rule Section 1-4.03(3), so long as such burning is consistent  
27 with the Rules of the Division of Forestry, Department of Agriculture and Consumer Service.

28 b. Upon proper authorization from ~~EPC~~ the Division of Forestry, on-site open  
29 burning of agricultural plastic is allowed, including small volumes of plastic twine used in the  
30 normal operation of crop staking, and for nursery and ~~or for~~ tropical fish (farm or hatchery)  
31 operations. To promote alternative disposal options, EPC shall evaluate the necessity for  
32 continuing this authorization no later than December 31, ~~1996~~ 1999. In making its determination,  
33 EPC shall consider the economic feasibility of recycling agricultural plastics or substituting

1 materials that would not require open burning. Open burning authorized under this subparagraph  
2 shall be conducted at least ~~15~~ 30 feet away from any surface waters and must comply with  
3 Section 1-4.09.

4 2. Burning for Cold or Frost Protection: Open burning for cold or frost protection as  
5 allowed by Section 17-256.450, F.A.C.

6 3. Official Public Purpose:

7 a. Open burning set or permitted by any public officer in the performance of  
8 official duty, if such fire is set or permission given for the purpose of weed abatement, the  
9 prevention of a fire hazard, including the disposal of dangerous materials where there is no safe  
10 alternate method of disposal, or where such fire is set in connection with county or municipal  
11 operations to burn yard trash generated by hurricane, tornado, fire, or other disaster, if an Air  
12 Curtain Incinerator as specified in rule Section 1-4.09(4) is used.

13 b. Open burning for the purpose of habitat or ecosystem management when  
14 authorized by appropriate public officials acting in accordance with state or local regulation.

15 4. Emergency Training: Open burning for the instruction and training of organized fire  
16 fighters or industrial employees under the supervision of the appropriate public fire control  
17 official, provided that all applicable guidelines as established by the National Fire Protection  
18 Association Standard NFPA-1403 (as amended) are met, and:

19 a. The burning activities are for the sole purpose of fire suppression training for  
20 non-hazardous liquid fires such as gasoline or jet fuel and for structural fires. All insulation, elec-  
21 trical wiring, linoleum, carpeting, roofing material such as tar paper and asphalt shingles, or other  
22 excessive smoke producing or potentially air toxic materials are to be removed from a structure  
23 prior to burning.

24 b. The Commission and fire control officials are notified in advance of the time and  
25 place of the burning exercise.

26 5. Food Preparation/Warmth: Open burning for the purpose of outdoor, non-  
27 commercial food preparation which is conducted in a container, or any fire in a container that is  
28 being used for the purpose of personal warmth, providing that only clean wood, charcoal or other  
29 accepted wood substitutes are burned.

30  
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32

- 1           6.    Personal Purposes:  
2           a.    Open burning for campfires, bonfires, ceremonial, or religious fires.  
3           b.    Open burning under this subsection shall be regulated by the appropriate  
4 jurisdiction's Fire Marshal, who shall be responsible for receiving all requests for authorization,  
5 issuing authorizations, and investigating all complaints of burning for personal purposes.

6  
7    **1-4.07    ALLOWABLE BURNING (WRITTEN EPC AUTHORIZATION REQUIRED):**

8           Open burning including the use of Air Curtain Incinerators, may be conducted for disposal  
9 of materials which result from land clearing operations, or from County maintenance of public  
10 rights-of-way, only after the issuance of written authorization as described in rule Section 1-4.08.

11  
12   **1-4.08    ADMINISTRATIVE PROCEDURE & CONDITIONS FOR AUTHORIZATION:**

13           1.    Open burning for agricultural purposes as described in rule Section 1-4.06(1) shall be  
14 administered by the Division of Forestry, which shall be responsible for receiving all requests for  
15 authorizations, issuing authorizations, and investigating all complaints involving open burning for  
16 agricultural purposes.

17           2.    Open burning for land clearing as described in rule Section 1-4.07 shall be  
18 administered by the Commission, which shall be responsible for reviewing, processing, issuing all  
19 required authorizations, and investigating all complaints involving open burning for land clearing.

20           3.    Any person intending to engage in open burning as described in rule Section 1-4.07  
21 shall submit along with the necessary fee a written request to the Director on the application form  
22 provided for this purpose.

23           4.    Upon the review of the application, and if the Director finds the open burning  
24 reasonably necessary and not contrary to the public interest, he shall approve the application. In  
25 granting such approval the Director may prescribe such special conditions or limitations as he  
26 deems necessary to minimize adverse effects. The written authorization will be prominently  
27 posted on site during the period of the open burning.

28           5.    The use of Air Curtain Incinerators may be allowed for the combustion of land  
29 clearing debris. No Florida Department of Environmental Protection air construction or air  
30 operating permit is required for a Portable Air Curtain Incinerator Unit. Portable Air Curtain  
31 Incinerators shall comply with the conditions of rule Section 1-4.09(3).

1           6.   Stationary Air Curtain Incinerator Units must obtain a Florida Department of Envi-  
2   ronmental Protection air pollution permit pursuant to Chapter ~~17-210~~ 62-210 F.A.C., which  
3   application shall be submitted to the Director for processing.

4           7.   Land clearing debris that is generated by the commercial land clearing activities of a  
5   person may be transported offsite to be burned by ~~an unpermitted~~ a portable Air Curtain  
6   Incinerator owned or operated by that person provided that the incinerator:

7           a.   Is located on property owned or leased by the person who generated the land  
8   clearing debris, and

9           b.   For Air Curtain Incinerators with vertical refractory-lined walls and with forced  
10   underdraft air, meets a setback distance of three hundred (300) feet from occupied buildings.

11          8.   Land clearing debris generated from the activities of one or more persons may be  
12   transported offsite to be burned by a permitted Air Curtain Incinerator.

13  
14   **1-4.09    OPEN BURNING REQUIREMENTS:**

15          1.   All open burning, both allowed under rule Section 1-4.06 and authorized under rule  
16   Section 1-4.07 (except as allowed for cold and frost protection under provisions of chapter 62-  
17   256.450, F.A.C.), shall conform to the following conditions:

18           a.   The open burning does not produce excessive or unnecessary smoke, soot,  
19   odors, visible emission, heat, flame, or radiation so as to cause a nuisance or to otherwise violate  
20   ~~Section 16~~ of the Act.

21           b.   Except for the authorized activities of Section 1-4.06, the open burning is  
22   setback one hundred (100) feet or more away from any public highway or road and the prevailing  
23   winds direct the smoke away from the public highway or road.

24           c.   Except for the authorized activities of Section 1-4.06, all open burning shall be  
25   conducted only between the hours of 9:00 a.m. (local time) and one hour before sunset.

26           d.   The moisture content and composition of the materials to be burned shall be  
27   favorable to good burning so as to minimize air pollution. Newly cut vegetative material shall be  
28   allowed to dry to reduce the naturally occurring moisture content. Wet material shall be provided  
29   adequate drying time prior to being burned.

30           e.   The open burning is physically attended at all times and the person conducting  
31   the burning has ~~at his disposal~~ the means to quickly suppress the fire.

32           f.   Open burning must be conducted on the site where the material is generated  
33   except when an Air Curtain Incinerator is used as described in rule Section 1-4.08.

1           2. Open burning for land clearing shall conform to the conditions stated under rule  
2 Section 1-4.09(1) as well as the following specific conditions:

3           a. The open burning meets one of the following setback requirements:

4                   1) Three hundred (300) feet or more away from any occupied building if an  
5 Air Curtain Incinerator is used, or

6                   2) One thousand (1,000) feet or more away from any occupied building if an  
7 Air Curtain Incinerator is not used.

8           b. The piles of materials to be burned shall be of such size that the burning will be  
9 completed within the designated time given in paragraph 1-4.09(1)(c). Restrictions on the size  
10 and number of piles may be imposed by the appropriate authorities.

11           c. The amount of dirt in a land clearing open burning operation shall be minimized  
12 to enhance combustion and reduce emissions.

13           3. Open burning of land clearing debris that uses an Air Curtain Incinerator shall  
14 conform to the conditions stated under rule Sections 1-4.09(1) and 1-4.09(2) as well as following  
15 specific conditions:

16           a. Pit width, length, and side walls shall be properly maintained so that the  
17 combustion of the waste within the pit will be maintained at an adequate temperature and with  
18 sufficient air recirculation to provide enough resident time and mixing for complete combustion  
19 and control of emissions. Pit width shall not exceed twelve (12) feet, and vertical side walls shall  
20 be maintained.

21           b. No waste may be positioned to be burned above the level of the air curtain in the  
22 pit.

23           c. The types of materials to be burned are restricted to land clearing debris. Other  
24 M materials will ~~which can be separated and processed by the Energy Recovery Facility as solid~~  
25 waste. may be disallowed.

26           d. Excessive visible emissions (greater than 40% opacity or Number 2 on the  
27 Ringelmann Smoke Chart) are not allowed except for a period up to 30 minutes during start-ups,  
28 shutdowns, and temporary malfunctions, as those terms are defined in Rule 1-3.

29           4. Exception to the setback requirements may/ be granted by the Commission if the  
30 applicant obtains a signed affidavit from affected residents within the setback area waiving all  
31 objections to the open burning associated with the land clearing operation. The applicant must  
32 provide at least 15 days written notice of the proposed waiver, specifically referencing this rule,  
33 to all registered Neighborhood Organizations within 1 mile of the proposed burn site. Copies of

1 each notice and the executed affidavits must be received by the Commission at the same time as  
2 the written request for authorization or prior to any allowed burning not requiring  
3 written authorization or permit pursuant to rule Section 1-4.08.

4 5. Open burning of waste pesticide containers shall conform to the conditions stated  
5 under rule Section 1-4.09(1) as well as the following specific conditions:

6 a. Plastic containers must be the original container provided by the pesticide  
7 manufacturer or formulator as end user conveyance for the specific product, and not reused  
8 containers designed for other products.

9 b. Containers must be classified as Group I Containers and bear label instructions  
10 stating that small quantities of the containers may be burned in open fields by the user of the  
11 pesticide.

12 c. No more than 100 pounds of pesticide containers shall be burned per day at any  
13 specific location. If more than one fire is to be set in any area each specific burning location shall  
14 be at least 1000 yards from each other location at which burning will occur concurrently.

15 d. All Group I containers which are to be disposed of by open burning shall be  
16 completely empty and free of residual material pursuant to the following criteria:

17 1) Plastic containers including inner liners shall be triple rinsed with the same  
18 kind of solvent used to dilute the spray mixture in the field. The rinse liquids from the containers  
19 shall be added to the spray mixture in the field.

20 2) Paper containers shall be emptied by a final shaking and tapping of the sides  
21 and bottom to remove clinging particles. All loosened particles shall be added to the spray  
22 mixture or application in the field.

23 e. The open burning must be ~~is~~ one thousand (1000) feet or more away from any  
24 occupied building, and is two hundred (200) feet or more away from any farm workers.

25 f. The person responsible for the burning must be ~~is~~ in attendance at an upwind  
26 location from the fire for the entire period of the burn (until all emissions of flame and smoke  
27 have ceased).

28 g. The person desiring to conduct open burning of pesticide containers shall obtain  
29 the prior authorization of the Division of Forestry, and prior to initiating any open burning shall  
30 notify the Commission and provide the name, address, and phone number of the responsible  
31 party, the Division of Forestry permit number, the location of the burning, and the type and  
32 quantity of material being burned.

1           6. Open burning of agricultural plastic potting containers shall conform to the conditions  
2 stated under rule Section 1-4.09(1) as well as the following specific conditions:

3           a. Containers must be composed of polyethylene plastic.

4           b. Containers must be classified as polyethylene Type 1 (PET), Type 2 (HDPE), or  
5 Type 3 (LDPE) and be burned in open fields by the user of the material .

6           c. No more than 100 pounds of agricultural plastic potting container shall be  
7 burned per day at any specific location. If more than one fire is set in any specific area, each pile  
8 should be at least 1000 yards from any other location at which burning will occur concurrently.

9           d. All agricultural plastic pottings containers which are to be disposed of by open  
10 burning shall be completely empty and free of residual material, including inner liners, which  
11 shall be rinsed to be rid of all fertilizer, soil or other residuals.

12           e. The open burning must be one thousand (1000) feet or more away from any  
13 occupied building, two hundred (200) feet or more away from any farm workers and at least 100  
14 ft away from any roadway.

15           f. The person responsible for the burning must be in attendance at an upwind  
16 location from the fire for the entire period of the burn (until all emissions of flame and smoke  
17 have ceased).

18           7. Open burning of agricultural plastic shall conform to the conditions stated under rule  
19 Section 1-4.09(1).

**Section 2.** 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, subsection, sentences, clauses or provisions are held invalid, for whatever reason, the remaining portions shall not be affected.

**Section 3.** This rule shall be effective upon approval in accordance with law.

## AGENDA ITEM COVER SHEET

**Date:** March 19, 1998

**Agenda Item:** Public Hearing

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### Description/Summary:

The Commission requested CEAC to review its rules to streamline, clarify and update them. In conjunction with staff, CEAC has reviewed Chapter 1-8, Mobile Sources, and submits the attached document for your consideration.

The proposed amendments clarify that state and federal emission control strategies are important to maintaining attainment; clarify that onboard diagnostic systems are part of the emission control systems of motor vehicles; delete unnecessary definitions; amend the prohibition regarding sale of vehicles without inspection certificates, and provide that dealer certificates are valid for one year; delete the prohibition of advertising fuel additives for sale; prohibit the release of air conditioner refrigerants; provide prohibitions and conditions for installing, repairing or servicing motor vehicle air conditioners; delete outdated provisions relating to fuel switching and vapor balance systems; delete posting requirements regarding fuel switching; clarify that periodic inspections shall include government and private fleets; delete the standard minimum penalties for fuel switching, pump nozzles and notices; correct number references and clarify wording; and provide for severability and an effective date.

Notice of Public Hearing was published in the Tampa Tribune.

### Board Action Recommended:

Approve and adopt proposed amendments to Chapter 1-8.

A RULE

AMENDING CHAPTER 1-8 OF THE RULES OF THE ENVIRONMENTAL PROTECTION COMMISSION RELATING TO MOBILE SOURCES; CLARIFYING THAT STATE AND FEDERAL EMISSION CONTROL STRATEGIES ARE IMPORTANT TO MAINTAINING ATTAINMENT; CLARIFYING THAT ONBOARD DIAGNOSTIVE SYSTEMS ARE PART OF THE EMISSION CONTROL SYSTEMS OF MOTOR VEHICLES; DELETING UNNECESSARY DEFINITIONS; AMENDING THE PROHIBITION REGARDING SALE OF VEHICLES WITHOUT INSPECTION CERTIFICATES, AND PROVIDING THAT DEALER CERTIFICATES ARE VALID FOR ONE YEAR; DELETING THE PROHIBITION OF ADVERTISING FUEL ADDITIVES FOR SALE; PROHIBITING THE RELEASE OF AIR CONDITIONER REFRIGERANTS; PROVIDING PROHIBITIONS AND CONDITIONS FOR INSTALLING, REPAIRING OR SERVICING MOTOR VEHICLE AIR CONDITIONERS; DELETING OUTDATED PROVISIONS RELATING TO FUEL SWITCHING AND VAPOR BALANCE SYSTEMS; DELETING POSTING REQUIREMENTS REGARDING FUEL SWITCHING; CLARIFYING THAT SERIODIC INSPECTIONS SHALL INCLUDE GOVERNMENT AND PRIVATE FLEETS; DELETING THE STANDARD MINIMUM PENALTIES FOR FUEL SWITCHING, PUMP NOZZLES AND NOTICES; CORRECTING NUMBER REFERENCES AND CLARIFYING WORDING; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Hillsborough County has been declared an attainment area for ozone pollution, and

WHEREAS, leaded fuel is no longer appropriate for most automobiles and is no longer regularly available at commercial gas stations, and

WHEREAS, the Environmental Protection Commission of Hillsborough County is empowered by Chapter 84-446, Laws of Florida, as amended, to adopt and amend from time to time rules and regulations necessary for the implementation of the Act, and

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

NOW, THEREFORE, the Environmental Protection Commission of Hillsborough County in regular public meeting this \_\_\_\_\_ day of March, 1998, enacts the following:

**Section 1.** Chapter 1-8, Rules of the Commission, is amended to read as follows:

ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
CHAPTER 1-8  
MOBILE SOURCE

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**1-8.01 STATEMENT OF INTENT:**

The Commission promulgates this rule for the purpose of implementing the intent of the Florida Legislature as declared in the Environmental Protection Act of Hillsborough County Chapter 84-446, Laws of Florida, as amended, to insure the atmospheric purity and freedom of the air in Hillsborough County from contaminants or synergistic agents resulting from the improper use and combustion of fuels in motor vehicles.

1 or any other air contaminants released by the improper operation or servicing of motor vehicles. The  
2 Commission recognizes that the Federal Motor Vehicle Control Program, Title 40 CFR, Part 86, as  
3 amended, re-quires that new motor vehicles meet specified emission standards and intends that this rule  
4 further the public interest by requiring that those emission standards be maintained. The Commission intends  
5 that staff work with all appropriate State and Federal agencies in the area of Mobile source control. Further,  
6 it is the Commission's intent that its staff work in conjunction with the Sheriff, as necessary, to periodically  
7 effect random stops of motor vehicles within the parameters of law to verify their compliance with this rule.

8  
9 **1-8.02 DECLARATION OF LEGISLATIVE FINDINGS:**

10 The Commission hereby finds and declares that the operation of motor vehicles with inoperable  
11 emission control systems causes and may reasonably be expected to cause air pollution and that the  
12 reasonable control and regulation of motor vehicle operation in Hillsborough County is necessary for the  
13 protection and preservation of the public health, safety, and welfare. Further, the Commission ~~finds that~~  
14 recognizes the current non-attainment status of Hillsborough County for ozone and maintains adherence to the  
15 emission control strategies as set forth by the State of Florida and the United States Environmental Protection  
16 Agency requires the adoption and implementation of these additional regulations and controls to assist in the  
17 County's return to maintenance of this attainment status.

18  
19 **1-8.03 DEFINITIONS:**

20 1. Definitions contained in the Act Chapter 84-446, Laws of Florida, as amended, apply to this rule.

21 2. The following specific definitions shall apply to this rule:

22 a. "Director" means the Executive Director of the Commission or his authorized staff.

23 b. "Emission control system" means the devices and mechanisms installed as original  
24 equipment at the time of manufacture or those equivalent devices and mechanisms later installed during repair  
25 or replacement of original equipment, or during vehicle modification or retrofit as required by law, for the  
26 purpose of reducing or aiding in the control of emissions including, but not limited to, the following  
27 components: catalytic converter, fuel inlet restrictor, unvented fuel cap, positive crankcase ventilation  
28 system, exhaust gas recirculation system, thermostatic air cleaner, air pump and/or air injection system,  
29 oxygen sensor, fuel evaporative emission control, and all vacuum lines, electrical lines, and sensors or  
30 switches associated with these devices.

31 c. "Inoperable emission control system" means any emission control system or  
32 component thereof whose operation or efficiency has been circumvented, defeated, or deleteriously affected  
33 by improper maintenance, improper up-keep, wear and tear, misfueling, or tampering.

34 ~~d. "leaded gasoline" means gasoline containing more than .005 grams of phosphorus or~~  
35 ~~more than .05 grams of lead per U.S. gallon.~~

1                    d.-e. "Mobile source" means any mechanical source of air pollution that is characterized  
2 by the ability to propel itself.

3                    e.-f. "Model year" means the year of the vehicle as stated on the title, registration, or the  
4 USEPA certification label.

5                    f.-g. "Motor vehicle" means any self-propelled vehicle designed for transporting persons  
6 or property on a street or highway.

7                    g.-h. "Smoke" means any small gasborne and airborne particles, exclusive of water vapor,  
8 from a process of combustion, in sufficient number to be visible.

9                    h.-i. "Tampering" means the intentional inactivation, disconnection, removal or other  
10 modification of a component or components of the emission control system resulting in it being inoperable.

11                   i.-j. "Tampered motor vehicle" means any motor vehicle in which the emission control  
12 system is inoperable because of tampering.

13                   j.-k. "Vapor balance system" means a combination of pipes or hoses or valves which  
14 create a closed system between the vapor spaces of an unloading tank and receiving tank such that vapors  
15 displaced from the receiving tanks are transferred to the tank being unloaded.

16  
17 **1-8.04            APPLICABILITY:**

18            1.        With the exception of Sections 1-8.05(8) and (9), this Rule is not applicable to the following  
19 motor vehicles:

- 20            a.        Motor vehicles which are designated as model year 1974 or older.  
21            b.        Motor vehicles which have net vehicle weights greater than 5,000 pounds or gross  
22 vehicle weights greater than 10,000 pounds.  
23            c.        Motorcycles, mopeds, scooters, and golf carts, as defined in Section 320.01 F.S.  
24            d.        Farm vehicles, as defined in Section 320.51 F.S.  
25            e.        Imported nonconforming motor vehicles which are documented to be exempt from  
26 federal emission control requirements by the U. S. Environmental Protection Agency under 40 CFR 85  
27 Subpart P.  
28            f.        Street rods as defined by Section 320.0863 F.S.  
29            g.        Ancient motor vehicles as defined by Section 320.086 F.S.  
30            h.        Motor vehicles used exclusively in competitive motor sports events.

31            2.        This rule is applicable to all motor vehicle sales, reassignments and trades within  
32 Hillsborough County except for the following:

- 33            a.        Sales, reassignments, and trades by licensed motor vehicle dealers to licensed motor  
34 vehicle dealers.

- 1           b.     Sales of motor vehicles for salvage purposes only.
- 2           c.     Sales, reassignments and trades to licensed motor vehicle dealers, where the dealer  
3 elects not to request the certification from the sell-er or person reassigning title.
- 4           d.     Sales, reassignments and trades involving motor vehicles exempted in Section 1-  
5 8.04(1).

6

7 **1-8.05           PROHIBITIONS:**

- 8           1.     No person shall tamper, cause, or allow the tampering of the emission control system of any  
9 motor vehicle.
- 10          2.     No person shall replace, cause, or allow the replacement of an engine equipped with an  
11 emission control system with another engine with-out an emission control system having at least equivalent  
12 emission control efficiency.
- 13          3.     No person shall drive, or allow another to drive, a motor vehicle under their care, custody,  
14 or control with an inoperable emission control system, except as may be otherwise allowed by this Rule.
- 15          4.     No person shall rent or lease or otherwise provide for hire a motor vehicle that is not in  
16 compliance with the applicable emission standards or that has an inoperable emission control system.
- 17          5.     a.     Except as permitted by Section 1-8.04(2), no person or motor vehicle dealer shall  
18 offer a tampered motor vehicle for private or retail sale, or effect the transfer of title of any tampered motor  
19 vehicle.
- 20                b.     ~~Upon the implementation of the motor vehicle inspection program of Section~~  
21 ~~325.201 F.S., n~~ No person or motor vehicle dealer shall offer a motor vehicle for private or retail sale, sell  
22 at retail any motor vehicle, or effect the transfer of title of any motor vehicle, which has not received a valid  
23 inspection certificate as defined by Section 325.202(6) F.S. within the preceding ninety-(90) 180 days. In  
24 addition, dealer certificates (F29X) with an extra \$1 fee paid at first inspection are valid for one year for the  
25 first retail sale.
- 26          6.     No person shall manufacture, install, sell or advertise for sale, devices to defeat or render  
27 inoperable any component of a motor vehicle's emission control system; nor shall any person sell or advertise  
28 ~~for sale any~~ a device or introduce into a vehicle fuel additive intended to circumvent an accurate emissions  
29 test.
- 30          7.     No motor vehicle shall be driven in Hillsborough County which fails to meet the emission  
31 standards contained in Section 1-8.10(2), unless otherwise exempted herein.
- 32          8.     No person shall cause, let, permit, or allow a gasoline powered motor vehicle under his care,  
33 custody or control upon public roadways to emit visible smoke from the exhaust pipe for a continuous period  
34 of 5 seconds or more.

1 9. No person shall cause, let, permit, or allow a diesel powered motor vehicle under his care,  
2 custody or control upon public roadways to emit visible smoke from the exhaust pipe for a continuous period  
3 of 5 seconds or more, except during engine acceleration, engine lugging, or engine deceleration.

4 10. Activities in violation of the Clean Outdoor Air Law, or rules and regulations promulgated  
5 thereunder are prohibited unless specifically authorized by this Rule.

6 11. No person shall cause or/allow the release of air pollutants or air conditioner refrigerants,  
7 from motor vehicles, motor vehicle repair facilities or gasoline dispensing facilities because of failure to  
8 maintain in good repair, operate properly, or use reasonably available control or recovery equipment.

9 12. No person or establishment engaged in installing, servicing, repairing, retrofitting, salvaging,  
10 destroying, or dismantling of motor vehicle air conditioners shall:

11 a. intentionally vent or dispose of refrigerants to the atmosphere; or

12 b. conduct said activities without the use of UL-approved refrigerant recycling  
13 equipment, or without technicians who are certified by an EPA-approved certification program.

14  
15 **1-8.06 EXCEPTIONS TO SECTIONS 1-8.05(3), (8), and (9):**

16 1. A motor vehicle with an inoperable emission control system or which fails to meet the  
17 emission standards of this Rule may be driven directly to a repair facility for the purpose of having the  
18 emission control system repaired or corrected.

19 2. A motor vehicle identified as having an inoperable emission control system, or which fails to  
20 meet the emission standards of this Rule, may be driven during a maximum grace period of 30 days  
21 beginning at the time of identification.

22 3. A motor vehicle with a valid waiver issued under Section 325.209 F.S.

23  
24 ~~**1-8.07 FUEL SWITCHING PROHIBITIONS:**~~

25 ~~1. No person shall introduce leaded gasoline into a motor vehicle designed for unleaded~~  
26 ~~gasoline.~~

27 ~~2. No person shall modify, change or re-place a leaded gasoline nozzle so as to fit and service~~  
28 ~~an unleaded gasoline tank.~~

29 ~~3. No gasoline dispensing facility shall mismark its pumps or mislead the consumer into~~  
30 ~~believing leaded gasoline to be unleaded gasoline.~~

31 ~~4. No gasoline dispensing facility shall allow the introduction of leaded gasoline into a motor~~  
32 ~~vehicle designed for unleaded gasoline.~~

33 ~~5. No person shall introduce fuel additives containing lead or phosphorus into a motor vehicle~~  
34 ~~designed for unleaded gasoline.~~

35

1 ~~1-8-08~~ 1-8.07 GASOLINE TRANSFER AND TRANSIT REQUIREMENTS:

2 1. No person shall transfer, cause, or allow the transfer of gasoline from any delivery vessel  
3 into any stationary storage tank located at a retail gasoline dispensing facility unless the tank is equipped for  
4 submerged filling and the vapors displaced from the storage tank during filling are processed by a vapor  
5 balance system.

6 2. Any atmospheric vent line/~~for~~ a stationary storage tank located at a retail gasoline dispensing  
7 facility shall be equipped with a pressure/vacuum relief valve.

8 3. All retail gasoline dispensing facilities exempt from Chapter ~~17-2~~ 62.252 F.A.C.  
9 requirements shall implement a proper vapor balance system within one year of the effective date of this rule.

10 4. Fees as provided by Commission Rules, may be required for inspections to insure  
11 compliance with Section ~~1-8-08~~ 8.07(1).

12  
13 ~~1-8-09~~ 1-8.08 NOTICE AND RECORD KEEPING:

14 1. All repair facilities and commercial garages where motor vehicle repair work is done shall  
15 post and prominently display to their customers in at least 96 point print, notices itemizing the tampering  
16 prohibitions listed in Sections 1-8.05(1) and (2).

17 ~~2. All retail gasoline dispensing facilities which market leaded fuel or fuel additives shall post~~  
18 ~~and prominently display to their customers, notices itemizing the fuel switching prohibitions listed in Sections~~  
19 ~~1-8.07(1), (2), and (4). This notice shall be by a sign posted and prominently displayed to their customers in~~  
20 ~~at least 96 point print, or by a decal of smaller size if this is affixed in a prominent position to each gasoline~~  
21 ~~pump.~~

22 ~~3. All vendors of automotive parts and supplies shall post and prominently display to their~~  
23 ~~customers in at least 96 point print, notices itemizing the prohibitions listed in Rule sections 1-8.05(6) and 1-~~  
24 ~~8.07(5).~~

25 4. 2. Any person engaged in repair work on emission control systems on motor vehicles shall keep  
26 adequate records concerning the type of repair work done, the date work was done, the model year, mileage,  
27 make and model of the motor vehicle, name and address of the customer, and any other such information as  
28 may be required by the Director. Such records will be maintained a minimum of two years, and be made  
29 readily available for inspection upon request.

30 5. 3. (a) Any person or motor vehicle dealer offering a motor vehicle for private or retail  
31 sale, or effecting the transfer of title of any motor vehicle, shall ~~present~~ provide a copy to the purchaser or  
32 person gaining title a certificate of conformance and compliance. This document shall include at a minimum:  
33 a description of the motor vehicle; the vehicle identification number (VIN); date of sale or title transfer;  
34 name, address, and signature of purchaser or person gaining title; name, address, and signature of seller, or  
35 person yielding title, and the following narrative:

1 "As the owner of this motor vehicle, or on behalf of the owner which is an organization, firm, or other such  
2 entity, I hereby certify that the emission control system of this vehicle has not been tampered with by me or  
3 with my permission or by or with the permission of the owner of said vehicle."

4 OR

5 "As a motor vehicle dealer licensed to conduct business in the state of Florida, I hereby certify that the  
6 emission control system of this vehicle has not been tampered with by me or with my permission. I also  
7 hereby certify that I or persons under my supervision have inspected this motor vehicle and, based on said  
8 inspection, have determined that the following components of the emission control system, as applicable to  
9 this model and year vehicle, are in place and appear properly connected and undamaged: catalytic converter,  
10 fuel inlet restrictor, unvented fuel cap, positive crankcase ventilation system, exhaust gas recirculation  
11 system, thermostatic air cleaner, air pump and/or air injection system, oxygen sensor, fuel evaporative  
12 emission control, and all vacuum lines, electrical lines, and sensors or switches associated with these  
13 devices."

14 AND

15 "This certification is not and shall not be construed as a warranty that any emission control device or system  
16 of the vehicle is in functional condition; nor does the execution or delivery of this certification create by itself  
17 grounds for a cause of action between the parties to this transaction."

18 (b) Licensed motor vehicle dealers shall keep properly documented records for each  
19 transaction including, but not limited to: sales agreements; certificates of compliance; and emission and  
20 tampering inspections. Such records will be maintained a minimum of two years, and shall be made readily  
21 available for inspection upon request.

22  
23 **1-8.10 1-8.09 STANDARDS AND TESTING PROCEDURES:**

24 1. Emission standards for new motor vehicles inclusive of the most recent 5 model years shall  
25 be consistent with the emission standards and manufacturers' warranty requirements as established in the  
26 Federal Motor Vehicle Control Program in Title 40 CFR, Part 86, as amended.

27 2. Testing standards which must be met for a motor vehicle to be in compliance are as  
28 established in Table 1, with vehicles manufactured in 1978, 1979 and 1980 continuing to be subject to  
29 existing standards until they are 20 years old:

Table 1

|           | <i>Light Duty Vehicles,<br/>Passenger Cars with<br/>Net Weight of 5000<br/>Pounds or Less</i> |         | <i>Light Duty<br/>Trucks GVWR<br/>of 6000<br/>Pounds or less</i> |         | <i>Light Duty<br/>Trucks GVWR<br/>of 6001 to<br/>10,000 Pounds</i> |         |
|-----------|---|---------|--|---------|--|---------|
|           | CO(%)   | HC(PPM) | CO(%)  | HC(PPM) | CO(%)  | HC(PPM) |
| 1975-1977 | 5.0   | 500     | 6.0  | 500     | 6.5  | 750     |
| 1978-1979 | 4.0   | 400     | 5.0  | 450     | 5.5  | 600     |
| 1980      | 3.0   | 300     | 3.0  | 300     | 4.5  | 400     |
| 1981-1984 | 1.2   | 220     | 2.0  | 250     | 3.0  | 300     |
| 1985 +    | 1.2   | 220     | 1.2  | 220     | 1.2  | 220     |

**Vehicle Age  
(years old)**

| Vehicle Age (years old) | CO(%)  | HC(PPM) | CO(%)  | HC(PPM) | CO(%)  | HC(PPM) |
|-------------------------|--------|---------|--------|---------|--------|---------|
| > 20                    | Exempt |         | Exempt |         | Exempt |         |
| 16 - 20                 | 2.0    | 220     | 2.3    | 250     | 2.5    | 275     |
| 11 - 15                 | 1.5    | 120     | 1.6    | 200     | 1.6    | 200     |
| 6 - 10                  | 1.0    | 120     | 1.0    | 120     | 1.0    | 120     |
| 3 - 5                   | 1.0    | 100     | 1.0    | 100     | 1.0    | 120     |
| < 2                     | Exempt |         | Exempt |         | Exempt |         |

3. Testing procedures for the standards of Section 1-8-10 8.09(2) shall be the two speed idle emission test as established in the federal test procedures in Title 40 CFR, Part 85.2212, 85.2213 and 85.2214, as amended.

4. Unless exempt pursuant to the State of Florida Clean Outdoor Air Law, the following motor vehicles shall be subject to emissions testing in accordance with the Florida Motor Vehicle Inspection Program.

a. All motor vehicles owned or leased by a person who resides in Hillsborough County.

b. All motor vehicles owned or leased by a person who commutes to Hillsborough for employment purposes.

**~~1-8-11~~ 1-8.10 INSPECTIONS:**

1. The Director shall periodically inspect all service stations, repair facilities, gasoline dispensing facilities, automotive parts vendors, government and private fleet facilities ~~and wholesale and retail~~ motor vehicle vendors for compliance with this or any related state or federal regulation. In so doing, inspectors shall have the right to review invoices, ~~warranty~~, warranties, service and other business records pertaining to motor vehicle service, sales, and gasoline sales.

2. The Director may inspect and conduct emission testing of motor vehicles in the county for compliance with the tampering prohibitions or emission standards of this Rule pursuant to permission or in cooperation with the Sheriff in conducting random stops as allowed by law.

3. The Director, as an authorized designee of the Department of Highway Safety and Motor

1 Vehicles, shall periodically inspect facilities conducting activities within Hillsborough County pertaining to  
2 motor vehicle inspections pursuant to Sections 325.212 and 325.213, Florida Statutes. Said inspections shall  
3 be to determine compliance with the prohibitions and standards of this Rule, and with the Rules of the  
4 Department of Highway Safety and Motor Vehicles, and the Department of Environmental ~~Regulation~~  
5 Protection created under the authority of Chapter 325, F.S.

6 4. Fees, as provided by Commission Rules, may be required for the inspections required by  
7 Section ~~1-8.11~~ 8.10(1) and ~~1-8.11~~ 8.10(3).

8  
9 ~~1-8.12~~ 1-8.11 **CORRECTION:**

10 1. Correction for violation of any notice requirement in this rule shall be to provide proper  
11 notice.

12 2. Correction for violation of the advertising prohibitions shall be to publish corrective notices  
13 of similar and equal size and distribution.

14 3. Correction for the existence of a tampered motor vehicle or inoperable emission control  
15 system, except as provided by Rule Section 1-8.06(3), shall be to replace or repair the damaged components  
16 to at least an equivalent of the appropriate emission control system as configured at the time of manufacture  
17 for the year and model of motor vehicle involved, with original equipment or with original equipment-  
18 equivalent emission control parts, provided these meet all applicable performance requirements established by  
19 the United States Environmental Protection Agency, or with after-market replacement parts that meet  
20 manufacturer's specifications.

21  
22 ~~1-8.13~~ 1-8.12 **ENFORCEMENT:**

23 1. Violation of the provisions of this rule is a violation of the Act Chapter 84-446, Laws of  
24 Florida, as amended, is a misdemeanor within the meaning of Section 775.08 Florida Statutes, and is subject  
25 to all the remedies provided therein.

26 2. Upon observation of an emission of smoke in violation of Sections 1-8.05(8) or (9), the  
27 Sheriff may issue a notice to appear if appropriate.

28 3. Standard minimum settlement penalties shall be:

|  | <i>Private</i>    | <i>Commercial</i>  |
|--|-------------------|--------------------|
| 29 (a) tampering [1-8.05(1)]                                 | <del>\$ 200</del> | <del>\$1000</del>  |
| 30   | <del>\$ 500</del> | <del>\$ 1500</del> |
| 31 (b) installation of replacement engine not equipped       |                   |                    |
| 32 with emission control system [1-8.05(2)]                  | <del>\$ 200</del> | <del>\$1000</del>  |
| 33   | <del>\$ 500</del> | <del>\$1500</del>  |
| 34 (c) knowingly driving or otherwise allowing the operation |                   |                    |
| 35 of motor vehicle with inoperable emission control         |                   |                    |
| 36 system [1-8.05(3)]  | <del>\$ 250</del> | <del>\$1000</del>  |
| 37   | <del>\$ 500</del> | <del>\$1500</del>  |
| 38   |                   |                    |

|    |                   |   |                   |                   |
|----|-------------------|---|-------------------|-------------------|
| 1  | (d)               | sale of a tampered motor vehicle  | \$ 250            | \$2000            |
| 2  |                   |   |                   |                   |
| 3  | (e)               | sale of parts to defeat or by-pass or render inoperable                   |                   |                   |
| 4  |                   | emission control systems [1-8.05(6)]                                      | \$ n/a            | \$ 500            |
| 5  |                   |   |                   | \$ 1000           |
| 6  | (f)               | failure to meet emission standards [1.8-05(6)(7)]                         | \$ 50             | \$ 250            |
| 7  |                   |   | \$500             | \$ 2500           |
| 8  | <del>g)</del>     | <del>fuel switching [1-8.07(1)]</del>                                     | <del>\$ 50</del>  | <del>\$1000</del> |
| 9  | <del>(h)</del>    | <del>altering leaded gasoline nozzle [1-8.07(2)]</del>                    | <del>\$ 50</del>  | <del>\$1000</del> |
| 10 | <del>(i)</del>    | <del>mismarking of gasoline pumps [1-8.07(3)]</del>                       | <del>\$ 50</del>  | <del>\$1000</del> |
| 11 | <del>(j)</del>    | <del>allowing misfueling to occur [1-8.07(4)]</del>                       | <del>\$ 50</del>  | <del>\$1000</del> |
| 12 | <del>(k)</del>    | <del>addition of fuel additives containing lead or</del>                  |                   |                   |
| 13 |                   | <del>phosphorus into a vehicle designed for unleaded</del>                |                   |                   |
| 14 |                   | <del>gasoline [1-8.07(5)]</del>   | <del>\$ 50</del>  | <del>\$1000</del> |
| 15 | <del>(g)(4)</del> | <del>failure to provide notice of prohibitions [1-8.09(1), (2),(3)]</del> | <del>\$ n/a</del> | <del>\$ 100</del> |
| 16 |                   |   |                   | <u>\$ 500</u>     |
| 17 | <del>(h)(m)</del> | <del>failure to maintain proper records [1-8.09(4),(5)]</del>             | <del>\$ n/a</del> | <del>\$ 100</del> |
| 18 |                   |   |                   | <u>\$ 500</u>     |
| 19 | <del>(i)(n)</del> | <del>transferring, causing, permitting, or allowing the</del>             |                   |                   |
| 20 |                   | <del>transferring of gasoline into a stationary storage</del>             |                   |                   |
| 21 |                   | <del>tank not equipped for vapor recovery [1-8.08(1)]</del>               | <del>\$ n/a</del> | <del>\$1000</del> |
| 22 |                   |   |                   | <u>\$1500</u>     |
| 23 | <del>(o)</del>    | <del>failure to provide proper notices or certificates</del>              |                   |                   |
| 24 |                   | <del>[1-8.09(5)(a) and (b)]</del>   | <del>\$ 50</del>  | <del>\$ 250</del> |
| 25 | <del>(j)(p)</del> | <del>release of air contaminants [1-8.05(4)]</del>                        | <del>\$ 50</del>  | <del>\$ 250</del> |
| 26 |                   |   | <u>\$ 500</u>     | <u>\$1500</u>     |
| 27 | <del>(k)</del>    | <del>intentional venting of MVAC refrigerants</del>                       | <del>\$250</del>  | <del>\$ 500</del> |
| 28 | <del>(l)</del>    | <del>failure to use approved refrigerant recycling equipment</del>        | <del>\$250</del>  | <del>\$ 500</del> |
| 29 | <del>(m)</del>    | <del>failure to properly train and certify technicians.</del>             | <del>\$ n/a</del> | <del>\$ 500</del> |
| 30 | <del>(n)(q)</del> | <del>any other violations of this rule</del>                              | <del>\$ 50</del>  | <del>\$ 250</del> |
| 31 |                   |   | <u>\$ 250</u>     | <u>\$ 500</u>     |
| 32 |                   |   |                   |                   |
| 33 |                   |   |                   |                   |
| 34 |                   |   |                   |                   |

35 Section 2. It is declared to be the intent of the Environmental Protection Commission that the provisions of  
36 this rule be severable. If one or more of the sections, subsection, sentences, clauses or provisions are held  
37 invalid, for whatever reason, the remaining portions shall not be affected.

38  
39 Section 3. This rule shall be effective upon approval in accordance with law.  
40  
41

DECEMBER 15, 1997 - CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE - DRAFT MINUTES

The Citizens Environmental Advisory Committee (CEAC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Monday, December 20, 1997, at 4:00 p.m., on the 26th Floor, Conference Room C, County Center, Tampa, Florida.

The following members were present:

|                      |                     |
|----------------------|---------------------|
| Chairman Russ Thomas | Cam Oberting        |
| Roy Davis            | Dan Rutenberg       |
| Don Depra            | Annie Sutton        |
| Jeffrey Mathias      | Wayne Wiggins       |
| Lynn McGarvey        | John Worth Williams |
| Gary Nelson          |                     |

The following members were absent:

|                   |                   |
|-------------------|-------------------|
| Judith Breuggeman | Tom Mann          |
| C. Dennis Carlton | J. Wayne McKenney |
| Barry Lenz        | Larry Padgett     |

Chairman Thomas called the meeting to order at 4:04 p.m. He notified everyone that the Environmental Protection Commission (EPC) meeting would begin at 9:00 a.m., Thursday, December 18, 1997. Chairman Thomas clarified the CEAC recommendation about the EPC reconfiguration he planned to present at that meeting.

APPROVAL OF MINUTES

**Mr. Williams moved approval of the minutes of August 18, 1997, and October 20, 1997, seconded by Mr. Rutenberg, and carried eleven to zero.**

PREVIEW EPC AGENDA

Chairman Thomas commented on items of interest on the EPC agenda, which included the EPC reconfiguration issue, Citizens Audit Advisory Board (CAAB) recommendations, Chapter 1-11 amendments, and a briefing by EPC Chief Counsel Sara Fotopulos about the National Estuary Program goals.

Mr. Williams recounted previous discussions about including municipalities as members on the EPC board. Discussion followed about the reasons for considering changing EPC membership. Mr. Williams believed the EPC was a good, functional organization and should not be changed. Discussion continued about the agricultural group working with EPC to solve their problems. Mr. Davis believed the agricultural problem dealt with application of the rule and thought a solution could be found after discussions with EPC staff.

Chairman Thomas reviewed issues related to the EPC reconfiguration, and he expressed concern about giving authority, that previously belonged to the EPC executive director, to an elected board without environmental or industry qualifications. He believed that might create special interest

control. Ms. McGarvey thought EPC membership should be maintained because of the sustainable communities designation. Mr. Davis reported that the Farm Bureau would not support an elected board. Chairman Thomas welcomed participation by CEAC members when he made his formal recommendation to EPC.

#### CONSIDER AMENDMENTS TO CHAPTER 1-4, OPEN BURNING RULE

Chairman Thomas introduced the item and left the meeting at 4:20 p.m.; Acting Chairman McGarvey assumed the chair.

Mr. Anthony D'Aquila, EPC staff, reviewed the existing rule, explained the recommended changes, answered questions, and presented a copy of the revised Open Burning Rule. Responding to Mr. Mathias, Mr. D'Aquila stated that the Florida Administrative Code definition of debris was used in the rule. Mr. Rutenberg requested two changes to wording, which were accepted by staff. Discussion followed about ozone levels, advisory practices, nonagricultural burning authorization requirements, residential open burning, commercial burning permits, and evaluation for continued authorization. Mr. D'Aquila agreed to give Mr. Mathias a copy of a report about the necessity for continuing authorization. He showed examples of the types of plastics and containers allowed to be burned. Discussion continued about proper authorization, logging calls and locations, burning permit numbers, alternative research, economically recyclable plastics, and contamination of rivers and streams. Mr. Rutenberg suggested writing the rule so it would not be automatically renewed. Discussion continued about EPC researching materials that could be safely burned, allowable purposes for open burning, and who should be notified when a fire was planned. EPC was not responsible for authorizing fires for social gatherings, but the Fire Department should be notified so they would not respond to calls. EPC would be notified of fires only if enforcement was required due to a violation.

Mr. Mathias expressed concerns about a lack of consistency related to the interpretation of size and the short distance from surface waters that burning was allowed. Mr. D'Aquila addressed his concerns and noted that the rule was very specific about what, when, and where burning could occur, and the size of the fire. A second buffer zone for moving water was discussed, and 30 feet was suggested. Mr. Rutenberg expressed concern about burning agricultural plastic in preservation or conservation zones. Discussion continued about the burning of debris created by a disaster and agricultural property open burning distance requirements. Mr. D'Aquila said he would contact the Department of Environmental Protection (DEP) and the Environmental Protection Agency to find out if that distance could be flexible. Mr. D'Aquila recapped the suggested changes.

#### REVIEW OF CHAPTER 1-8, MOBILE SOURCE RULE

Mr. D'Aquila presented an overview of the rule, which addressed the County regulations of pollution sources related to motor vehicle operation and repair. He noted it was a proactive innovative rule, because it was an independent regulation that addressed the air quality problems caused by motor vehicles. He requested members review the material for discussion at the next meeting. Mr. D'Aquila stated that Hillsborough County had more

registered vehicles than residents, because of commercial and business operations and families with several vehicles. He presented a fact sheet that related that to air pollution, discussed how fuel reacted with oxygen, described the reason for concern, and explained the magnitude of the problem. Mr. D'Aquila spoke about community benefits, which included technical assistance, investigation of complaints, and resolution of problems with administrative enforcement. Mr. D'Aquila believed that a solution to many problems might be through training and awareness of the law. He presented a copy of the revised regulations and reviewed the changes he planned. Discussion followed about the present rule that allowed the use of engines designed to burn leaded gasoline, which resulted because the rule was written while the area was a nonattainment area for ozone. Since February 1996, Hillsborough County had been designated as a maintenance area and was not meeting the standards for ozone, so the language should be changed to be current and accurate to fit the designation. Mr. D'Aquila spoke about prohibitions, catalytic converters, tampering, federal violations, prosecution, fines, omission standards, ozone depletion substances, transfer of gasoline, incorporating the modern rule into the rule, and replacement of inspection maintenance stations. He presented a table of standards that he planned to revise and present for discussion. Attorney Fotopulos noted that the rule would be discussed at the January 12, 1998, meeting.

#### NEW BUSINESS

Mr. Mathias expressed concern about a recent acid spill and asked that a recommendation be made to the Board of County Commissioners (BOCC) concerning a damage fund. Attorney Fotopulos noted that EPC Chairman Platt had made a request and a letter had been drafted to the DEP. She reported that the damages were presently being assessed and noted that all monies obtained would not come to Hillsborough County because the facility was in Polk County. Mr. Rutenberg thought the discussion was premature since an official extent of damages or responsibility had not been determined. Discussion followed about stretching the letter of the law, the appropriate time to begin an initiative, determination of guilt, fines being minor, and studying the problem.

Attorney Fotopulos explained that no matter how well an operation was conducted, the risk that a spill might occur was constant. Mr. Mathias expressed concerns about phosphate companies using less expensive consultants and contractors, and spills continuing with small fines being imposed. Mr. Williams suggested closing plants when spills occurred. Attorney Fotopulos said that various methods would be used to assess damages and determine the cause. She understood the spill was considered the worst ever, so it would not be a small matter to resolve; she suggested discussing it later when more information had been received. Responding to Mr. Williams, Attorney Fotopulos stated that individuals adversely affected could file separate law suits. Mr. Rutenberg suggested fines be assessed that might cause the company to think that continuing business at that location might not be profitable. Discussion followed about adding the item to the CEAC agenda for more discussion.

Attorney Fotopulos reviewed the planned changes to the EPC agenda, presented a draft copy of the County Administrator's options, and noted that the County Administrator's recommendation would be an appointed board. She discussed what would be presented at the EPC meeting, and noted that EPC Executive Director Roger Stewart concluded, after going through the CAAB process, that the system was as good as it was going to be.

Mr. Mathias suggested that EPC bring together the municipalities to consider an upland habitat ordinance. Mses. Oberting and Sutton left the meeting at 5:59 p.m. Attorney Fotopulos said that a special act would be needed to give EPC that authority. The CAAB proposal had rejected that idea, and no proposal had been made for consideration. Responding to Mr. Mathias, Attorney Fotopulos said that CEAC could consider it and ask EPC to present it to the Legislative Delegation. Mr. Mathias asked that it be put on the January agenda for discussion, and he requested background information to make a knowledgeable recommendation to the BOCC. Attorney Fotopulos expressed hesitation in doing that; Mr. Davis indicated that she had not been directed to do that by CEAC. Responding to Mr. Williams, Attorney Fotopulos said that the BOCC recommendations would be presented, and the Legislative Delegation would consider the proposed amendments.

There being no further business, the meeting was adjourned at 6:03 p.m.

READ AND APPROVED: \_\_\_\_\_  
CHAIRMAN

ATTEST:  
RICHARD AKE, CLERK

BY: \_\_\_\_\_  
Deputy Clerk

kc

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, January 15, 1998, at 10:00 a.m., in the Boardroom, County Center, Tampa, Florida.

The following members were present: Chairman Jan Platt and Commissioners Dottie Berger, Joe Chillura (arrived 10:09 a.m.), Jim Norman, and Thomas Scott.

The following members were absent: Commissioners Chris Hart (out of State on County business) and Ed Turanchik (scheduling conflict).

Chairman Platt called the meeting to order at 10:05 a.m. Commissioner Scott led in the pledge of allegiance to the flag and gave the invocation.

#### CITIZENS WISHING TO APPEAR

Chairman Platt called for citizens wishing to speak; there was no response.

#### CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Attorney Russell Thomas, chairman of CEAC, advised that he had been reelected chairman and that CEAC had voted unanimously in support of EPC being active in follow-up on the Mulberry phosphate spill. CEAC was ready to present its recommendation on EPC Chapters 1-4 and 1-8. At the request of Commissioner Norman, Attorney Thomas would give a presentation about powerlines at the next EPC meeting.

#### CONSENT AGENDA

A. Approval of Minutes: None. B. Monthly Activity Reports. C. Legal Department Monthly Reports. D. Pollution Recovery Fund (PRF). E. Gardinier Settlement Fund - Commissioner Scott moved approval of the consent agenda. Commissioner Norman seconded the motion, which carried five to zero. (Commissioners Hart and Turanchik were absent.)

#### LEGAL DEPARTMENT

Request Authority to Take Appropriate Legal Action Against Mulberry Phosphates, Incorporated - EPC Chief Counsel Sara Fotopulos said EPC was working cooperatively with the Department of Environmental Protection (DEP) and Mulberry Phosphates, Incorporated. Although she believed it would be unnecessary, legal authority to negotiate was requested from EPC. Commissioner Chillura wanted the EPC Board to ask the Legislative Delegation to seek a way to keep settlement dollars in the County's PRF. Attorney Fotopulos said it was too late to file an amendment to the EPC special act, but DEP had proposed an amendment to general statutes that allowed third party governments or nonprofit organizations to manage enforcement case funds on a case-by-case basis. There was some opposition to the proposed legislation.

In response to Commissioner Chillura, Attorney Fotopulos said it would be helpful to send an EPC resolution to DEP, with a letter from the EPC chairman, reinforcing that the County wanted the funds in its PRF. It would also help to take a position on the legislative amendment proposed by DEP and to have endorsement from the Board of County Commissioners (BOCC) and various environmental organizations. **Commissioner Chillura moved to ask Attorney Fotopulos to prepare such a strategy with a cover letter by the Chairman and strong endorsement. Commissioner Berger seconded the motion.** Commissioner Norman questioned the wisdom of adding to what might be a troubled bill. At his suggestion, Attorney Fotopulos would check other possibilities, including amending EPC's special act. **Commissioner Chillura included the suggestion from Commissioner Norman to look at EPC's special act provisions or any other bill that might be generated out of committee. The motion carried five to zero.** (Commissioners Hart and Turanchik were absent.)

In connection with her service on the Agency on Bay Management, Chairman Platt reviewed discussions with authorities that had revealed there were no uniform State regulations on construction of gypsum stack cooling ponds, although work on such regulations was proceeding. The Agency on Bay Management had voted to send a letter urging that regulations for operation and construction of those systems take place. There were many stacks in the Tampa Bay area and new ones were planned. She had requested Attorney Fotopulos to draft a similar letter from EPC for her to sign as EPC chairman. Mr. Sam Zamani, DEP, presented technical information on cooling ponds and clay settling ponds and the history of DEP regulations. **Commissioner Norman moved approval of signing the draft of the letter. Commissioner Scott seconded the motion, which carried five to zero.** (Commissioners Hart and Turanchik were absent.)

Dr. Richard Garrity, district director, DEP, read a letter from Ms. Virginia Wetherell, Secretary, DEP, to the BOCC Chairman regarding the Mulberry phosphate **spill and expressing DEP's desire to cooperate with the County.** Mr. Zamani **described DEP's actions and future plans regarding the phosphate spill and thanked EPC staff for the proactive and rapid response.** Mr. Zamani answered questions from Commissioner Berger about damage to wildlife, fish, and marine species and advised Commissioner Chillura that there was an aerial photograph of the facility, but none had been taken after the spill. At the request of Chairman Platt, Mr. Zamani explained the effect of the spill on the pH balance and **restoration measures.** Commissioner Chillura asked for copies if any "after" photographs were taken.

Mr. Joseph Bakker, DEP bureau of mine reclamation, described the multi-agency enforcement efforts and thanked Mr. Roger Stewart, EPC Executive Director, and Attorney Fotopulos for their input. Dr. Garrity gave a presentation on plans for prevention of future spills, which included the phosphogypsum impoundment advisory forum and penalty and damage assessment, as addressed in Ms. Wetherell's letter.

THURSDAY, JANUARY 15, 1998 - DRAFT MINUTES

Dr. Garrity advised Commissioner Chillura that Ms. Wetherell wanted to seek legislation permitting settlement funds to go directly to PRFs for Hillsborough and Polk Counties. EP could work with EPC and possibly the company to draft language in time for the upcoming legislative session, even though the settlement would not be final. Commissioner Chillura observed that the time when the funds were received might affect the quality of restoration. Dr. Garrity said obtaining the funds might take a long time, but the company could perform restoration and restocking work sooner. That work would be under supervision of DEP and EPC.

Mr. Stewart concurred and commented on EPC's longstanding cooperative relationship with the DEP district office and Dr. Garrity. Mr. Stewart explained that the phosphogypsum operation was managed from Tallahassee and was not under Dr. Garrity's control. Mr. Stewart thought that was counterproductive and suggested DEP align the gypsum process to go through the local person who took the political pressure. Dr. Garrity said DEP staff were working together on the best way to operate the program. Chairman Platt thanked DEP staff for attending and stressed the importance of safety issues. Attorney Fotopulos said her request was for legal authority, only if it were needed. Commissioner Chillura so moved. Commissioner Scott seconded the motion, which carried five to zero. (Commissioners Hart and Turanchik were absent.)

#### ADMINISTRATIVE ITEMS

Authorize Chair to Execute Employment Contract with Executive Director (Backup Provided under Separate Cover) - Chairman Platt said there had never been a contract for Mr. Stewart's position, which was why she had asked him to obtain examples of contracts for similar positions. Attorney Fotopulos explained the few differences between the proposed contract and those for County Administrator Daniel A. Kleman and Mr. Robert Hunter, Executive Director of the Planning Commission. After noting that contracts for Messrs. Kleman and Hunter were not reviewed in public meetings, Commissioner Norman moved the contract as presented. Commissioner Scott seconded the motion. Commissioner Berger opposed payout of unused sick leave for anyone. Commissioner Chillura concurred but noted the County previously had a sick leave policy that included payout of unused sick leave. Chairman Platt added that the County did not fund Mr. Stewart's deferred compensation, as it did for Messrs. Kleman and Hunter. Commissioner Norman accepted an amendment from Commissioner Berger to strike the option of purchasing a car and substitute a car allowance of \$300 per month. The motion carried, five to zero. (Commissioners Hart and Turanchik were absent.) Mr. Stewart thanked the EPC Board.

There being no further business, the meeting was adjourned at 11:20 a.m.

READ AND APPROVED: \_\_\_\_\_

CHAIRMAN

THURSDAY, JANUARY 15, 1998 - DRAFT MINUTES

ATTEST:  
RICHARD AKE, CLERK

By: \_\_\_\_\_  
Deputy Clerk

fw

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting scheduled for Tuesday, February 17, 1998, at 2:00 p.m., in the Boardroom, County Center, Tampa, Florida.

The following members were present: Chairman Jan Platt and Commissioners Dottie Berger, Joe Chillura, Chris Hart, Thomas Scott, and Ed Turanchik (arrived at 2:24 p.m.).

The following member was absent: Commissioner Jim Norman

Chairman Platt called the meeting to order at 2:04 p.m. Following the pledge of allegiance to the flag, Commissioner Berger gave the invocation.

CITIZENS WISHING TO APPEAR - None

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

A CEAC representative was not present.

CONSENT AGENDA

- A. Approval of Minutes: None
- B. Monthly Activity Reports
- C. Legal Department Monthly Reports
- D. Pollution Recovery Fund
- E. Gardinier Settlement Fund
- F. Confirm Designation of Executive Director's Position to the Senior Management Service Class and Confirm Full Buy-back of Service Credits for Mr. Roger P. Stewart, Executive Director, EPC, (Approved by the Board of County Commissioners on February 4, 1998).

Chairman Platt pulled item F from the consent agenda. **Commissioner Hart moved approval of items A through E, seconded by Commissioner Berger, and carried five to zero.** (Commissioner Turanchik had not arrived; Commissioner Norman was absent.) Chairman Platt requested that item F be voted on in two parts. **Commissioner Hart moved to confirm the designation of the Executive Director's, Mr. Roger Stewart, position to the Senior Management Service Class, seconded by Commissioner Scott. The motion carried five to zero.** (Commissioner Turanchik had not arrived; Commissioner Norman was absent.) **Commissioner Scott moved to confirm the full back pay of service credits for Mr. Roger P. Stewart, seconded by Commissioner Chillura.** Commissioner Berger stated, for the record, that she had understood Mr. Stewart to say that his contract was the same as County Administrator Daniel Kleman's--including sick leave payout. Commissioner Berger did not agree with buying back sick leave; but, because of her understanding of Mr. Stewart's statements, she had voted for buying back Mr. Stewart's sick leave. Commissioner Berger was distressed to find out that Mr. Kleman's contract called for one-half sick leave payout. Mr. Stewart explained that his contract was patterned after the contracts of Messrs. Kleman, Gene Gardner, Director, Civil Service Board, and Robert Hunter, Executive Director, Planning Commission. The contracts of Messrs. Gardner and Hunter included a

full sick leave payout. Mr. Stewart stated that the payback of his longevity had been forfeited; he would have received more money if he had taken the deferred compensation that the others had received. Commissioner Berger would vote for the full buy-back, but she did object. **The motion carried three to two; Commissioner Hart and Chairman Platt voted no.** (Commissioner Turanchik had not arrived; Commissioner Norman was absent.)

Chairman Platt read into the record that Commissioner Norman was not able to attend the meeting due to illness.

#### LEGAL DEPARTMENT

Request Authority to Take Appropriate Legal Action Against: Star Cleaners of Brandon, Incorporated; Touch of Class Cleaners; and Plant Stop, Incorporated - **Commissioner Scott moved Star Cleaners of Brandon, Incorporated, seconded by Commissioner Berger, and carried five to zero.** (Commissioner Turanchik had not arrived; Commissioner Norman was absent.) Ms. Kay Strother, EPC staff, explained that the State had simplified Title V permits for dry cleaners. A notification form had to be submitted showing that the Title V permit, which was required by a federal permitting program, was going to be used. The notification detailed the permit requirements. The initial fee was \$100 with an annual fee of \$50. Star Cleaners and Touch of Class Cleaners were the only two dry cleaners that had not complied out of a 100 or more in the County and had been notified repeatedly. **Commissioner Hart moved approval, seconded by Commissioner Scott, and carried five to zero.** (Commissioner Turanchik had not arrived; Commissioner Norman was absent.) EPC Chief Counsel Sara Fotopulos stated that the Plant Stop was a construction and landscaping facility that had an unauthorized open-burning violation in November 1996 and had failed to complete a compliance program. **Commissioner Scott moved to take legal action, seconded by Commissioner Hart, and carried five to zero.** (Commissioner Turanchik had not arrived; Commissioner Norman was absent.)

Request Authority to Schedule a Public Hearing for 10:00 a.m., March 19, 1998, to Consider Amendments to Chapters 1-4 and 1-8 - Attorney Fotopulos explained that staff and the Citizens Advisory Committee had recommended changes to the two rules, which were included in the backup material. **Commissioner Scott so moved, seconded by Commissioner Hart, and carried five to zero.** (Commissioner Turanchik had not arrived; Commissioner Norman was absent.)

Attorney Fotopulos updated EPC on information in the final draft agreement concerning West Coast Regional Water Supply Authority (WCRWSA). The provision in the draft agreement that concerned EPC provided that, in signing the agreement, the County would not fund third parties for any involvement related to WCRWSA activities in the County. This included funding EPC as a third party for any regulatory activities that it would be obligated to implement to monitor WCRWSA. Attorney Fotopulos said that the law required the County to fund EPC, but an effort might be made to amend the law in Tallahassee that would allow the County to sign the agreement not

to fund third parties. If the law changed, EPC would not be able to enforce the Wetlands Rule as it related to any activities that WCRWSA would entertain in the County. In answer to Chairman Platt, Attorney Fotopulos had discussed the information with the County Attorney's Office, would inform Commissioner Turanchik and Mr. Kleman, and would provide EPC with instances where EPC had to review wetland damage as a result of WCRWSA's activities.

Mr. Stewart informed EPC that his office would be short-handed for the rest of the week due to meetings in Tallahassee, Washington, and local obligations. Mr. Hooshang Boostani, Director, Waste Management Division, EPC, would be in charge during Mr. Stewart's absence.

WASTE MANAGEMENT DIVISION

Quarterly Status Report on Hillsborough County Superfund Sites - In response to Commissioner Chillura, Mr. Boostani stated that the Stauffer Chemical Company site would begin its cleanup process next year. Mr. Stewart said it was beyond EPC's capabilities to speed up the Superfund issue. Mr. Boostani informed EPC that there were efforts to rewrite the Superfund law in Washington. The Superfund law was delegated at the federal level. EPC's only connection to Superfund was a liaison, who gathered information.

There being no further business, the meeting was adjourned at 2:28 p.m.

READ AND APPROVED: \_\_\_\_\_  
CHAIRMAN

ATTEST:  
RICHARD AKE, CLERK

By: \_\_\_\_\_  
Deputy Clerk

jp

MONTHLY ACTIVITIES REPORT  
AIR MANAGEMENT DIVISION  
FEBRUARY

|    |  |     |
|----|--|-----|
| A. | Public Outreach/Education Assistance:  | 485 |
| B. | Industrial Air Pollution Permitting  |     |
|    | 1. Permit Applications Received (Counted by Number of Fees Received):  |     |
|    | a. Operating:  | 5   |
|    | b. Construction:   | 4   |
|    | c. Amendments:   | 4   |
|    | d. Transfers/Extensions:   | 1   |
|    | 2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ( <sup>1</sup> Counted by Number of Fees Collected - <sup>2</sup> Except for Title V Facilities where it is Counted by Number of Emission Units affected by the Applicant's Request): |     |
|    | a. Operating <sup>1</sup> :  | 0   |
|    | b. Construction <sup>1</sup> :   | 4   |
|    | c. Amendments <sup>1</sup> :   | 2   |
|    | d. Transfers/Extensions <sup>1</sup> :   | 2   |
|    | e. Title V Operating <sup>2</sup> :  | 0   |
|    | f. Permit Determinations <sup>2</sup> :  | 4   |
|    | 3. Intent to Deny Permit Issued  | 0   |
|    | 4. General Permits   | 0   |
| C. | Administrative Enforcement   |     |
|    | 1. Documents Issued:   |     |
|    | a. Notice of Intent to Initiate Enforcement  | 0   |
|    | b. Citation  | 0   |
|    | c. Other _____   | 0   |
|    | 2. Total Cases Initiated:  | 1   |
|    | 3. Cases Resolved:   | 6   |
|    | 4. Cases Referred to Legal Department:   | 2   |
|    | 5. Consent Orders Signed:  | 2   |
|    | 6. Contributions to the Pollution Recovery Fund: \$  | -0- |
|    | <u>Organization Name</u> <u>Violation</u> <u>Amount</u>  |     |
|    | a.   |     |

|    |  |            |
|----|--|------------|
| D. | Inspections:   |            |
| 1. | Industrial Facilities:                                     | <u>11</u>  |
| 2. | Air Toxics Facilities:                                     |            |
|    | a. Asbestos Emitters                                       | <u>0</u>   |
|    | b. Area Sources (i.e. Drycleaners, Chrome Platers, etc...) | <u>28</u>  |
|    | c. Major Sources   | <u>0</u>   |
| 3. | Asbestos Demolition/Renovation Projects:                   | <u>11</u>  |
| 4. | Gasoline Retailers:  | <u>0</u>   |
| 5. | Auto Repair Facilities:                                    | <u>0</u>   |
| 6. | Retail Auto Dealers:                                       | <u>0</u>   |
| 7. | Automotive Parts Stores:                                   | <u>0</u>   |
| 8. | Fleet Operators:   | <u>0</u>   |
| 9. | CFC Facilities:  | <u>0</u>   |
| E. | Open Burning Permits Issued:                               | <u>6</u>   |
| F. | Number of DOF Permits Monitored:                           | <u>173</u> |
| G. | Total Citizen Complaints Received:                         | <u>53</u>  |
| H. | Total Citizen Complaints Investigated:                     | <u>57</u>  |
| I. | Noise Sources Monitored:                                   | <u>4</u>   |
| J. | Air Program's Input to DRI's:                              | <u>0</u>   |
| K. | Test Reports Reviewed:                                     | <u>20</u>  |
| L. | Compliance:  |            |
| 1. | Warning Notices Issued:                                    | <u>10</u>  |
| 2. | Warning Notices Resolved:                                  | <u>3</u>   |
| 3. | Advisory Letters Issued:                                   | <u>6</u>   |

FEES COLLECTED FOR AIR MANAGEMENT DIVISION  
 Year-To-Date for FY98 as of  
 FEBRUARY

|   | Total<br>Revenue   |
|---|--------------------|
| 1. Non-delegated construction permit for an air pollution source  |                    |
| (a) New Source Review or Prevention of Significant Deterioration sources  | \$ -0-             |
| (b) all others  | <u>\$ 380.00</u>   |
| 2. Non-delegated operation permit for an air pollution source   |                    |
| (a) class B or smaller facility - 5 year permit   | \$ -0-             |
| (b) class A2 facility - 5 year permit   | <u>\$ -0-</u>      |
| (c) class A1 facility - 5 year permit   | <u>\$ -0-</u>      |
| 3. (a) Delegated Construction Permit for air pollution source (20% of the amount collected is forwarded to the DEP and not included here) | <u>\$ 3,000.00</u> |
| (b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)    | <u>\$ 4,440.00</u> |
| 4. Non-delegated permit revision for an air pollution source  | <u>\$ -0-</u>      |
| 5. Non-delegated permit transfer of ownership, name change or extension   | <u>\$ -0-</u>      |
| 6. Notification for commercial demolition   |                    |
| (a) for structure less than 50,000 sq ft  | <u>\$ 1,150.00</u> |
| (b) for structure greater than 50,000 sq ft   | <u>\$ -0-</u>      |
| 7. Notification for asbestos abatement  |                    |
| (a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos   | <u>\$ 290.00</u>   |
| (b) renovation greater than 1000 linear feet or 1000 sq ft  | <u>\$ 400.00</u>   |
| 8. Open burning authorization   | <u>\$2,550.00</u>  |
| 9. Enforcement Costs  | <u>\$1,027.56</u>  |

**ACTIVITIES REPORT  
WATER MANAGEMENT DIVISION**

**FEBRUARY, 1998**

**A. ENFORCEMENT**

|  |            |
|--|------------|
| 1. New Enforcement Cases Received:               | 1          |
| 2. Enforcement Cases Closed:                     | 5          |
| 3. Enforcement Cases Outstanding:                | 29         |
| 4. Enforcement Documents Issued:                 | 3          |
| 5. Warning Notices:                              | 25         |
| a. Issued:                                       | 16         |
| b. Resolved:                                     | 9          |
| 6. Recovered costs to the General Fund:          | \$1,913.56 |
| 7. Contributions to the Pollution Recovery Fund: | \$5,956.00 |

| <u>Case Name</u>          | <u>Violation</u>   | <u>Amount</u> |
|---------------------------|--|---------------|
| a. Eastwood Estates       | Improper operation & maintenance                                 | 200.00        |
| b. La Quinta Inn          | Placing system into operation<br>prior to approval               | 300.00        |
| c. Town & Country MHP     | Unpermitted discharges and failure<br>to maintain effluent limit | 1000.00       |
| d. Windward Knoll MHP     | Construction of system w/o permit                                | 2050.00       |
| e. Croft's MHP            | Improper operation and maintenance                               | 200.00        |
| f. USF HSC Pump Station   | Placing system into operation<br>prior to approval               | 450.00        |
| g. Nistal Park            | Failure to meet high level<br>disinfection                       | 831.00        |
| h. Alafia Riverfront      | Leaching   | 625.00        |
| i. Fowler Ave. Conf. Ctr. | Placing system into operation<br>prior to approval               | 300.00        |

**B. PERMITTING - DOMESTIC**

|   |    |
|---|----|
| 1. Permit Applications Received:                    | 23 |
| a. Facility Permit:                                 | 4  |
| (i) Types I and II                                  | 0  |
| (ii) Type III                                       | 4  |
| b. Collection Systems-General:                      | 7  |
| c. Collection Systems-Dry Line/Wet Line:            | 12 |
| d. Residuals Disposal:                              | 0  |
| 2. Permit Applications Approved:                    | 27 |
| a. Facility Permit:                                 | 4  |
| b. Collection Systems-General:                      | 11 |
| c. Collection Systems-Dry Line/Wet Line:            | 12 |
| d. Residuals Disposal:                              | 0  |
| 3. Permit Applications Recommended for Disapproval: | 1  |
| a. Facility Permit:                                 | 0  |
| b. Collection Systems-General:                      | 1  |
| c. Collection Systems-Dry Line/Wet Line:            | 0  |
| d. Residuals Disposal:                              | 0  |

|   |            |
|---|------------|
| 4. Permit Applications (Non-Delegated)<br>Recommended for Approval: | 0          |
| 5. Permits Withdrawn:   | 2          |
| 6. Permit Applications Outstanding:                                 | 40         |
| a. Facility Permit:   | 26         |
| b. Collection Systems-General:                                      | 5          |
| c. Collection Systems-Dry Line/Wet Line:                            | 9          |
| d. Residuals Disposal:  | 0          |
| <b>C. INSPECTIONS - DOMESTIC</b>                                    | <b>118</b> |
| 1. Compliance Evaluation:   | 11         |
| a. Inspection (CEI):  | 1          |
| b. Sampling inspection (CSI):                                       | 10         |
| c. Toxics Sampling Inspection (XSI):                                | 0          |
| d. Performance Audit Inspection (PAI):                              | 0          |
| 2. Reconnaissance:  | 84         |
| a. Inspection (RI):   | 36         |
| b. Sample Inspection (SRI):   | 1          |
| c. Complaint Inspection (CRI):                                      | 46         |
| d. Enforcement Inspection (ERI):                                    | 1          |
| 3. Special:   | 23         |
| a. Diagnostic Inspection (DI):                                      | 0          |
| b. Residual Site Inspection (RSI):                                  | 0          |
| c. Preconstruction Inspection (PCI):                                | 2          |
| d. Post Construction Inspection (XCI):                              | 21         |
| <b>D. PERMITTING - INDUSTRIAL</b>                                   |            |
| 1. Permit Applications Received:                                    | 2          |
| a. Facility Permit:   | 2          |
| (i) Types I and II  | 2          |
| (ii) Type III with groundwater monitoring                           | 0          |
| (iii) Type III w/o groundwater monitoring                           | 0          |
| b. General Permit:  | 0          |
| c. Preliminary Design Report:                                       | 0          |
| (i) Types I and II  | 0          |
| (ii) Type III with groundwater monitoring                           | 0          |
| (iii) Type III w/o groundwater monitoring                           | 0          |
| 2. Permits Recommended to DEP for Approval:                         | 2          |
| 3. Permit Applications Outstanding:                                 | 28         |
| a. Facility Permits:  | 28         |
| b. General Permits:   | 0          |

|  |            |
|--|------------|
| E. INSPECTIONS - INDUSTRIAL            | <u>29</u>  |
| 1. Compliance Evaluation:              | <u>9</u>   |
| a. Inspection (CEI):                   | <u>9</u>   |
| b. Sampling Inspection (CSI):          | <u>0</u>   |
| c. Toxics Sampling Inspection (XSI):   | <u>0</u>   |
| d. Performance Audit Inspection (PAI): | <u>0</u>   |
| 2. Reconnaissance:                     | <u>20</u>  |
| a. Inspection (RI):                    | <u>7</u>   |
| b. Sample inspection (SRI):            | <u>0</u>   |
| c. Complaint Inspection (CRI):         | <u>13</u>  |
| F. CITIZEN COMPLAINTS                  |            |
| 1. Domestic:                           | <u>42</u>  |
| a. Received:                           | <u>19</u>  |
| b. Closed:                             | <u>23</u>  |
| 2. Industrial:                         | <u>32</u>  |
| a. Received:                           | <u>16</u>  |
| b. Closed:                             | <u>16</u>  |
| 3. Water Pollution:                    | <u>17</u>  |
| a. Received:                           | <u>9</u>   |
| b. Closed:                             | <u>8</u>   |
| G. RECORD REVIEWS                      |            |
| 1. Permitting:                         | <u>5</u>   |
| 2. Enforcement:                        | <u>1</u>   |
| H. ENVIRONMENTAL SAMPLES ANALYSED FOR: |            |
| 1. Air Division:                       | <u>94</u>  |
| 2. Waste Division:                     | <u>10</u>  |
| 3. Water Division:                     | <u>254</u> |
| 4. Wetlands Division:                  | <u>0</u>   |
| I. SPECIAL PROJECT REVIEWS             |            |
| 1. DRI's:                              | <u>4</u>   |
| 2. Permitting:                         | <u>0</u>   |
| 3. Enforcement:                        | <u>2</u>   |
| 4. Other:                              | <u>0</u>   |

J. WATER QUALITY MONITORING SPECIAL PROJECTS

|  |          |
|--|----------|
| 1. Data Review                         | <u>3</u> |
| 2. Special Sampling                    | <u>1</u> |
| 3. Biomonitoring/Toxicity Reviews (DW) | <u>5</u> |
| 4. Biomonitoring/Toxicity Reviews (IW) | <u>1</u> |
| 5. Other                               | <u>0</u> |

K. TAMPA PORT AUTHORITY/DEP DREDGE & FILL 18

AR02.98

| ASSESSMENT SECTION  | TOTALS     |
|---|------------|
| A. EPC Wetlands Reviews   |            |
| 1. Wetland Delineations   |            |
| a. Wetland Delineations (\$100)   | 29         |
| b. Wetland Delineation Dispute  | 1          |
| c. Wetland Line Survey Reviews  | 21         |
| d. Additional Footage Fees  | \$2,296.11 |
| 2. Misc. Activities in Wetlands<br>(\$0, \$50 or \$80 as applicable)              |            |
| a. Nuisance Vegetation  | 2          |
| b. Other  | 6          |
| 3. Impact/Mitigation Proposal (\$645)   | 4          |
| 4. Mitigation Agreements Recorded   | 1          |
| 5. FDOT Reviews   | 0          |
| B. EPC <del>Deleg</del> ation/Reviews from State/<br>Regional Federal Authorities |            |
| 1. Tampa Port Authority Permit Apps.<br>(\$50 or \$150 as applicable)             | 0          |
| 2. Wastewater Treatment Plants (FDEP)   | 12         |
| 3. FDEP Wetland Resource Apps.  | 0          |
| 4. FDEP Grandfathered Delineation   | 0          |
| 5. SWFWMD Wetland Resource Apps.  | 1          |
| 6. Army Corps of Engineers  | 6          |

|   |  |    |
|---|--|----|
| 7.  | Interagency Clearinghouse Reviews              | 0  |
| 8.  | DRI Annual Report                              | 1  |
| C. Hills. County/ Municipality Permit Application Reviews |  |    |
| 1.  | Land Alteration/Landscaping (\$80)             | 4  |
| 2.  | Land Excavation (\$785 or \$650 as applicable) | 2  |
| 3.  | Phosphate Mining                               |    |
| a.  | Unit Review/Reclamation                        | 1  |
| b.  | Annual Review/Inspection                       | 0  |
| 4.  | Rezoning                                       |    |
| a.  | Reviews (\$70)                                 | 18 |
| b.  | Hearings                                       | 0  |
| c.  | Hearing Prep (hours)                           | 0  |
| 5.  | Site Development/Commercial (\$300)            |    |
| a.  | Preliminary                                    | 8  |
| b.  | Construction                                   | 11 |
| 6.  | Subdivision                                    |    |
| a.  | Preliminary Plat (\$140)                       | 7  |
| b.  | Master Plan (\$550)                            | 0  |
| c.  | Construction Plans (\$250)                     | 6  |
| d.  | Final Plat (\$90)                              | 18 |
| e.  | Waiver of Regulations (\$100)                  | 0  |
| f.  | Platted, No-Improvements (\$100)               | 4  |
| g.  | Minor - Certified Parcel (\$100)               | 3  |
| 7.  | As-Builts                                      | 1  |

|                     |  |       |
|---------------------|--|-------|
| 8.                  | Miscellaneous Reviews (no fees)                            |       |
| a.                  | Wetland Setback Encroachment                               | 5     |
| b.                  | Easement /Vacating   | 0     |
| c.                  | NRCS Review  | 0     |
| 9.                  | Preapplications (no fees)                                  |       |
| a.                  | Review preparation (hours)                                 | 17.5  |
| b.                  | Meetings/Reports   | 2     |
| 10.                 | Development Review Committee (no fees)                     |       |
| a.                  | Review preparation (hours)                                 | 0     |
| b.                  | Meetings   | 0     |
| D. Other Activities |  |       |
| 1.                  | Unscheduled meetings with members of the public (walk-ins) | 115   |
| 2.                  | Other Meetings   | 93    |
| 3.                  | Telephone conferences                                      | 903   |
| 4.                  | Presentations  | 0     |
| 5.                  | Correspondence   | 193   |
| 6.                  | Correspondence Review (hours)                              | 18.37 |
| 7.                  | Special Projects (hours)                                   | 88.25 |
| 8.                  | On-site visits   | 53    |
| 9.                  | Appeals  | 0     |

ADMINISTRATIVE ENFORCEMENT/ENF. COORDINATOR

|   |          |
|---|----------|
| A. New Cases Received                                   | 1        |
| B. Activities   |          |
| 1. Ongoing Cases  |          |
| a. Active   | 43       |
| b. Legal  | 3        |
| c. Tracking   | 34       |
| 2. Number of "Notice of Intent to Initiate Enforcement" | 1        |
| 3. Number of Citations Issued                           | 0        |
| 4. Number of "Emergency Order of the Director"          | 0        |
| 5. Number of Consent Orders Signed                      | 1        |
| C. Cases Closed   |          |
| 1. Administrative/Civil Cases Closed                    | 0        |
| 2. Criminal Cases Closed                                | 0        |
| 3. Cases Referred to Legal Dept.                        | 0        |
| D. Contributions to Pollution Recovery                  | \$220.00 |
| E. Enforcement Costs Collected                          | \$333.10 |

## INVESTIGATIONS/COMPLIANCE SECTION

### A. Complaints

|                       |    |
|-----------------------|----|
| 1. Received           | 54 |
| 2. Return Inspections | 67 |
| 3. Closed             | 45 |

### B. Warning Notices

|                       |    |
|-----------------------|----|
| 1. Issued             | 15 |
| 2. Return Inspections | 24 |
| 3. Closed             | 9  |

### C. Mitigation

|                                  |    |
|----------------------------------|----|
| 1. Compliance/Monitoring Reviews | 28 |
| 2. Compliance Inspections        | 15 |

### D. Other Activities

|  |     |
|--|-----|
| 1. Case Meetings                             | 0   |
| 2. Other Meetings                            | 26  |
| 3. Telephone conferences                     | 342 |
| 4. File Reviews                              | 11  |
| 5. Cases Referred to Enforcement Coordinator | 1   |
| 6. Letters                                   | 31  |

## ADMINISTRATIVE/TECHNICAL SECTIONS

### A. Soil Scientist

|   |   |
|---|---|
| 1. Case Reviews   | 6 |
| 2. Field Soil Investigations  | 7 |
| 3. Soil Investigation Notes/Reports   | 7 |
| 4. Special Projects   |   |
| - Peninsular Florida Riverine Hydrogeomorphic (HGM) Wetland Functional Assessment |   |
| - Minimum Flows and Levels of Water Bodies in Hillsborough County                 |   |

### B. Administrative Support Staff

|                                   |      |
|-----------------------------------|------|
| 1. Public Record/File Reviews     | 2    |
| 2. Unscheduled Reviews            | 2    |
| 3. Telephone Assistance           | 1450 |
| 4. Incoming Projects              | 171  |
| 5. Resubmittals / Additional Info | 34   |
| 6. Data Entry Logged              | 293  |

### C. Engineering Staff

|   |    |
|---|----|
| 1. Meetings                                       | 15 |
| 2. Reviews  | 18 |
| 3. Aerial Reviews                                 | 15 |
| 4. Telephone Inquiries                            | 66 |
| 5. Special Projects                               |    |
| - Comments on SWFWMD MFL Rules 40 D-8 and 40 D-80 |    |

## LEGAL DEPARTMENT MONTHLY REPORT

March 11, 1998

### A. ADMINISTRATIVE CASES

#### NEW CASES [ 0 ]

#### EXISTING CASES [ 11 ]

**Marks:** Appealed EPC citation for wetland destruction; settlement negotiations reached impasse. Authority to take appropriate legal action granted in 1995 (*see, Marks - litigation cases*).

**Truck Parts of Tampa:** EPC cited the owner, California Properties, Inc., and lessee, Truck Parts, Inc., for violations including the discharge of acid and hydraulic fluid, and the accumulation of solid waste. The owner of the property appealed the citation and asserted that he is unable to gain access to the property. The lessee did not appeal. Authority to take legal action granted (*see, Truck Parts - litigation cases*).

**EPC v. DEP:** (Florida Power & Light, Orimulsion conversion project.) Objected to FDEP's proposed permit upon Florida Power & Light's failure to provide the required assurances that environmental criteria will be met. The Executive Director agreed to withdraw his objections to the air permit if certain conditions were added; the Hearing Officer recommended that the conversion project be permitted subject to those conditions. The Governor and Cabinet, sitting as the Power Plant Siting Board, entered an order denying the power plant certification. FP&L appealed the Siting Board's decision to the First District Court of Appeal which vacated and remanded with instructions. On September 9, 1997, the Siting Board remanded the case back to the Hearing Officer. FDEP Secretary Wetherell continues to withhold her decision as to the separate PSD (air) permit pending the completion of the certification process. Final hearings were held before an Administrative Law Judge during January and February, 1998. DEP staff continues to recommend certification and permitting subject to revised conditions. Proposed recommended orders are to be submitted for the Judge's consideration mid-March.

**FIBA/Bridge Realty:** EPC issued a citation to the owner, Bridge Realty, and former tenant, FIBA Corp., for various unlawful waste management practices, and ordered that a contamination assessment must be conducted, a report submitted and contaminated material appropriately handled. Bridge Realty and FIBA appealed. Bridge Realty initiated a limited assessment, and provided staff with a copy of the report. Staff has reviewed the report and requested additional information. The additional information received November 1997 has been reviewed by staff and additional information requested. Counsel for Respondent, Bridge, has indicated that the additional information will be submitted as requested.

**Tampa Scrap Processors, Inc.:** Appealed EPC citation for violations relating to the management of solid waste, used oil and hazardous waste. Based on discussions between staff and respondent during Feb. '97, respondent was to proceed with a contamination assessment and to provide a report of their findings so that settlement might be achieved. Upon discovering that the assessment has not taken place as anticipated, this matter has been referred to a hearing officer for processing. Prehearing Conference has been rescheduled for early April.

**Metro Recycling & Disposal, Inc. Et al.:** Appealed EPC citation for operating a Materials Recovery Facility without the proper permits. FDEP confirmed the permit requirement under their rules. Anticipating FDEP's denial of the permit, we obtained authority to take appropriate legal action (*see, Metro-litigation case*).

**Martin Brothers:** In the several related cases, the trial scheduled for February 97 in Hillsborough County was continued, and KBH appealed the Pinellas Court's decision to not assume exclusive jurisdiction. EPC is pursuing enforcement of the 1988 Memorandum of Agreement between Pinellas County, KBH, Hillsborough County, EPC and the Martins. Mediation began on June 6 during which several options were discussed. Mediation has been rescheduled for March 16<sup>th</sup> to continue possible settlement discussions..

**RLN Corporation:** Appealed EPC citation directing that two underground storage tanks be upgraded or properly closed. The tanks have now been removed and properly closed. Staff met with respondent in an effort to resolve the penalty issue. Respondent has provided, and EPC staff is reviewing, financial information as part of the request to reduce or waive civil penalties.

**672 Recovery, Inc.:** Under 84-446, Laws of Florida, respondent appealed EPC citation for unauthorized burning and waste disposal problems. The facility has implemented some corrections and has provided a plan for avoiding and handling similar situations in the future. Staff is continuing to monitor the facility. Regarding the underlying operation permit, respondent has requested a formal 120 hearing on DEP's intent to deny. If requested, EPC staff will assist in supporting DEP's position.

**Chiles:** Appealed EPC citation for improper operation and failure to properly close underground petroleum storage tanks. EPC staff have contacted Respondent in an attempt to establish a compliance schedule without the need for a formal hearing and EPC staff is reviewing, financial information as part of the request to reduce or waive civil penalties. This matter has also been referred to a hearing officer for processing. At February Prehearing Conf. Final Hearing date of April 24, was set.

**Country Meadows Mobile Home Park WWTP:** Appealed findings set out in a letter demanding payment of penalties stipulated in a 1996 Consent Order. This matter has been referred to hearing officer for processing. Agreement in principal has been reached. Settlement Agreement is expected to be executed in short order.

#### RESOLVED CASES [ 0 ]

### B. LITIGATION CASES

#### NEW CASES [ 3 ]

**Plant Stop Inc.:** Authority granted in February, 1998, to proceed against responsible parties for violations pertaining to open burning. Complaint is being drafted.

**Star Cleaners:** Authority granted in February, 1998, to proceed against responsible parties for failure to submit required notice and obtain the required permit under Title V of the Federal Clean Air Act. Complaint is being drafted.

**Apollo Beach Cleaners:** Authority granted in February, 1998, to proceed against responsible parties for failure to submit required notice and obtain the required permit under Title V of the Federal Clean Air Act. Complaint is being drafted.

#### EXISTING CASES [ 12 ]

**Hughes Hard Chrome, Inc.:** Authority granted in 1993 regarding water violations. The company, which signed a consent order, went out of business on the affected site. Staff obtained approval to use Pollution Recovery Funds to conduct a Preliminary Contamination Assessment, to be recovered through litigation. Suit was filed and process served on four of five defendants. We have been unable to date to serve the record title owner, and discovery as to his existence and whereabouts is being pursued. Defendants Gates' Motion to Dismiss was denied; defendants have answered the complaint; and EPC has replied. We are proceeding with discovery.

**Holley, Raymond, et al.:** Suit filed against owners to compel proper closure for improperly abandoned Underground Storage Tank, and seeking civil penalties and costs. Default was entered and the Defendants filed bankruptcy. Property has been auctioned to a third party purchaser who has not yet followed through with the purchase, and the bankruptcy estate has not taken action to abandon the property.

**Marks:** Authority granted to take appropriate legal action for restoration of wetlands disturbed by the Mark's activities, penalties and costs. Suit filed and served. **Defendants** answered EPC's complaint and moved to transfer the case to the Plant City Division of the Circuit Court. **Mediation** has been scheduled for the end of March.

**Balm Grocery:** Received authority in 1995 to **proceed** against owners/operators for improperly abandoning underground storage tanks, and for operational problems with 3 active tank systems. The new facility operator was notified that the facility must be brought into compliance; the abandoned tanks appear to be on County property. The County has been advised of existing cleanup programs for which the site may be eligible. The issue of abandoned tanks on the County's right of way has been separated from the operational violations, and suit was filed against the current facility owners and operators for correction. Process has been served on two of Defendants. The third defendant is believed to be deceased. Awaiting defendants required response to the Complaint.

**Causeway Station:** Authority granted 10/95, to compel upgrades or closure of underground storage tanks (UST), to enforce operating requirements, and to recover penalties and costs. Removal of the five previously existing UST's and required closure assessment has been completed. In addition, the stockpiled contaminated soils have been removed from the site and properly disposed. Respondent is reviewing a proposed settlement agreement to address the payment of penalty and costs.

**Moore Properties of Tampa, Inc.:** Suit filed to compel proper closure and removal of abandoned underground storage tanks, recover penalties and costs. Default entered. In a separate action by a judgment creditor, a receiver was appointed who is authorized to investigate and bring site into compliance. EPC moved to consolidate the two cases. Staff, working with the receiver has established terms using available funds to achieve compliance, and a Settlement Agreement has been produced, to be entered into upon the Courts approval. It is anticipated that this agreement as well as a proposed contract for closure will be brought before the court for approval during March.

**Truck Parts of Tampa:** Authority granted in 1995. Suit filed against multiple defendants to abate pollution, obtain soil and groundwater assessment, soil and waste tire cleanup, proper disposal, proper management of incoming wastes, costs, and applicable penalties. Proceeding with discovery.

**GATX Terminals Corp.:** [In a related case, settlement entered pertaining to other environmental issues requiring penalties and costs.] Authority granted 4/96 to compel compliance with standards pertaining to construction and operation of two above ground storage tanks. Staff provided notice to the Port Authority, as requested. GATX has submitted, and EPC staff has completed their review of an application for DEP approval of an "Alternate Procedure" which they claim would provide the required environmental protection. EPC comments have been forwarded to DEP. DEP has not yet acted on the application.

**Optimum Petroleum v. Emad Qasem, EPC, et al.:** In pursuing foreclosure of a construction lien on a UST facility, Plaintiff named EPC as a Defendant because of our recorded judgment. EPC answered the complaint asserting the priority of our judgment lien. EPC's has proposed settlement which has been accepted and will join with plaintiff in their Motion for Judgment which has been set for hearing early April.

**Slusmeyer:** Defendant has failed to comply with a prior judgment and injunction requiring proper closure of underground storage tanks. Discovery is proceeding so that injunctive relief might be pursued.

**Kings Food Mart:** Authority granted 9/96 to compel an assessment of extent of reported contamination at a retail gasoline facility and compliance with regulations relating to leak detection of existing the Underground Storage Tank system. Complaint is being drafted.

**Metro Recycling, Inc.:** Authority granted 11/96 and EPC notified Metro of forthcoming litigation. Metro submitted a new DEP permit application. EPC provided DEP and Metro with comments and recommendations. Although DEP has issued a permit for this facility, EPC withheld the Director's Authorization. Metro and EPC staff have met regarding the assessment of a reasonable penalty but no agreement has been reached. EPC is preparing to file suit.

**RESOLVED CASES [ 0 ]**

COMMISSION

DOTTIE BERGER  
JOE CHILLURA  
CHRIS HART  
JIM NORMAN  
JAN PLATT  
THOMAS SCOTT  
ED TURANCHIK

EXECUTIVE DIRECTOR

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WASTE MANAGEMENT DIVISION  
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WETLANDS MANAGEMENT DIVISION  
TELEPHONE (813) 272-7104

MARCH 11, 1998

ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
POLLUTION RECOVERY TRUST FUND

Fund Balance March 11, 1998

\$775,822

Encumbrances Against Fund Balance:

|                        |        |
|------------------------|--------|
| Cypress Head Swamp     | 10,057 |
| Carmichael Dump        | 30,000 |
| Wetland Surveys        | 1,781  |
| Lake Chapman Sea.      | 4,000  |
| Seagrass Study/Sheriff | 23,500 |
| Art. Reef FY98         | 30,639 |
| Clayton Lake           | 22,093 |
| Mosi Restoration       | 55,500 |
| Oakview Utilities      | 75,000 |
| Riverview Civic Center | 40,000 |
| Thalasssea Study       | 56,000 |
| McKay Bay              | 15,000 |

Total of Encumbrances

363,570

Fund Balance Available March 11 1998

\$400,120



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ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND  
AS OF MARCH 11, 1998

|                             |                 |
|-----------------------------|-----------------|
| Fund Balance as of 10/01/97 | \$1,424,588     |
| Interest Accrued FY98       | 35,859          |
| Disbursements FY98          | 7,560           |
| <br>Fund Balance            | <br>\$1,452,887 |

Encumbrances Against Fund Balance:

|                                 |         |                |
|---------------------------------|---------|----------------|
| Alafia River, Add. (SWIM/DEP)   | 8,948   |                |
| McKay Bay Restoration (COT)     | 50,000  |                |
| Cockroach Bay Exotic Con. (HCC) | 8,618   |                |
| Hillsborough School /Nurserys   | 607     |                |
| Alafia River/Wolf Branch        | 300,000 |                |
| Ballast Point Seawall Phase II  | 25,000  |                |
| Audubon Society Riverview CC    | 50,000  |                |
| Oakview Utilities               | 50,000  |                |
| Port Redwing                    | 300,000 |                |
| Davis Tract                     | 200,000 |                |
| <br>Total of Encumbrances       |         | <u>993,173</u> |

|                                       |    |         |
|---------------------------------------|----|---------|
| Fund Balance Available March 11, 1998 | \$ | 449,714 |
|---------------------------------------|----|---------|

1

2

3

4

5

## AGENDA ITEM SUMMARY SHEET

**Date: 03-11-98**

**Agenda Item: V - Administration**

Authorization for contracts

**Description/Summary:**

Request authorization for the Executive Director to enter into contracts for routine goods and services which have been previously approved in the Environmental Protection Commission budget. Examples of vendors requiring signed agreements include GTE Internet communications line and support agreement and the postage meter contract.

**Board Action Recommended:**

Recommend the Commission authorize the Executive Director to enter into routine budgeted contracts.



/



## AGENDA ITEM COVER SHEET

**Date:** March 19, 1998

**Agenda Item:** EPC - West Coast Interlocal Agreement

---

### Description/Summary:

The Governance documents were drafted with a provision that prohibited the County from funding EPC activities - a provision said to be a deal-breaker. As an alternative, there was a suggestion that EPC participate in arbitration and mediation when its environmental concerns affect West Coast facilities. In response, I took the draft provided by West Coast and attempted to incorporate terms necessary to protect EPC's ability to exercise its jurisdiction.

The March 16 redraft of the Governance documents raised additional concerns which I communicated to West Coast.

West Coast produced a new draft (Draft 2, March 10), attached here, which includes changes to the draft I provided. There are difficulties raised by this new draft which need to be resolved if EPC is to retain its ability to enforce its regulations in Hillsborough County. An analysis of these issues will be provided to the Commission under separate cover as soon as it is available.

### Commission Action Recommended:

Reject the draft agreement between EPC and West Coast until and unless appropriate terms are included to protect EPC's jurisdiction.

### Commission Action Taken:

**DRAFT****DRAFT #2  
MARCH 10, 1998****INTERLOCAL AGREEMENT**

**THIS INTERLOCAL AGREEMENT** is made and entered into as of April 1, 1998, by and among the West Coast Regional Water Supply Authority (the Authority); Hillsborough County, a political subdivision of the State of Florida ("Hillsborough"); and the Hillsborough County Environmental Protection Commission, a governmental agency created by special act of the Florida Legislature ("EPC").

**WITNESSETH:**

**WHEREAS**, the Authority was created pursuant to an Interlocal Agreement among Hillsborough County, Pasco County, Pinellas County, the City of St. Petersburg, and the City of Tampa dated October 24, 1974, for the purpose of developing, recovering, storing and supplying water for county and municipal purposes in such a manner as will give priority to reducing adverse environmental effects of excessive or improper withdrawals of water from concentrated areas; and

**WHEREAS**, the Authority is being reorganized pursuant to an Amended and Restated Interlocal Agreement (the "Reorganization Agreement") among Hillsborough County, Pasco County, Pinellas County, the City of St. Petersburg, the City of Tampa, and the City of New Port Richey (the "Member Governments") to eliminate rate differentials, varying entitlements and other divergent interests, thus more effectively enabling the Authority to accomplish its goals and purposes; and

# DRAFT

WHEREAS, a primary purpose of the Reorganization Agreement is to provide alternative dispute resolution procedures for all permits, licenses, or other third-party approvals required to meet the Member Governments' water needs (the "Environmental Permits") to minimize and streamline litigation and administrative proceedings related to the Authority, thus reducing the cost of supplying water to the Member Governments; and

WHEREAS, the EPC has regulatory authority over activities that may cause air or water pollution in Hillsborough County pursuant to its special act and rules adopted thereby, the Hillsborough County Charter, Chapter 403, Florida Statutes, and by delegation from the Florida Department of Environmental Protection (DEP); and

WHEREAS, the Member Governments recognize that EPC has no counterpart among the other Member Governments and have requested that EPC participate in the alternative dispute resolution procedures established pursuant to the Reorganization Agreement; and

WHEREAS, EPC recognizes the value of the alternative dispute resolution procedures established pursuant to the Reorganization Agreement and has determined that it can effectively accomplish its statutory responsibilities through the alternative dispute resolution procedures, as set forth herein; and

WHEREAS, the Reorganization Agreement specifically authorizes and directs the Authority to enter into this Interlocal Agreement for the purposes set forth herein;

NOW THEREFORE, in consideration of the premises set forth above, the mutual covenants, obligations, duties and benefits herein set forth, and other valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged, the parties hereto agree as follows:

**SECTION 1. REORGANIZATION AGREEMENT.** EPC acknowledges receipt of the Reorganization Agreement. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Reorganization Agreement.

# DRAFT

## SECTION 2. ISSUANCE OF ENVIROMENTAL PERMITS. In the

interest of avoiding duplicative processes, EPC and the Authority agree to the following:

(1) EPC hereby waives its right to a Chapter 120, Florida Statutes, challenge of all consumptive use or water use permits and other permits necessary for the use or withdrawal of water that are issued to the Authority pursuant to Chapter 373, Florida Statutes, or any other law by the Southwest Florida Water Management District (SWFWMD) or any similar or successor agency authorized to issue said permits necessary for the use or withdrawal of water in Hillsborough County, and agrees to submit to arbitration pursuant to Section 3 herein and to be bound by the decision of the arbitrators, in the following manner:

(a) The Authority shall provide EPC with reasonable notice of all pre-application meetings between the Authority and SWFWMD regarding said permits for projects or activities within Hillsborough County, so that EPC might attend, be informed and participate;

(b) The Authority shall provide EPC, upon request, with all public records relating to Authority projects and applications, provided that EPC reimburses the Authority for all costs of producing and copying such public records;

(c) The Authority shall provide EPC with reasonable notice of the meeting at which the Authority's Board of Directors is to consider approving the filing of said permit application;

(d) The Authority shall provide EPC with a complete copy of the application as approved for filing by the Authority's Board, and all supporting documents within 5 business days of the Board's approval, upon payment by EPC of production and copying costs;

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(e) EPC shall provide the Authority with a request to arbitrate the permitability of the application for the proposed project or activity within 30 days of the Authority Board's approval of the application;

(f) EPC shall have all the rights and obligations of arbitration as provided in Section 3 hereof and as provided to a Host Member Government pursuant to the Reorganization Agreement regarding issuance of said permits and all conditions that would be contained therein; and

(g) The Authority and EPC shall be bound by the decision of the arbitrators regarding said permit applications and any conditions determined by the arbitrators to be appropriate.

(2) Except for those permits addressed by subsection (1) above, and except for those DEP permits delegated to EPC pursuant to a delegation agreement, EPC hereby waives any right it may have to a Chapter 120, Florida Statutes challenge to the issuance of any Environmental Permit necessary or convenient to the Authority for its water supply facilities in Hillsborough County and regarding those matters for which EPC would otherwise have standing, and EPC agrees to submit to arbitration pursuant to Section 3 herein and to be bound by the decision of the arbitrators regarding the issuance of such permits, in the following manner:

(a) The Authority shall provide EPC with reasonable notice of all pre-application and subsequent meetings between the Authority and any agency regarding the application for permits for projects or activities within Hillsborough County, so that EPC might attend, be informed, and participate;

(b) The Authority shall provide EPC, simultaneously upon submission to the permitting agency, a complete copy of the application and all supporting documents, and copies of all subsequent documents and amendments regarding

# DRAFT

the application, provided that EPC shall reimburse the Authority for all production and copying costs;

(c) EPC shall provide the Authority with a request to arbitrate the permitability of the application for said permit within 30 days of the Authority Board's approval of the submittal of said application to the permitting agency;

(d) EPC shall have the rights and obligations of arbitration as provided in Section 3 hereof and as provided to a Host Member Government pursuant to the Reorganization Agreement regarding the issuance of said permit;

(e) The Authority and EPC shall be bound by the decision of the arbitrators regarding the permit application and any conditions determined by the arbitrators to be appropriate; and

(f) The Authority shall provide EPC with a copy of any notice to issue or deny said permit.

(3) For all Environmental Permits necessary or convenient to the Authority for activities and projects in Hillsborough County which EPC issues under authority of its enabling legislation (Chapter 84-446, Laws of Florida), EPC agrees to submit to arbitration pursuant to Section 3 herein and agrees to be bound by the decision of the arbitrators regarding the issuance of the permit, in the following manner:

(a) The Authority shall request a pre-application meeting with appropriate EPC staff prior to the Authority's Board approving an application for submittal to EPC;

(b) The Authority shall submit to EPC a complete application, appropriate fees, and all supporting information as required by EPC's rules and procedures;

(c) EPC shall review the application as expeditiously as possible and issue to the Authority a notice of intent to issue or deny the permit within 90 days of the application being deemed complete, along with any proposed conditions that would be part of the permit;

# DRAFT

(d) The Authority shall request arbitration within 30 days of receipt of EPC's intent to issue or deny the permit;

(e) EPC shall have the same rights and obligations of arbitration as provided in Section 3 hereof and as provided to a Host Member Government pursuant to the Reorganization Agreement regarding the issuance of the permit; and

(f) The Authority and EPC shall be bound by the decision of the arbitrators as to the issuance of the permit and any conditions determined by the arbitrators to be appropriate, and EPC shall issue the permit adopting, or consistent with the arbitrators' decision, in which case the Authority waives all rights to challenge or appeal the permit.

**SECTION 3. ARBITRATION.** EPC agrees that its sole method of challenging the application for and issuance of Environmental Permits in Hillsborough County to the Authority shall be through the Host Member Government binding arbitration process set forth in Section 3.13 of the Reorganization Agreement, which shall be available to EPC when Hillsborough qualifies as a Host Member Government. The Authority agrees that its sole method of challenging the decision of EPC regarding the issuance of a permit to which this Agreement applies shall be through arbitration as provided herein, and it hereby waives its right to appeal any such arbitration decision pursuant to Chapter 84-446, Laws of Florida, as amended or recodified. It is understood and agreed that if Hillsborough qualifies as a Host Member Government, either Hillsborough, EPC or both may exercise the arbitration rights available to Host Member Governments. If Hillsborough and EPC both elect to challenge issuance of the same Environmental Permit, they shall be treated as a single Host Member Government for the purpose of selecting arbitrators ~~but shall be treated as separate Host Member Governments for the purpose of determining responsibility for payment of the fees, charges and expenses of the arbitrators, any experts engaged by the arbitrators, the~~

# DRAFT

~~respective counsel engaged by the parties, and any witnesses called by the parties.~~ EPC hereby waives its rights to any administrative or judicial remedies or other enforcement actions related to the issuance of Environmental Permits to the Authority. Hillsborough County agrees to ensure that EPC has the necessary funding in its budget to cover the costs of arbitration under this agreement. In addition to the arbitration procedures included in the Reorganization Agreement, the arbitration process will ensure:

- (a) EPC shall have the right to request peer review in accordance with and pursuant to Section 6.05 of the Reorganization Agreement, provided that a request for peer review shall not delay or defer any permit application process; and
- (b) EPC may propose in the arbitration process permit conditions that will become binding upon the Authority if adopted by the arbitrators; and
- (c) The arbitrators will be required to apply all law and rules applicable to the project or application being reviewed.

**SECTION 3 4. ENFORCEMENT OF ENVIROMENTAL PERMITS.** EPC agrees that its sole method of enforcing the terms and conditions of an Environmental Permit issued to the Authority, ~~including any environmental consequences of actions taken pursuant to a validly issued Environmental Permit,~~ shall be as set forth in this Section 3 4. The issue shall be addressed ~~first~~ through the dispute resolution process available to Member Governments under Section 6.06 of the Reorganization Agreement. If the issue remains unresolved within 60 days of a mediator's appointment, either party may initiate a proceeding under Section 403.412(2), Florida Statutes, within 30 days of the notice terminating the settlement discussions. Failure by the party initiating the dispute resolution procedure to commence a proceeding under Section 403.412(2) within the 30 day period shall be deemed to constitute an acceptance or waiver of the interpretation or performance of the other party. Acceptance or waiver under this provision of one instance of interpretation or performance does not alone constitute a waiver or acceptance of all

# DRAFT

~~similar instances of interpretation or performance. following completion of the dispute resolution procedure set forth in Section 6.06 of the Reorganization Agreement, EPC may initiate a circuit court action against regulatory agencies or the Authority pursuant to Section 403.412(2), Florida Statutes. With the exception of emergency or injunctive relief specified in Section 5, and as otherwise provided in this Section 4, EPC hereby waives its rights to any administrative or judicial remedies or other actions to enforce the terms and conditions of an Environmental Permit issued to the Authority, including any environmental consequences of actions taken pursuant to a validly issued Environmental Permit.~~

**SECTION 5. EMERGENCY OR INJUNCTIVE RELIEF AS APPLICABLE TO ENFORCEMENT OF ENVIRONMENTAL PERMITS.** EPC is a governmental entity created to protect the public health, safety and welfare of the citizens of Hillsborough County and to prevent pollution of the environment as defined by the Florida Legislature. For this reason, the parties agree that EPC shall continue to have the power to seek emergency or injunctive relief on behalf of the citizens of Hillsborough County in instances where activities of the Authority can be shown to threaten imminent harm to the public health, safety or welfare or irreparable harm to the environment. However, before exercising this authority EPC shall first attempt to obtain immediate compliance by contacting the Authority's General Manager. In any case where the Authority does not immediately comply or at a minimum maintain the status quo until appropriate dispute resolution can resolve the matter, EPC may exercise its full authority under its special act and the laws of Florida if it can establish that the exercise of that authority is necessary to resolve the particular matter at issue and to prevent imminent harm to the public health safety or welfare or irreparable harm to the environment. \_\_\_\_\_

**SECTION 4.6. INTERLOCAL AGREEMENT PROVISIONS.** The parties acknowledge that this Agreement constitutes an "interlocal agreement" within the meaning of the Florida Interlocal Cooperation Act of 1969. This Agreement shall be filed for record

# DRAFT

with the Clerk of the Circuit Court in Hillsborough County, Pasco County and Pinellas County.

**SECTION 6 7. TERM OF AGREEMENT.** The term of this Agreement shall begin upon satisfaction of the conditions set forth in Sections 6.03(A) and (D) of the Reorganization Agreement and end upon termination of the Reorganization Agreement. For all Authority permit applications pending before the appropriate regulatory agency when the term of this Agreement commences that would otherwise be governed by this Agreement, the EPC agrees that any challenge or objection to said permit applications brought by EPC shall be solely through the dispute resolution procedure set forth in Section 3.13 of the Reorganization Agreement and shall be initiated within thirty (30) days of the effective date of this Agreement. The EPC shall dismiss or otherwise withdraw from any other proceeding pending on the effective date this Agreement which challenges or objects to the issuance of said permit. If the arbitrators' decision is issued prior to the date on which the regulatory agency issues said permit, the Authority shall amend or withdraw its permit application to conform with the arbitrators' decision. In the alternative, if the regulatory agency issues said permit prior to the date on which the arbitrators' decision is issued, the Authority shall file and diligently prepare and file an application to modify said permit application to conform with the arbitrators' decision, but in such event the EPC shall not be entitled to initiate additional dispute resolution procedures with respect to the Authority's application to modify said permit.

**SECTION 6 8. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof, and supercedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein.

# DRAFT

**SECTION 7.9. AMENDMENTS AND WAIVERS.** No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by all parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, unless otherwise expressly provided. Each such amendment, supplement, modification or waiver of this Agreement shall be filed with the Clerk of the Circuit Court in Hillsborough County, Pasco County and Pinellas County.

**SECTION 8.10. BINDING EFFECT.** This Agreement shall be binding upon the parties, their respective successors and assigns and shall inure to the benefit of the parties, their respective successors and assigns.

**SECTION 8.11. SEVERABILITY.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**SECTION 40.12. EXECUTION IN COUNTERPARTS.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 44.13. APPLICABLE LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The venue for any action under this Agreement shall be in Hillsborough County.

DRAFT

IN WITNESS WHEREOF, the Board of County Commissioners of Hillsborough County, Florida, has caused this Agreement to be executed and delivered as of the day and year first above written.

HILLSBOROUGH COUNTY, FLORIDA

\_\_\_\_\_  
Chairman  
Board of County Commissioners

ATTEST:

\_\_\_\_\_  
Clerk

**DRAFT**

**IN WITNESS WHEREOF**, the Hillsborough County Environmental Protection Commission has caused this Agreement to be executed and delivered as of the day and year first above written.

**HILLSBOROUGH COUNTY  
ENVIRONMENTAL PROTECTION  
COMMISSION**

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Clerk

# DRAFT

**IN WITNESS WHEREOF**, the West Coast Regional Water Supply Authority has caused this Agreement to be executed and delivered as of the day and year first above written.

**WEST COAST REGIONAL WATER  
SUPPLY AUTHORITY**

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

**AGENDA ITEM COVER SHEET**

**Date:** March 19, 1998

**Agenda Item:** Request to Schedule Public Hearing

---

**Description/Summary:**

The Commission requested CEAC to review its rules to streamline, clarify and update them. In conjunction with staff, CEAC has reviewed Chapter 1-3, Air Pollution Rule and submits the attached document for your consideration.

The proposed rule amendments would clarify that it applies to stationary air sources; delete outdated terminology; provide definitions; correct rule reference numbers; provide for public notification of permit applications; delete maximum allowable increases; provide for designations of air pollution status; provide particulate emission limits; provide conditions for certain specific source emissions; delete provisions relating to mobile sources; and provide for severability and an effective date.

**Commission Action Recommended:**

Schedule a public hearing for 10:00am on April 16, 1998 to consider amendments to Chapter 1-3.

**Commission Action taken:**

CHAPTER 1-3  
STATIONARY AIR POLLUTION SOURCES  
AND AMBIENT AIR QUALITY STANDARDS

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, as amended or recodified (Act), 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 Protection 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 or enhancing air quality. Where a new or 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 or his/her designee, ~~the Director of the Division of Air Resources Management, Chief of the Bureau of Air Quality Management, or the Deputy Assistant Secretary 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

1 that emissions, while in compliance with source specific emission limiting standards may at times  
2 constitute nuisances as defined by Section 3(8) and prohibited by Section 16 of the Act.  
3  
4  
5

6 **1-3.12 DEFINITIONS:**

7 1. Definitions contained in ~~Chapter 84-446, Laws of Florida, as amended~~ the Act, apply to  
8 this rule.

9 2. With the exception of the definitions for "Air Pollution", "~~Odor~~", and "Particulate  
10 Matter," definitions contained in Section 62-210.200 ~~17-2-100~~, F.A.C., shall, to the extent  
11 applicable apply to this rule.

12 3. The following specific definitions shall apply to this rule:

13 a. ~~"Commission" shall mean the Hillsborough County Environmental Protection~~  
14 ~~Commission.~~

15 b a. "Director" shall mean the Director of the Commission or his authorized agent.

16 b. "Objectionable odor" shall mean any odor present in the outdoor atmosphere which  
17 by itself or in combination with other odors, is or may be harmful or injurious to human health  
18 or welfare, or which creates a nuisance as defined by the Act.

19 c. "Vapor-tight gasoline tank truck" shall mean a gasoline tank truck which has  
20 demonstrated within the 12 preceding months that its product delivery tank will sustain a  
21 pressure change of not more than 750 pascals (75mm of water) within 5 minutes after it is  
22 pressurized to 4500 pascals (450mm of water). This capability is to be demonstrated using  
23 the pressure test procedure specified in EPA Reference Method 27.  
24

25 **PART 2**

26 **1-3.20 CIRCUMVENTION PROHIBITED:**

27 No person shall circumvent any air pollution control device, or allow the emission of air  
28 pollutants without the applicable air pollution control device operating properly.  
29

30 **1-3.21 PERMITS REQUIRED:**

31 1. No air pollution source may be constructed, modified or operated in Hillsborough  
32 County without a valid permit as may be required by the Department pursuant to Sections 62-17-  
33 2.210, 212, 213 and 214, F.A.C., Chapter 62-17, F.A.C., or as may be otherwise required by  
34 ~~these rules~~ this rule.

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

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

1  
2 **1-3.22 PROHIBITIONS**

3 1. No person may build, erect, construct, or implant any new source or operate, modify or re-  
4 build an existing source, or by any other means release or take action which would result in the  
5 release of air pollutants into the atmosphere of the County which will result in or contribute to,  
6 ~~including concentrations of existing air pollutants,~~ ambient air concentrations greater than ambient  
7 air quality standards as defined in this rule.

8 2. No person shall cause, let, permit, suffer or allow the discharge into the atmosphere of  
9 any pollutant from any source or activity in excess of emission standards herein established.  
10

11  
12 3. No person shall cause, let, permit, suffer or allow the discharge into the atmosphere of  
13 any pollutant from any source or activity that causes or tends to cause or to contribute to an  
14 objectionable odor.  
15

16 **1-3.23 NECESSARY PRECAUTIONS:**

17 No person shall store, pump, handle, process, load, unload or use in any process or  
18 installation volatile organic compounds or organic solvents without applying known and existing  
19 vapor emission control devices or systems as may be necessary.  
20

21 **1-3.24 ~~(Reserved)~~ PUBLIC NOTIFICATION**

22 1. Pursuant to Section 62-103.150, F.A.C., a Notice of Proposed Agency Action on an  
23 application for an air pollution permit may require public notice in a newspaper of general  
24 circulation by the applicant at the applicant's expense. In such instance, the notice must be  
25 published in a newspaper that meets the definition described in 50.011 F.S.

26 2. Applicants shall give written notice to each Neighborhood Organization registered with  
27 the EPC, that lies within one mile of any proposed activity under consideration for a construction  
28 permit. At the Director's discretion, applicants may be directed to provide the same written notice  
29 to Neighborhood Organizations further than one mile from the proposed activity and/or for  
30 activities to be covered by an operation permit. The EPC will provide the applicant with the  
31 affected Neighborhood Organization list, and within 10 days of receipt of this list, the applicant will  
32 provide the EPC written evidence that the Neighborhood Organizations were notified. The notice  
33 to the Neighborhood Organizations shall include a description of the air emission source, the nature  
34 of the air emissions, the proposed startup date and the name of a contact person at the EPC for  
35 further information.

36 3. Applicants shall post a sign at the location of any proposed activity under consideration  
37 for a construction permit. At the Director's discretion, applicants may be directed to post the same  
38 sign for activities to be covered by an operation permit. The EPC will provide the applicant with  
39 the sign. It must be posted conspicuously on the property, so as to be readily viewable from the  
40 busiest adjacent public roadway. The applicant must pick up and post the sign within 15 days of  
41 submitting an application, and leave it posted on-site for no less than 30 days.  
42

43 **1-3.25 EXCESS EMISSIONS:**

44 1. Excess emissions specifically allowed by Section 62-210 47-2.250, F.A.C., shall not be  
45 violations of this rule unless they are determined to be nuisances. The Director may request written

1 verification that any such emissions fall within the designated conditions.

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

5  
6  
7 **PART 3**

8 **1-3.30 AMBIENT AIR QUALITY STANDARDS:**

9 1. Standards established in Section 62-204 ~~17-2.300(3)~~, F.A.C., are adopted and here  
10 incorporated by reference.

11 2. Sampling and analysis of contaminants in this section shall be performed in accordance  
12 with the State of Florida Department of Environmental Protection "State-Wide Quality Assurance  
13 Plan, January 1985".

14  
15  
16 **1-3.31 MAXIMUM ALLOWABLE INCREASES:**

17 ~~Maximum increases allowed by Section 62-17-2.310, F.A.C., are adopted and here~~  
18 ~~incorporated by reference.~~

19  
20  
21 **1-3.32 DESIGNATION OF AIR POLLUTION STATUS OF AREA AIR POLLUTION**  
22 **EPISODES:**

23 Designations of Hillsborough County pursuant to Section 62-204, F.A.C regarding the  
24 ambient standards of Section 1-3.30 above and Prevention of Significant Deterioration areas, are  
25 hereby adopted by reference.

26 ~~1. The Department Secretary has authority pursuant to Section 62-17-2.320, F.A.C., to~~  
27 ~~declare that an air pollution episode exists. The Director shall notify the Secretary when such~~  
28 ~~declaration is deemed appropriate for Hillsborough County or portion thereof according to~~  
29 ~~Department criteria for determining an "alert", "warning", or "emergency".~~

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

32  
33 **PART 4 (Reserved)**

34  
35 **PART 5**

36 **1-3.50 NEW SOURCE REVIEW:**

37 ~~All Provisions contained in Chapter 62-212 ~~17-2~~, F.A.C., pertinent to Hillsborough County, are~~  
38 ~~adopted and hereby incorporated by reference.~~

39  
40 **PART 6**

41 **1-3.60 EMISSION LIMITING AND PERFORMANCE STANDARDS:**

42 ~~All Provisions contained in Chapters 62-296 ~~17-2~~, F.A.C., pertinent to Hillsborough County, are~~  
43 ~~adopted and hereby incorporated by reference, except for Sections 62-296.320(4)(b)2. and 62-~~  
44 ~~296.513(1)(c) ~~17-2.610(2)~~, F.A.C., and except as may be modified herein.~~

1  
2 **1-3.61 PARTICULATE EMISSIONS:**

3 ~~— In situations where~~ The particulate emission limits under RACT in Section 62-296.700,  
4 F.A.C., shall apply to all new and existing emission units. In situations where the particulate  
5 emission limits under RACT, pursuant to Section 62-296.700 17-2.650(2), F.A.C., are less  
6 restrictive than process weight limits pursuant to Section 62-296.320 17-2.610, F.A.C., process  
7 weight limits shall apply, except as provided in Section 62-296.700(3) 17-2.650(2)(e)1.e, F.A.C.  
8

9  
10 **1-3.62 VISIBLE EMISSIONS:**

11 Visible emissions in Hillsborough County from a single source or combination of sources  
12 sharing a common discharge point shall not have an opacity greater than 20% except as otherwise  
13 specifically provided in these rules. The ability to comply with all other standards does not relieve  
14 a source from this 20% opacity standard.  
15

16 **1-3.63 SPECIFIC SOURCE EMISSIONS:**

17 Emissions for the following specific sources shall have the following limits in Hillsborough  
18 County regardless of provisions otherwise contained in this rule or in Part VI of Chapters 62-200 -  
19 297 17-2, F.A.C.:

20 a. sulfuric acid plants or plant sections manufacturing sulfuric acid - 10% opacity except  
21 for a 30 minute period during plant start-up, with opacity for such period allowed up to 40%.

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

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

26 d. ~~fossil fuel steam generators - visible emissions are limited to 20% opacity except for either~~  
27 one six-minute period per hour during which opacity shall not exceed 27 percent, or one two  
28 minute period per hour during which opacity shall not exceed 40 percent. The option selected shall  
29 be specified in the emission unit's construction and operation permits. excess emissions and except  
30 for any two minute period in any hour where opacity to 40% is allowed.

31 e. bulk gasoline terminals - loading of liquid product into gasoline tank trucks shall be  
32 limited to vapor-tight gasoline tank trucks.  
33

34 **PART 7**

35 **1-3.70 SOURCE SAMPLING AND MONITORING:**

36 Source sampling and monitoring shall be performed in compliance with Department and EPA  
37 requirements so as to determine as accurately as possible actual operational emissions.  
38

39 **PART 8 (Reserved)**

40 **1-3.80 MOBILE SOURCE:**

41 ~~1. No person shall cause, let, permit, suffer or allow the emission of smoke from motor~~  
42 ~~vehicles on public roadways which is visible within the proximity of the engine exhaust outlet for a~~  
43 ~~period of more than (5) five seconds.~~

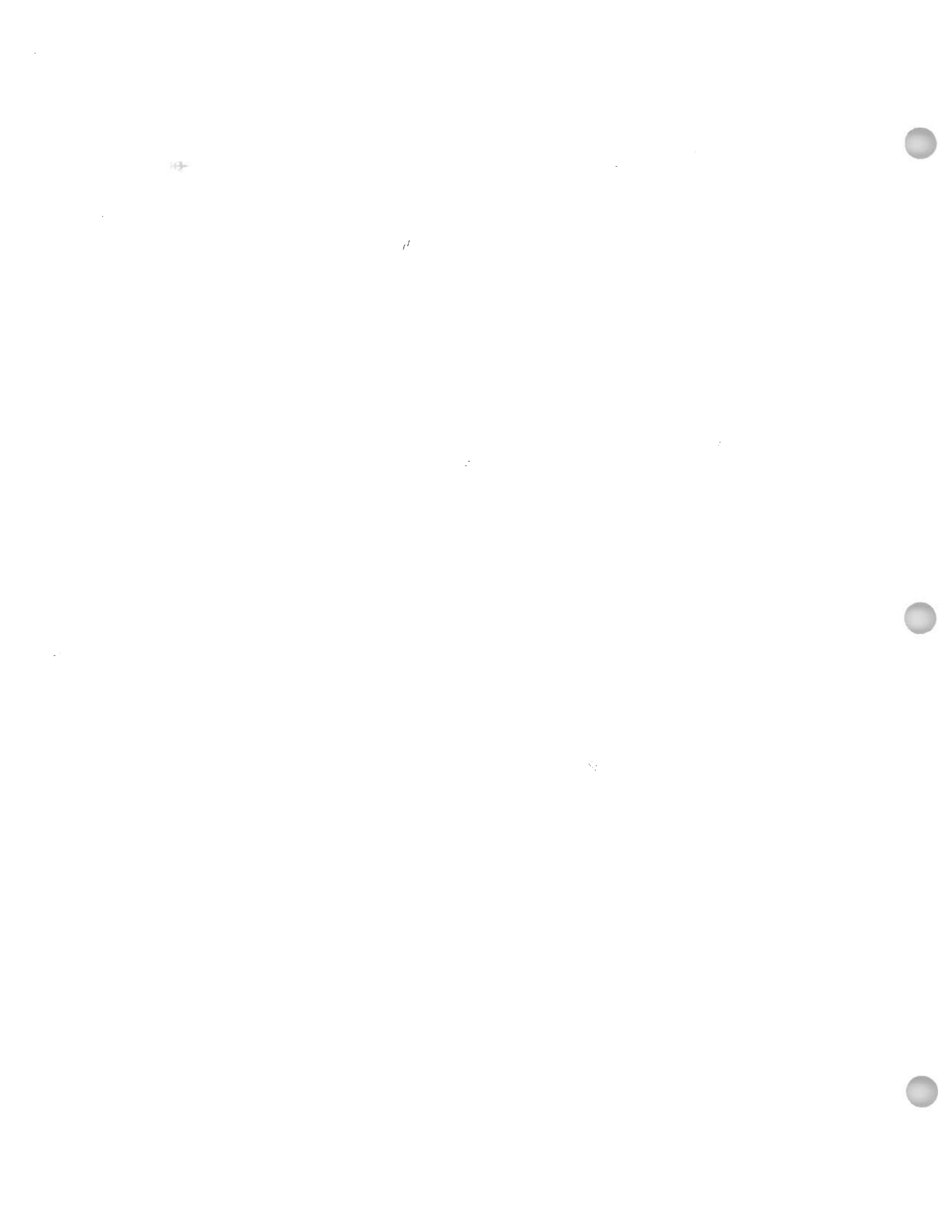
44 ~~2. For purposes of this part:~~

45 ~~a. "smoke" is defined as small gas borne and airborne particles, exclusive of water~~

1 vapor, from a process of combustion, in sufficient number to be visible.—  
2 ~~\_\_\_\_\_ b. "motor vehicle" is defined as any device powered by an internal combustion~~  
3 ~~engine, excluding 2 cycle gasoline engines manufactured prior to 1976, and on or in which any~~  
4 ~~person or property may be transported.~~

5  
6 cc: CEAC

7



COMMISSION

DOTTIE BERGER  
JOE CHILLURA  
CHRIS HART  
JIM NORMAN  
JAN PLATT  
THOMAS SCOTT  
ED TURANCHIK

EXECUTIVE DIRECTOR

ROGER P. STEWART



ADMINISTRATIVE OFFICES, LEGAL &  
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1900 - 9TH AVENUE  
TAMPA, FLORIDA 33605  
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FAX (813) 272-5157

AIR MANAGEMENT DIVISION  
TELEPHONE (813) 272-5530

WASTE MANAGEMENT DIVISION  
TELEPHONE (813) 272-5788

WETLANDS MANAGEMENT DIVISION  
TELEPHONE (813) 272-7104

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AGENDA ITEM SUMMARY SHEET

**Date:** March 10, 1998

**Agenda Item:** Presentation for Approval of Inter-Agency Memorandum of Understanding (MOU) on Cooperative Medfly Control Program

**Description/Summary:**

MOU addresses the establishment of a cooperative and coordinated plan within Hillsborough County to standardize, enhance and improve many aspects of the Medfly management and control program.

MOU represents the participation and input of numerous federal, state, and local agencies and stakeholders, and is the culmination of a joint effort undertaken seven months ago.

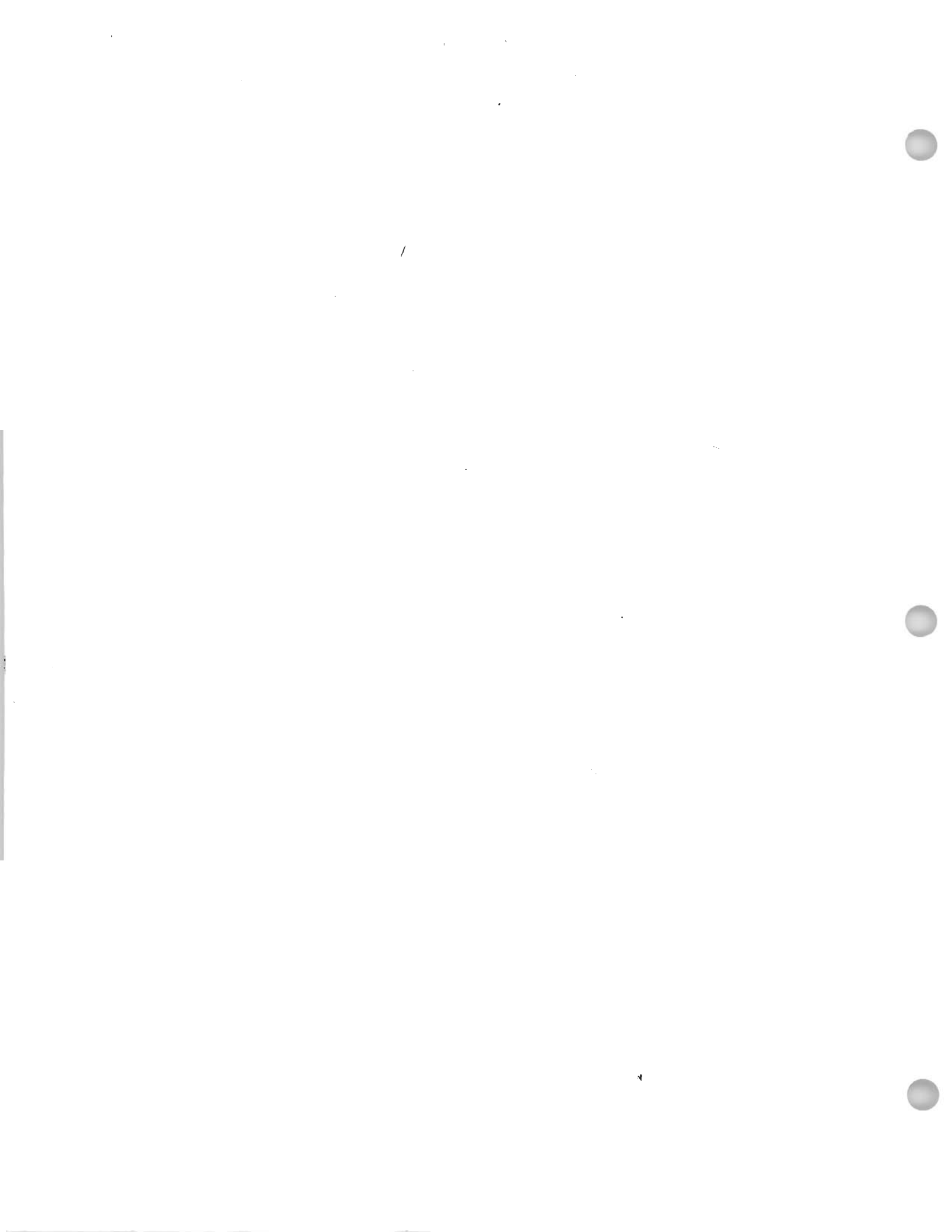
Implementation of the process and procedures described within the MOU will initiate a level of cooperative and coordinated program management that has to date not been seen in the state of Florida. By applying the many lessons learned during the Medfly infestation of 1997, the Inter-Agency committee has created a framework that will greatly improve every aspect of the Medfly control program in Hillsborough County.

Staff met with executive committee of Citizens for the Responsible Application of Malathion (CRAM) on 3/12/98, to receive and respond to citizen concerns.

A final revision draft of the MOU will be distributed at the EPC meeting on 3/19/98, and will include applicable modifications from citizens and participating agencies.

**Board Action Recommended:**

Motion and vote to authorize the Executive Director to sign the MOU.



**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
COMMISSIONER'S BOARD ROOM  
MARCH 19, 1998  
10:00 AM - 12 NOON**

**ADDENDUM**

**VIII. COMMISSIONER'S REQUESTS**

Report - 1998 Legislative Bills of Interest (Comm. Platt)

75

Any person who might wish to appeal any decision made by the Environmental Protection Commission regarding any matter considered at the forthcoming public hearing or meeting is hereby advised that they will need a record of the proceedings, and for such purpose they may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based.

COMMISSION

DOTTIE BERGER  
JOE CHILLURA  
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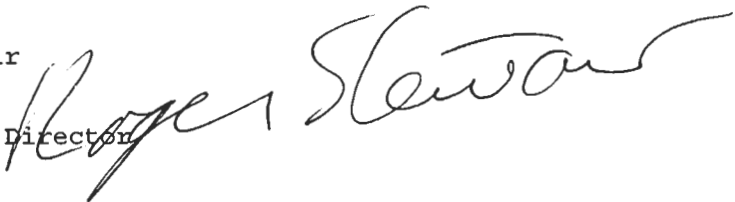
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M E M O R A N D U M

**DATE:** March 16, 1998

**TO:** Commissioner Platt, EPC Chair

**FROM:** Roger P. Stewart, Executive Director 

**SUBJECT:** 1998 Legislative Bills of Interest

The attached is a summary of the bills that we have been made aware of, to date, that may be of some interest to or have an impact on the Environmental Protection Commission or Hillsborough County. These bills are distributed to appropriate agency staff for review as they are received. New bills come in daily. You have requested that we report on some specific issues at this week's EPC meeting and, we will be happy to do so. If, after reviewing this list, there are other items of specific interest to you or any of the other commissioners, please let me know and we will prepare the required additional information.

# 1998 LEGISLATIVE BILLS ENVIRONMENTAL

As of March 16, 1998

## AIR

**SB 98** - Electrical Power Plants; Sponsor: Senator Crist - Prohibits the use of orimulsion as a fuel to generate electricity in the state. Provides for an independent environmental impact study and report to the Legislature. (See **HB 3157**)

**SB 148** -Clean Indoor Air Act; Sponsor: Senator Sullivan - Provides legislative intent that the "Florida Clean Indoor Act" is a uniform statewide minimum code rather than maximum code. Repeals the preemption of the regulation of smoking to the state. (**HB 3379**)

**SB 374** - Motor Vehicle Emissions Testing; Sponsor: Senate Committee on Transportation - Revises provisions related to motor vehicle emissions testing. Readopts the standards of the federal Clean Air Act for compliance standards purposes. Provides options for certain test types and frequency and certain exemptions. Establishes test standards. Provides that the Department of Highway Safety and Motor Vehicles may contract with more than one testing company within a zone. Allows the department to include the cost of inspection in the request for proposal and requires specific legislative approval if the contract with the testing company requires an inspection fee that exceeds a certain amount.

**SB 812** - Clean Air Act/Management Planning Act; Sponsor: Dyer - Creates the Florida Accidental Release Prevention and Risk Management Planning Act. Directs the Department of community Affairs to seek delegation from the U.S. EPA to implement the Accidental Release Prevention Program under the federal Clean Air Act. Provides funding, fees, enforcement authority, and penalties. Authorizes the department to conduct inspections and audits. Provides for tort liability. Provides for a start-up loan from the department's operating trust fund. (**HB 3717**)

**SB 814** - Public Records/Clean Air Act; Sponsor: Dyer - Provides an exemption from public records disclosure requirements for information provided by a stationary source subject to the Accidental Release Prevention Program under the federal Clean Air Act. Provides a finding of public necessity and an expiration date. (**HB 3705**)

**SB 894** - Amphitheaters/Local Noise Ordinance; Sponsor: Rossin - Provides that amphitheaters located on or adjacent to fairgrounds are subject to local noise ordinances.

**SB 1096** - Shooting Ranges; Sponsor: Grant - Provides exemption from civil liability and criminal prosecution for owners and users of sport shooting ranges with respect to noise pollution resulting from the operation of the range under certain circumstances. Exempts sport shooting ranges from specified rules and regulations. Prohibits certain nuisance actions against sport shooting ranges. **(HB3323)**

**SB 1336** - Fee Schedule for Asbestos Inspections; Sponsor: Latvala - Authorizes the DEP to establish by rule a fee schedule for asbestos inspections.

**SB 1490** - Alternative-Fuel Pilot Projects/DHSMV; Sponsor: Williams - Directs the Department of Highway Safety and Motor Vehicles to establish two alternative-fuel-vehicle pilot projects to promote economic development, energy security, and clean air. Imposes an additional fee on the registration of motor vehicles. Creates the Air Quality/Alternative Fuel Trust Fund. Directs the legal entities for the Florida Gold Coast Clean Cities Coalition and the Florida Suncoast Clean Cities Coalition to use the funds for certain purposes and to perform certain duties. **(HB 139)**

**SB 1500** - Energy Performance Contracting; Sponsor: Campbell - Establishes the Energy Performance Contracting Act and provides legislative findings. Redefines terms, revises procedures for contracting, and sets criteria for energy performance contracting. Authorizes the Department of Management Services to provide technical assistance and to promote and facilitate energy performance contracting by agencies.

**SB 1554** - Air Pollution Control Trust Fund; Sponsor: Williams - Exempts the Air Pollution Control Trust Fund from the 7 percent General Revenue Fund surcharge. Clarifies the license fee criteria and changes the date for an audit of the major stationary source air-operation permit program. **(HB 3795)**

**HB 3157** - Use of Orimulsion; Sponsor: Representative Murman - Prohibiting the use of Orimulsion as a fuel to generate electricity in the state. Providing for an independent environmental impact study and report to the Legislature; providing an effective date. **(SB 98)**

**HB 3323** - Liabilities of Sport Shooting Ranges; Sponsor: Fuller - Provides exemption from civil liability and criminal prosecution for owners and users of sport shooting ranges with respect to noise pollution resulting from the operation of the range under certain circumstances. Exempts sport shooting ranges from specified rules and regulations. Prohibits certain nuisance actions against sport shooting ranges. **(SB 1096)**

**HB 3705** - Accidental Release Prevention/Records; Sponsor: Melvin - Provides an exemption from public records disclosure requirements for information provided by a stationary source subject to the Accidental Release Prevention Program under the federal Clean Air Act. Provides for future review and repeal of the exemption. **(SB 814)**

**HB 3717** - FL Accidental Release Prevention; Sponsor: Edwards - Creates the Florida Accidental Release Prevention Program and Risk Management Act. Directs the Department of Community Affairs to seek delegation from the U.S. EPA to implement the program under the federal Clean Air Act. Provides funding, fees, enforcement authority and penalties. Authorizes the department to conduct inspections and audits. Provides for tort liability. Provides for a start-up loan from the department's operating trust fund. **(SB 812)**

**HB 3795** - Air Pollution Control; Sponsor: Smith - Exempts the Air Pollution Control Trust Fund from the general revenue service charge deduction. Revises provisions relating to calculation of the annual operation license fee assessed against holders of operation permits for major sources of air pollution. Provides for adjustments to the license fee factor and restrictions on calculating whether there is a revenue shortage. Restricts use of annual operation license fees collected. Revises elements of the major stationary source air-operation permit program for purposes of establishing annual operation license fees, and revises program audit requirements. **(SB 1554)**

**HB 4017** - Air Pollution Control; Sponsor: Sindler - Establishes an air pollution prevention grant program, administered by the Division of Air Resource Management of the DEP, to provide grants to owners or operators of public or private sources of air pollution to implement air pollution prevention projects. **(SB 2260)**

## WATER

**SB 956** - DEP/Divisions Within the Department; Sponsor: Latvala - Changes the name of the Division of Water Facilities to the Division of Water Resources in the DEP and deletes the Division of Environmental Resource Permitting.

**SB 1006** - Nutrient Impaired Watersheds; Sponsor: Natural Resources - Directs DEP to adopt, by rule, procedures to determine that watersheds are nutrient-impaired. Provides that special requirements be imposed by the Department of Health and local governments for onsite sewage treatment disposal systems in nutrient-impaired areas and areas encompassed by surfacewater improvement and management plans. Provides that special requirements be imposed by DEP for domestic wastewater facilities in nutrient-impaired areas and areas encompassed by surfacewater improvement and management plans. Provides for calculating maximum load determinations for polluting constituents in water areas. Limits the point of entry for a challenge to the maximum load calculations. Authorizes the DEP to adopt rules for pollutant trading in areas where a maximum load calculation has been approved. Authorizes the Department of Health to adopt rules for bacteriological sampling of beach waters and issue health advisories.

**SB 1176** - Phosphogypsum Stack System Management; Sponsor: Lee - Requires DEP to adopt rules to ensure that phosphogypsum stack systems are operated to meet critical safety standards by January 1, 1999. **(HB 4077)**

**SB 1360** - Phosphate Tax Exemption; Sponsor: McKay - Provides that exemption from the tax on sales, use, and other transactions applies to machinery and equipment purchased for use in phosphate severance, mining, or processing operations in the form of a credit against taxes due under Ch. 211, for taxes paid under Ch 212.

**SB 1436** - Wastewater Treatment/Facilities/DEP; Sponsor: Latvala - Directs the DEP to adopt rules classifying water and wastewater treatment facilities and staffing requirements.

**SB 1438** - Aquatic Preserves/Internal Improvement; Sponsor: Latvala - Authorizes the Board of Trustees of the Internal Improvement Trust Fund to adopt rules relating to aquatic preserves.

**SB 1442** - Regional Water Supply Authorities; Sponsor: Latvala - Provides that a member government of a regional water supply authority is not considered a party in administrative proceedings under certain conditions agreed to by the member government. Authorizes an authority and its member governments to reconstitute governance through an interlocal agreement. Revises criteria for interlocal agreements between member governments and authorities. Provides for the submission of water-use permit application controversies to arbitration Allows an authority to indemnify member governments under certain conditions.

**SB 1488** - FL Land and Body of Water Designation; Sponsor: Kirkpatrick - Provides that the Florida Legislature and the Florida Cabinet are the only entities authorized to apply for a federal designation for any Florida land or water body. **(HB 3059)**

**HB 3059** - Federal Designations for Florida Land or Water Bodies; Sponsor: Albright - An act relating to federal designations for Florida land or water bodies; restricting authority to apply for federal designations to the Legislature and the Cabinet; providing an effective date. **(SB 1488)**

**HB 4077** - Phosphogypsum Stack Systems; Sponsor: Murman - Requires the DEP to adopt rules to ensure that phosphogypsum stack systems are operated to meet critical safety standards by January 1, 1999. **(SB 1176)**

## WASTE

**SB 146** - Petroleum Storage Systems; Sponsor: Senator Natural Resources - Repeals a section of the Laws of Florida that provides for the October 1, 1998, repeal of a statutory provision relating to civil actions and damages involving a petroleum storage system discharge. Corrects a reference to the Florida Administrative Code.

**SB 244** - Hazardous Dry-cleaning Solvents; Sponsor: Natural Resources - Declares dry-cleaning solvents to be hazardous to the environment. Establishes a late fee for registration renewals. Declares legislative intent to encourage the voluntary cleanup of property contaminated by dry-cleaning solvents. Provides for deductibles to be deposited into the Water Quality Assurance Trust Fund. **(HB4117)**

**SB 376** - Disposal of Solid Waste; Sponsor: Kirkpatrick - Revises and clarifies conditions under which the disposal of solid waste is exempt from DEP permitting requirements. **(see HB 3125)**

**SB 488** - Hazardous Waste Corrective Action Programs; Sponsor: Forman - Directs the DEP to seek authorization for the delegation of the federal corrective-action program for hazardous waste facilities. Provides criteria and rulemaking authority for the implementation of the federal corrective-action program through state permits and fees.

**SB 600** - Solid Waste Management/Issuance of Permits; Sponsor: Hargrett - Prohibits DEP from issuing a construction permit for solid waste facilities that are within 3,000 feet of an existing residence. **(HB 3991)**

**SB 1058** - DEP/Solid Waste Management/Ash Residue; Sponsor: Lee - Authorizes DEP to allow recycling and reuse of ash residue which meets department standards adopted by rule. **(HB 3729)**

**SB 1114** - Tax Credit/Contaminated Site Rehab; Sponsor: McKay -Provides for tax credits for rehabilitating contaminated sites. Provides for a tax credit against the intangible personal property tax. Authorizes rulemaking. Provides for a tax credit against the corporate income tax. Authorizes rulemaking. Provides for a partial tax credit for the rehabilitation of sites contaminated by drycleaning solvent and of brownfield sites contaminated with hazardous substances. Provides for the DEP to determine eligibility for such partial credits. Specifies the contents of applications for the tax credits. Provides for a nonrefundable review fee. Requires the taxpayer to submit specified documents to the Department of Revenue.

**SB 1202** - Brownfields Redevelopment Areas; Sponsor: Latvala - Provides that closed military bases may be designated a brownfield areas. Clarifies job creation criteria for the designation of a brownfield area. Revises eligibility criteria and liability protection provisions. Requires the Director of the Office of Tourism, Trade and Economic Development to approve wage requirement waiver requests for tax refunds. Creates the Brownfield Areas Bond and Loan Guarantee Program and a council to administer the program. Provides for the redevelopment of brownfield areas to be part of the declaration of findings for economic development. Authorizes the Florida Development Finance Corporation to determine when a brownfield redevelopment area qualifies for a limited state guaranty of revenue bonds, loan guarantees, or loan loss reserves. Directs the Board of Regents to establish a Center for Brownfield Rehabilitation Assistance at the

University of South Florida. Provides that local government comprehensive plan amendments related to redevelopment of brownfield areas are exempt from limitations of frequency of amendments. Provides legislative intent regarding lienholders on brownfield areas. Authorizes certain counties and municipalities to apply for designation of an enterprise zone if the zone encompasses a brownfield pilot project.

**SB 1204** - Brownfield Property Ownership Trust Fund; Sponsor: Latvala -Creates the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund to be administered by the Office of Tourism, Trade, and Economic Development for the purpose of providing loans for brownfield site rehabilitation.

**SB 1282** - Lead-Acid Batteries/Retail Sale Fee; Sponsor: Latvala - Provides that the fee imposed on the retail sale of lead-acid batteries applies to new and remanufactured batteries. **(HB 165)**

**SB 1362** - Pesticides; Sponsor: McKay - Clarifies that plain water is not a substance subject to regulation under definitions relating to pest control and pesticides. **(HB 3133)**

**HB 3125** - Disposal of Solid Waste - Sponsor: Smith - Revises and clarifies conditions under which the disposal of solid waste is exempt from Department of Environmental Protection permitting requirements. **(SB 376)**

## WETLANDS

**SB 530** - Environment/Permitting/Organic Detrital; Sponsor: Kirkpatrick - Provides a exception from permitting requirements for the removal by a property owner of unconsolidated organic detrital material from water bodies adjacent to the owner's property under specified circumstances. **(see HB 3331)**

**SB 840** - Timber Management on State Owned Lands; Sponsor: Bronson - Provides the Division of Forestry of the Department of Agriculture and Consumer Services with specific authority to manage timber on all state owned lands if it is feasible and not in conflict with primary management objectives. Directs the Land Acquisition and Management Advisory Council to consider timber management as a feasible multiple use strategy for state owned lands. Requires the land managing agency to provide a written explanation to the management review team concerning the management of lands under specified circumstances. **(HB 3671)**

**SB 986** - Environmental Mitigation/DOT; Sponsor: Bronson - Authorized DOT to provide DEP and the water management districts with an inventory of environmental habitats that may be impacted by future transportation projects identified in the adopted work program. Revises funding requirements for environmental mitigation projects through additional fiscal years. Authorizes the amendment of environmental mitigation plans. **(HB 4071)**

**SB 1440** - Management of Uplands/DEP Rules Adoption; Sponsor: Latvala - Authorizes the DEP to adopt rules relating to management and use of uplands, special-activities permits, special marine turtle permits, and inspection and approval of artificial-reef-construction materials. Provides penalties. **(HB 1491)**

**HB 1951** - Department of Water Management Created; Sponsor: Representative Bronson - Creates the Department of Northwest Florida Water Management, the Department of Suwannee River Water Management, the Department of St. Johns River Water Management, the Department of Southwest Florida Water Management, and the Department of South Florida Water Management. Contingent on the adoption of an amendment to the State Constitution.

**HB 3331** - Environment/Permitting/Organic Detrital; Sponsor: Argenziano - Provides an exception from permitting requirements for the removal by a property owner of unconsolidated organic detrital material from water bodies adjacent to the owner's property under specified circumstances. **(see SB 530)**

**HB 3421** - Water Control Districts; Sponsor: Putnam - Amends various sections of chapter 298, F.S., regulating water control districts by revising the powers and duties of boards of supervisors and districe engineers which affect water control plans. Revises voting, notice, and land assessment requirements. Provides for the determination of benefits and damages. Provides that the approval of a plan is final unless court action is initiated within 30 days after approval. **(SB 1596)**

**HB 3517** - Florida Greenways and Trails Act; Sponsor: Saunders - revises the Florida Greenways and Trails Act and creates the Glorida Green Communities Act to provide for a comprehensive statewide system of greenways for conservation and recreation purposes. **(SB 1396)**

**HB 3519** - Florida Green Communities Act; Sponsor: Saunders -Specifies procedures to govern the acquisition of lands or interests in lands by the Office of Greenways and Trails, the DEP, the Florida Communities Trust, local government agencies, and the WMD's.

**HB 3521** - Green Community Trust Fund/DEP; Sponsor: Saunders - Creates the Florida Green Communities Trust Fund within the DEP, to be administered by the department, and provides for its source of moneys and purposes. Provides for future review and termination or re-creation of the trust fund.

**HB 3771** - Revision/Florida Greenways and Trails Act; Sponsor: Sembler - Revises the definition of "volunteer" to include persons who consent to the use of lands as greenways or trails without compensation. Provides certain rights and benefits to landowners who

allow lands to be designated as greenways or trails, including certain protection from liability and the posting of trespass notices by the DEP..... (SB 1396)

## MEDFLY

**SB 926** - Eradication of Agricultural Pests; Sponsor: Lee - Provides the Department of Agriculture and Consumer Services to furnish notice to the public, to the Governor, and to the Cabinet whenever it is going to commence an emergency response to a plant pest infestation which involves aerial spraying of pesticide or the application of pesticide to residential property by means other than aerial spraying. Prescribes information that must be contained in such notice. Requires the department to study pesticide effects, and to provide a system of information dissemination. Requires the Department of Health to monitor health problems resulting from pesticide application and to provide technical assistance to health-care providers. (HB 3641)

**SB 1010** - Agricultural Emergency Eradication Trust; Sponsor: Bronson - Creates the Agricultural Emergency Eradication Trust Fund and specifies its purpose. (HB 1847)

**SB 1088** - Agriculture Emergencies Trust Fund; Sponsor: Bronson - Provides for the distribution of various taxes to the Agricultural Emergency Eradication Trust Fund. Provides an appropriation to the Agricultural Emergency Trust Fund. (HB 3479)

**HB 3061** - Regulation of aircraft, pilots and airports; Sponsor: Representative Minton - Exempts certain airports used exclusively for aerial application or spraying of crops on a seasonal basis if the period of operation does not exceed 30 days per calendar year from a provision of law with respect to the approval of airport sites and the licensing of airports. (SB 110)

**HB 3479** - Agriculture Emergency Eradication Trust; Sponsor: Bronson - Provides for the distribution of various taxes to the Agriculture Emergency Eradication Trust Fund. Requires the collection of an agriculture pest introduction fee and provides requirements for its administration, collection, and distribution. Provides an appropriation to the Agriculture Emergency Eradication Trust Fund. (SB 1088)

**HB 3545** - Arthropod Control/Eradication; Sponsor: Posey - Creates a study commission for the purpose of investigating problems associated with, and the feasibility of eradication of, the arthropod diptera *bibionidae* *plecia nearctica*, commonly known as "love bugs", as a public nuisance and hazard to motorists on the highways of the state.

**HB 3609** - Aerial Application of Pesticides; Sponsor: Miller - Prohibits until July 1, 1999, aerial application of pesticides or other poisonous or toxic substances to control or eradicate insects. Requires the Agriculture Committees of the Legislature and the Department of Agriculture and Consumer Services to conduct workshops to explore

alternatives to and methodologies for aerial application of pesticides or other poisonous or toxic substances to control or eradicate insects. Requires a report to the Governor and the Legislature.

**HB 3641** - DAG/Eradication of Agricultural Pests; Sponsor: Murman - Provides for the Department of Agriculture and Consumer Services to furnish notice to the public, to the Governor and the Cabinet whenever it is going to commence an emergency response to a plant pest infestation which involves aerial spraying of pesticide or the application of pesticide to residential property by means other than aerial spraying. Prescribes information that must be contained in such notice. Requires the department to study pesticide effects, and to provide a system of information dissemination. Requires the Department of Health to monitor health problems resulting from pesticide application and to provide technical assistance to health-care providers. **(SB 926)**

## GENERAL INTEREST

**SB 434** - Tax Exemptions for Processes; Sponsor: Dyer - Provides a sales tax exemption for certain processes, facilities, equipment, and machinery used for pollution prevention or control, and for structures or equipment associated with replacement thereof. Provides for certification of such processes, facilities, and equipment by the DEP. **(see HB 3229)**

**SB 622** - Board of Professional Biologists; Sponsor: Meadows - Creates chapter 485, F.S., to provide for the regulation of professional biologists. Creates the Board of Professional Biologists within the Division of Professions of the Department of Business and Professional Regulation. Requires a licensure of individuals and certification of corporations, partnerships, associations, and persons practicing under a fictitious name. Provides for exemption from regulation for certain persons and for the grandfathering in of certain persons. **(HB 625)**

**SB 1334** - Data Quality Assurance; Sponsor: Latvala - Authorizes the DEP to adopt rules on quality-assurance requirements for environmental data submitted to the department.

**HB 3185** - Public Service Commission; Sponsor: Thrasher - Authorizes the Public Service Commission to recognize contributions-in-ad-of-construction only when paid by a third party and actually received by a utility. Construes the term "used and useful in public service" as applied to utility property for purposes of rate proceedings. Requires the commission to approve rates which allow a utility to recover environmental compliance costs. **(SB 1034)**

**HB 3229** - Sales Tax Exemption/Pollution; Sponsor: Thrasher - Provides a sales tax exemption for certain processes, facilities, equipment, and machinery used for pollution

prevention or control, and for structures or equipment associated with replacement thereof. Provides for certification of such processes, facilities, and equipment by the Department of Environmental Protection. (SB 434)