

1 A bill to be entitled
2 An act relating to governmental operations;
3 providing requirements for local governments
4 providing solid waste collection services in
5 competition with private companies; providing
6 remedies for such private companies; providing
7 procedures and requirements; providing for
8 award of damages, costs, and attorney fees;
9 providing application; providing limitations
10 for local government solid waste collection
11 services outside the jurisdiction of the local
12 government; providing remedies for certain
13 injured parties; providing requirements and
14 procedures; prohibiting local governments from
15 displacing private waste collection companies
16 under certain circumstances; providing
17 requirements; providing procedures and
18 requirements for such displacement; providing
19 definitions; amending s. 171.062, F.S.;
20 providing for continuation of certain solid
21 waste services in certain annexed areas;
22 providing an exception; amending s. 165.061,
23 F.S.; providing for certain merger plans to
24 honor certain solid waste contracts; providing
25 limitations; amending s. 403.087, F.S.;
26 clarifying application of certain permit fees;
27 amending s. 403.7046, F.S.; providing a
28 limitation relating to the local government
29 registration fee for recovered materials
30 dealers; revising local government authority
31 with respect to certain contracts between

1 recovered materials dealers and local
 2 commercial establishments that generate
 3 source-separated materials; amending s.
 4 403.706, F.S.; authorizing counties and
 5 municipalities to grant certain solid waste fee
 6 waivers under certain circumstances; amending
 7 s. 403.722, F.S.; clarifying requirements for
 8 obtaining certain hazardous waste facility
 9 permits; creating s. 171.093, F.S.; providing
 10 for the assumption of an independent special
 11 district's service responsibilities in an area
 12 that is within the district's boundaries and
 13 that is annexed by a municipality; providing
 14 that the municipality may elect to assume such
 15 responsibilities; providing for an interlocal
 16 agreement regarding the transfer of such
 17 responsibilities; providing for the provision
 18 of services and payment therefor during a
 19 specified period if the municipality and
 20 district are unable to enter into an interlocal
 21 agreement; specifying effect of a
 22 municipality's election not to assume such
 23 responsibilities; providing for contraction of
 24 the district's boundaries if the municipality
 25 elects to assume such responsibilities;
 26 providing for levy of ad valorem taxes and
 27 assessments, user charges, and impact fees;
 28 providing exceptions; amending 190.004, F.S.,
 29 to modify the preemption relating to Community
 30 Development Districts; repealing s.
 31 403.7165(5), F.S., relating to the Applications

1 Demonstration Center for Resource Recovery from
2 Solid Organic Materials; repealing s. 403.7199,
3 F.S., relating to the Florida Packaging
4 Council; creating s. 403.08725, F.S.; providing
5 requirements for citrus juice processing
6 facilities with respect to obtaining air
7 pollution, construction, and operations
8 permits; providing definitions; providing
9 emissions limits for such facilities; requiring
10 certification of information submitted by
11 citrus juice processing facilities to the
12 Department of Environmental Protection;
13 providing requirements with respect to
14 determination and reporting of facility
15 emissions; requiring the submission of annual
16 operating reports; requiring maintenance of
17 records; providing an affirmative defense to
18 certain enforcement actions; adopting and
19 incorporating specified federal regulations by
20 reference; providing requirements,
21 specifications, and restrictions with respect
22 to air emissions trading; providing for annual
23 emissions fees; providing penalty for failure
24 to pay fees; providing for deposit of fees in
25 the Air Pollution Control Trust Fund; providing
26 requirements with respect to construction of
27 new facilities or modification of existing
28 facilities; providing for the adoption of rules
29 by the department; requiring the department to
30 provide a report to the Legislature; providing
31 for submission of the act to the United States

1 Environmental Protection Agency; providing for
2 applicability of the act and compliance
3 requirements for facilities in the event of
4 federal nonapproval; amending s. 120.80, F.S.;
5 providing an exception to specified rulemaking
6 by the Department of Environmental Protection;
7 directing the department to explore
8 alternatives to traditional methods of
9 regulatory permitting and to consider specific
10 limited pilot projects to test new compliance
11 measures; providing reporting requirements;
12 amending s. 403.0872, F.S.; requiring the
13 Department of Environmental Protection to issue
14 a separate acid rain permit for specified major
15 sources of air pollution upon request of the
16 applicant; providing an effective date.
17 creating s. 403.08725, F.S.; providing
18 requirements for citrus juice processing
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20 pollution, construction, and operations
21 permits; providing definitions; providing
22 emissions limits for such facilities; requiring
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3 regulatory permitting and to consider specific
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5 measures; providing reporting requirements;
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7 Department of Environmental Protection to issue
8 a separate acid rain permit for specified major
9 sources of air pollution upon request of the
10 applicant; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. (1) SOLID WASTE COLLECTION SERVICES IN
15 COMPETITION WITH PRIVATE COMPANIES.--

16 (a) A local government that provides specific solid
17 waste collection services in direct competition with a private
18 company:

19 1. Shall comply with the provisions of local
20 environmental, health, and safety standards that also are
21 applicable to a private company providing such collection
22 services in competition with the local government.

23 2. Shall not enact or enforce any license, permit,
24 registration procedure, or associated fee that:

25 a. Does not apply to the local government and for
26 which there is not a substantially similar requirement that
27 applies to the local government; and

28 b. Provides the local government with a material
29 advantage in its ability to compete with a private company in
30 terms of cost or ability to promptly or efficiently provide
31 such collection services. Nothing in this sub-subparagraph

1 shall apply to any zoning, land use, or comprehensive plan
2 requirement.

3 (b)1. A private company with which a local government
4 is in competition may bring an action to enjoin a violation of
5 paragraph (a) against any local government. No injunctive
6 relief shall be granted if the official action which forms the
7 basis for the suit bears a reasonable relationship to the
8 health, safety, or welfare of the citizens of the local
9 government unless the court finds that the actual or potential
10 anticompetitive effects outweigh the public benefits of the
11 challenged action.

12 2. As a condition precedent to the institution of an
13 action pursuant to this paragraph, the complaining party shall
14 first file with the local government a notice referencing this
15 paragraph and setting forth the specific facts upon which the
16 complaint is based and the manner in which the complaining
17 party is affected. The complaining party may provide evidence
18 to substantiate the claims made in the complaint. Within 30
19 days after receipt of such a complaint, the local government
20 shall respond in writing to the complaining party explaining
21 the corrective action taken, if any. If no response is
22 received within 30 days or if appropriate corrective action is
23 not taken within a reasonable time, the complaining party may
24 institute the judicial proceedings authorized in this
25 paragraph. However, failure to comply with this subparagraph
26 shall not bar an action for a temporary restraining order to
27 prevent immediate and irreparable harm from the conduct or
28 activity complained of.

29 3. The court may, in its discretion, award to the
30 prevailing party or parties costs and reasonable attorneys'
31 fees.

1 (c) This subsection does not apply when the local
2 government is exclusively providing the specific solid waste
3 collection services itself or pursuant to an exclusive
4 franchise.

5 (2) SOLID WASTE COLLECTION SERVICES OUTSIDE
6 JURISDICTION.--

7 (a) Notwithstanding s. 542.235, Florida Statutes, or
8 any other provision of law, a local government that provides
9 solid waste collection services outside its jurisdiction in
10 direct competition with private companies is subject to the
11 same prohibitions against predatory pricing applicable to
12 private companies under ss. 542.18 and 542.19.

13 (b) Any person injured by reason of violation of this
14 subsection may sue therefor in the circuit courts of this
15 state and shall be entitled to injunctive relief and to
16 recover the damages and the costs of suit. The court may, in
17 its discretion, award to the prevailing party or parties
18 reasonable attorneys' fees. An action for damages under this
19 subsection must be commenced within 4 years. No person may
20 obtain injunctive relief or recover damages under this
21 subsection for any injury that results from actions taken by a
22 local government in direct response to a natural disaster or
23 similar occurrence for which an emergency is declared by
24 executive order or proclamation of the Governor pursuant to s.
25 252.36, Florida Statutes, or for which such a declaration
26 might be reasonably anticipated within the area covered by
27 such executive order or proclamation.

28 (c) As a condition precedent to the institution of an
29 action pursuant to this subsection, the complaining party
30 shall first file with the local government a notice
31 referencing this subsection and setting forth the specific

1 facts upon which the complaint is based and the manner in
2 which the complaining party is affected. Within 30 days after
3 receipt of such complaint, the local government shall respond
4 in writing to the complaining party explaining the corrective
5 action taken, if any. If the local government denies that it
6 has engaged in conduct that is prohibited by this subsection,
7 its response shall include an explanation showing why the
8 conduct complained of does not constitute predatory pricing.

9 (d) For the purposes of this subsection, the
10 jurisdiction of a county, special district, or solid waste
11 authority shall include all incorporated and unincorporated
12 areas within the county, special district, or solid waste
13 authority.

14 (3) DISPLACEMENT OF PRIVATE WASTE COMPANIES.--

15 (a) As used in this subsection, the term
16 "displacement" means a local government's provision of a
17 collection service which prohibits a private company from
18 continuing to provide the same service that it was providing
19 when the decision to displace was made. The term does not
20 include:

21 1. Competition between the public sector and private
22 companies for individual contracts;

23 2. Actions by which a local government, at the end of
24 a contract with a private company, refuses to renew the
25 contract and either awards the contract to another private
26 company or decides for any reason to provide the collection
27 service itself;

28 3. Actions taken against a private company because the
29 company has acted in a manner threatening to the public health
30 or safety or resulting in a substantial public nuisance;
31

1 4. Actions taken against a private company because the
2 company has materially breached its contract with the local
3 government;

4 5. Refusal by a private company to continue operations
5 under the terms and conditions of its existing agreement
6 during the 3-year notice period;

7 6. Entering into a contract with a private company to
8 provide garbage, trash, or refuse collection which contract is
9 not entered into under an ordinance that displaces or
10 authorizes the displacement of another private company
11 providing garbage, trash, or refuse collection;

12 7. Situations in which a majority of the property
13 owners in the displacement area petition the governing body to
14 take over the collection service;

15 8. Situations in which the private companies are
16 licensed or permitted to do business within the local
17 government for a limited time and such license or permit
18 expires and is not renewed by the local government. This
19 subparagraph does not apply to licensing or permitting
20 processes enacted after May 1, 1999, or to occupational
21 licenses; or

22 9. Annexations, to the extent that the provisions of
23 s. 171.062(4), Florida Statutes, apply.

24 (b) A local government or combination of local
25 governments may not displace a private company that provides
26 garbage, trash, or refuse collection service without first:

27 1. Holding at least one public hearing seeking comment
28 on the advisability of the local government or combination of
29 local governments providing the service.

30
31

1 2. Providing at least 45 days' written notice of the
2 hearing, delivered by first-class mail to all private
3 companies that provide the service within the jurisdiction.

4 3. Providing public notice of the hearing.

5 (c) Following the final public hearing held under
6 paragraph (b), but not later than 1 year after the hearing,
7 the local government may proceed to take those measures
8 necessary to provide the service. A local government shall
9 provide 3 years' notice to a private company before it engages
10 in the actual provision of the service that displaces the
11 company. As an alternative to delaying displacement 3 years,
12 a local government may pay a displaced company an amount equal
13 to the company's preceding 15 months' gross receipts for the
14 displaced service in the displacement area. The 3-year notice
15 period shall lapse as to any private company being displaced
16 when the company ceases to provide service within the
17 displacement area. Nothing in this paragraph prohibits the
18 local government and the company from voluntarily negotiating
19 a different notice period or amount of compensation.

20 (4) DEFINITIONS.--As used in this section:

21 (a) "In competition" or "in direct competition" means
22 the vying between a local government and a private company to
23 provide substantially similar solid waste collection services
24 to the same customer.

25 (b) "Private company" means any entity other than a
26 local government or other unit of government that provides
27 solid waste collection services.

28 Section 2. Subsection (5) is added to section 171.062,
29 Florida Statutes, to read:

30 171.062 Effects of annexations or contractions.--

31

1 (5) A party that has a contract that was in effect for
2 at least 6 months prior to the initiation of an annexation to
3 provide solid waste collection services in an unincorporated
4 area may continue to provide such services to an annexed area
5 for 5 years or the remainder of the contract term, whichever
6 is shorter. Within a reasonable time following a written
7 request to do so, the party shall provide the annexing
8 municipality with a copy of the pertinent portion of the
9 contract or other written evidence showing the duration of the
10 contract, excluding any automatic renewals or so-called
11 "evergreen" provisions. This subsection does not apply to
12 contracts to provide solid waste collection services to
13 single-family residential properties in those enclaves
14 described in s. 171.046.

15 Section 3. Paragraph (d) is added to subsection (2) of
16 section 165.061, Florida Statutes, to read:

17 165.061 Standards for incorporation, merger, and
18 dissolution.--

19 (2) The incorporation of a new municipality through
20 merger of existing municipalities and associated
21 unincorporated areas must meet the following conditions:

22 (d) In accordance with s. 10, Art. I of the State
23 Constitution, the plan for merger or incorporation must honor
24 existing solid waste contracts in the affected geographic area
25 subject to merger or incorporation; however, the plan for
26 merger or incorporation may provide that existing contracts
27 for solid waste collection services shall be honored only for
28 5 years or the remainder of the contract term, whichever is
29 shorter, and may require that a copy of the pertinent portion
30 of the contract or other written evidence of the duration of
31 the contract, excluding any automatic renewals or so-called

1 "evergreen" provisions, be provided to the municipality within
2 a reasonable time following a written request to do so.

3 Section 4. Paragraph (a) of subsection (6) of section
4 403.087, Florida Statutes, is amended to read:

5 403.087 Permits; general issuance; denial; revocation;
6 prohibition; penalty.--

7 (6)(a) The department shall require a processing fee
8 in an amount sufficient, to the greatest extent possible, to
9 cover the costs of reviewing and acting upon any application
10 for a permit or request for site-specific alternative criteria
11 or for an exemption from water quality criteria and to cover
12 the costs of surveillance and other field services and related
13 support activities associated with any permit or plan approval
14 issued pursuant to this chapter. However, when an application
15 is received without the required fee, the department shall
16 acknowledge receipt of the application and shall immediately
17 return the unprocessed application to the applicant and shall
18 take no further action until the application is received with
19 the appropriate fee. The department shall adopt a schedule of
20 fees by rule, subject to the following limitations:

21 1. The ~~permit~~ fee for any of the following ~~permits~~ may
22 not exceed \$32,500:

- 23 a. Hazardous waste, construction permit.
24 b. Hazardous waste, operation permit.
25 c. Hazardous waste, postclosure closure permit, or
26 clean closure plan approval.

27 2. The permit fee for a Class I injection well
28 construction permit may not exceed \$12,500.

29 3. The permit fee for any of the following permits may
30 not exceed \$10,000:

- 31 a. Solid waste, construction permit.

- 1 b. Solid waste, operation permit.
2 c. Class I injection well, operation permit.
3 4. The permit fee for any of the following permits may
4 not exceed \$7,500:
5 a. Air pollution, construction permit.
6 b. Solid waste, closure permit.
7 c. Drinking water, construction or operation permit.
8 d. Domestic waste residuals, construction or operation
9 permit.
10 e. Industrial waste, operation permit.
11 f. Industrial waste, construction permit.
12 5. The permit fee for any of the following permits may
13 not exceed \$5,000:
14 a. Domestic waste, operation permit.
15 b. Domestic waste, construction permit.
16 6. The permit fee for any of the following permits may
17 not exceed \$4,000:
18 a. Wetlands resource management--(dredge and fill),
19 standard form permit.
20 b. Hazardous waste, research and development permit.
21 c. Air pollution, operation permit, for sources not
22 subject to s. 403.0872.
23 d. Class III injection well, construction, operation,
24 or abandonment permits.
25 7. The permit fee for Class V injection wells,
26 construction, operation, and abandonment permits may not
27 exceed \$750.
28 8. The permit fee for any of the following permits may
29 not exceed \$500:
30 a. Domestic waste, collection system permits.
31

1 b. Wetlands resource management--(dredge and fill and
2 mangrove alterations), short permit form.

3 c. Drinking water, distribution system permit.

4 9. The permit fee for stormwater operation permits may
5 not exceed \$100.

6 10. The general permit fees for permits that require
7 certification by a registered professional engineer or
8 professional geologist may not exceed \$500. The general
9 permit fee for other permit types may not exceed \$100.

10 11. The fee for a permit issued pursuant to s. 403.816
11 is \$5,000, and the fee for any modification of such permit
12 requested by the applicant is \$1,000.

13 12. The regulatory program and surveillance fees for
14 facilities permitted pursuant to s. 403.088 or s. 403.0885, or
15 for facilities permitted pursuant to s. 402 of the Clean Water
16 Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the
17 department has been granted administrative authority, shall be
18 limited as follows:

19 a. The fees for domestic wastewater facilities shall
20 not exceed \$7,500 annually. The department shall establish a
21 sliding scale of fees based on the permitted capacity and
22 shall ensure smaller domestic waste dischargers do not bear an
23 inordinate share of costs of the program.

24 b. The annual fees for industrial waste facilities
25 shall not exceed \$11,500. The department shall establish a
26 sliding scale of fees based upon the volume, concentration, or
27 nature of the industrial waste discharge and shall ensure
28 smaller industrial waste dischargers do not bear an inordinate
29 share of costs of the program.

30 c. The department may establish a fee, not to exceed
31 the amounts in subparagraphs 4. and 5., to cover additional

1 costs of review required for permit modification or
2 construction engineering plans.

3 Section 5. Paragraphs (b) and (d) of subsection (3) of
4 section 403.7046, Florida Statutes, are amended to read:

5 403.7046 Regulation of recovered materials.--

6 (3) Except as otherwise provided in this section or
7 pursuant to a special act in effect on or before January 1,
8 1993, a local government may not require a commercial
9 establishment that generates source-separated recovered
10 materials to sell or otherwise convey its recovered materials
11 to the local government or to a facility designated by the
12 local government, nor may the local government restrict such a
13 generator's right to sell or otherwise convey such recovered
14 materials to any properly certified recovered materials dealer
15 who has satisfied the requirements of this section. A local
16 government may not enact any ordinance that prevents such a
17 dealer from entering into a contract with a commercial
18 establishment to purchase, collect, transport, process, or
19 receive source-separated recovered materials.

20 (b) Prior to engaging in business within the
21 jurisdiction of the local government, a recovered materials
22 dealer must provide the local government with a copy of the
23 certification provided for in this section. In addition, the
24 local government may establish a registration process whereby
25 a recovered materials dealer must register with the local
26 government prior to engaging in business within the
27 jurisdiction of the local government. Such registration
28 process is limited to requiring the dealer to register its
29 name, including the owner or operator of the dealer, and, if
30 the dealer is a business entity, its general or limited
31 partners, its corporate officers and directors, its permanent

1 place of business, evidence of its certification under this
2 section, and a certification that the recovered materials will
3 be processed at a recovered materials processing facility
4 satisfying the requirements of this section. All counties, and
5 municipalities whose population exceeds 35,000 according to
6 the population estimates determined pursuant to s. 186.901,
7 may establish a reporting process which shall be limited to
8 the regulations, reporting format, and reporting frequency
9 established by the department pursuant to this section, which
10 shall, at a minimum, include requiring the dealer to identify
11 the types and approximate amount of recovered materials
12 collected, recycled, or reused during the reporting period;
13 the approximate percentage of recovered materials reused,
14 stored, or delivered to a recovered materials processing
15 facility or disposed of in a solid waste disposal facility;
16 and the locations where any recovered materials were disposed
17 of as solid waste. Information reported under this subsection
18 which, if disclosed, would reveal a trade secret, as defined
19 in s. 812.081(1)(c), is confidential and exempt from the
20 provisions of s. 24(a), Art. I of the State Constitution and
21 s. 119.07(1). The local government may charge the dealer a
22 registration fee commensurate with and no greater than the
23 cost incurred by the local government in operating its
24 registration program. Registration program costs are limited
25 to those costs associated with the activities described in
26 this paragraph.Any reporting or registration process
27 established by a local government with regard to recovered
28 materials shall be governed by the provisions of this section
29 and department rules promulgated pursuant thereto.

30 (d) In addition to any other authority provided by
31 law, a local government is hereby expressly authorized to

1 prohibit a person or entity not certified under this section
2 from doing business within the jurisdiction of the local
3 government; to enter into a nonexclusive franchise or to
4 otherwise provide for the collection, transportation, and
5 processing of recovered materials at commercial
6 establishments, provided that a local government may not
7 require a certified recovered materials dealer to enter into
8 such franchise agreement in order to enter into a contract
9 with any commercial establishment located within the local
10 government's jurisdiction ~~such franchise or provision does not~~
11 ~~prohibit a certified recovered materials dealer from entering~~
12 ~~into a contract with a commercial establishment to purchase,~~
13 collect, transport, process, or receive source-separated
14 recovered materials; and to enter into an exclusive franchise
15 or to otherwise provide for the exclusive collection,
16 transportation, and processing of recovered materials at
17 single-family or multifamily residential properties.

18 Section 6. Paragraph (d) is added to subsection (17)
19 of section 403.706, Florida Statutes, to read:

20 403.706 Local government solid waste
21 responsibilities.--

22 (17) To effect the purposes of this part, counties and
23 municipalities are authorized, in addition to other powers
24 granted pursuant to this part:

25 (d) To grant a solid waste fee waiver to nonprofit
26 organizations that are engaged in the collection of donated
27 goods for charitable purposes and that have a recycling or
28 reuse rate of 50 percent or better.

29 Section 7. Subsection (1) of section 403.722, Florida
30 Statutes, is amended to read:

31

1 403.722 Permits; hazardous waste disposal, storage,
2 and treatment facilities.--

3 (1) Each person who intends to construct, modify,
4 operate, or close a hazardous waste disposal, storage, or
5 treatment facility shall obtain a construction permit,
6 operation permit, postclosure ~~or closure~~ permit, or clean
7 closure plan approval from the department prior to
8 constructing, modifying, operating, or closing the facility.
9 By rule, the department may provide for the issuance of a
10 single permit instead of any two or more hazardous waste
11 facility permits.

12 Section 8. Section 171.093, Florida Statutes, is
13 created to read:

14 171.093 Municipal annexation within independent
15 special districts.--

16 (1) The purpose of this section is to provide an
17 orderly transition of special district service
18 responsibilities in an annexed area from an independent
19 special district which levies ad valorem taxes to a
20 municipality following the municipality's annexation of
21 property located within the jurisdictional boundaries of an
22 independent special district, if the municipality elects to
23 assume such responsibilities.

24 (2) The municipality may make such an election by
25 adopting a resolution evidencing the election and forwarding
26 the resolution to the office of the special district and the
27 property appraiser and tax collector of the county in which
28 the annexed property is located. In addition, the municipality
29 may incorporate its election into the annexation ordinance.

30 (3) Upon a municipality's election to assume the
31 district's responsibilities, the municipality and the district

1 may enter into an interlocal agreement addressing the orderly
2 transfer of service responsibilities, real assets, equipment,
3 and personnel to the municipality. The agreement shall address
4 allocation of responsibility for special district services,
5 avoidance of double taxation of property owners for such
6 services in the area of overlapping jurisdiction, prevention
7 of loss of any district revenues which may be detrimental to
8 the continued operations of the independent district,
9 avoidance of impairment of existing district contracts,
10 disposition of property and equipment of the independent
11 district and any assumption of indebtedness for it, the status
12 and employee rights of any adversely affected employees of the
13 independent district, and any other matter reasonably related
14 to the transfer of responsibilities.

15 (4)(a) If the municipality and the district are unable
16 to enter into an interlocal agreement pursuant to subsection
17 (3), the municipality shall so advise the district and the
18 property appraiser and tax collector of the county in which
19 the annexed property is located and, effective October 1 of
20 the calendar year immediately following the calendar year in
21 which the municipality declares its intent to assume service
22 responsibilities in the annexed area, the district shall
23 remain the service provider in the annexed area for a period
24 of 4 years. During the 4-year period, the municipality shall
25 pay the district an amount equal to the ad valorem taxes or
26 assessments that would have been collected had the property
27 remained in the district.

28 (b) By the end of the 4-year period, or any extension
29 mutually agreed upon by the district the municipality, the
30 municipality and the district shall enter into an agreement
31 that identifies the existing district property located in the

1 municipality or primarily serving the municipality that will
2 be assumed by the municipality, the fair market value of such
3 property, and the manner of transfer of such property and any
4 associated indebtedness. If the municipality and district are
5 unable to agree to an equitable distribution of the district's
6 property and indebtedness, the matter shall proceed to circuit
7 court. In equitably distributing the district's property and
8 associated indebtedness, the taxes and other revenues paid the
9 district by or on behalf of the residents of the annexed area
10 shall be taken into consideration.

11 (c) During the 4-year period, or during any mutually
12 agreed upon extension, district service and capital
13 expenditures within the annexed area shall continue to be
14 rationally related to the annexed area's service needs.
15 Service and capital expenditures within the annexed area shall
16 also continue to be rationally related to the percentage of
17 district revenue received on behalf of the residents of the
18 annexed area when compared to the district's total revenue. A
19 capital expenditure greater than \$25,000 shall not be made by
20 the district for use primarily within the annexed area without
21 the express consent of the municipality.

22 (5) If the municipality elects not to assume the
23 district's responsibilities, the district shall remain the
24 service provider in the annexed area, the geographical
25 boundaries of the district shall continue to include the
26 annexed area, and the district may continue to levy ad valorem
27 taxes and assessments on the real property located within the
28 annexed area. If the municipality elects to assume the
29 district's responsibilities in accordance with subsection (3),
30 the district's boundaries shall contract to exclude the

31

1 annexed area at the time and in the manner provided in the
2 agreement.

3 (6) If the municipality elects to assume the
4 district's responsibilities and the municipality and the
5 district are unable to enter into an interlocal agreement, and
6 the district continues to remain the service provider in the
7 annexed area in accordance with subsection (4), the
8 geographical boundaries of the district shall contract to
9 exclude the annexed area on the effective date of the
10 beginning of the 4-year period provided for in subsection (4).
11 Nothing in this section precludes the contraction of the
12 boundary of any independent special district by special act of
13 the Legislature. The district shall not levy ad valorem taxes
14 or assessments on the annexed property in the calendar year in
15 which its boundaries contract and subsequent years, but it may
16 continue to collect and use all ad valorem taxes and
17 assessments levied in prior years. Nothing in this section
18 prohibits the district from assessing user charges and impact
19 fees within the annexed area while it remains the service
20 provider.

21 (7) In addition to any other authority provided by
22 law, a municipality is authorized to levy assessments on
23 property located in an annexed area to offset all or a portion
24 of the costs incurred by the municipality in assuming district
25 responsibilities pursuant to this section. Such assessments
26 may be collected pursuant to and in accordance with applicable
27 law.

28 (8) This section does not apply to districts created
29 pursuant to chapter 190 or chapter 373.

30 Section 9. Subsection (2) of section 190.004, Florida
31 Statutes, is amended to read:

1 190.004 Preemption; sole authority.--

2 (2) The adoption of chapter 84-360, Laws of Florida
3 ~~This act~~ does not affect the validity of the establishment of
4 any community development district or other special district
5 existing on June 29, 1984; and existing community development
6 districts will continue to be subject to the provisions of
7 chapter 80-407, Laws of Florida 190, as amended. All actions
8 taken prior to July 1, 2000, by a community development
9 district existing on June 29, 1984, if taken pursuant to the
10 authority contained in chapter 80-407 or this chapter are
11 hereby deemed to have adequate statutory authority. Nothing
12 herein shall affect the validity of any outstanding
13 indebtedness of a community development district established
14 prior to June 29, 1984, and such district is hereby authorized
15 to continue to comply with all terms and requirements of trust
16 indentures or loan agreements relating to such outstanding
17 indebtedness.

18 Section 10. Section 403.08725, Florida Statutes, is
19 created to read:

20 403.08725 Citrus juice processing facilities.--

21 (1) COMPLIANCE REQUIREMENTS; DEFINITIONS.--Effective
22 July 1, 2002, all existing citrus juice processing facilities
23 shall comply with the provisions of this section in lieu of
24 obtaining air pollution construction and operation permits,
25 notwithstanding the permit requirements of ss. 403.087(1) and
26 403.0872. For purposes of this section, "existing juice
27 processing facility" means any facility that currently has air
28 pollution construction or operation permits issued by the
29 department with a fruit processing capacity of 2 million boxes
30 per year or more. For purposes of this section, "facility"
31 means all emissions units at a plant that processes citrus

1 fruit to produce single-strength or frozen concentrated juice
2 and other products and byproducts identified by Major Group
3 Standard Industrial Classification Codes 2033, 2037, and 2048
4 which are located within a contiguous area and are owned or
5 operated under common control, along with all emissions units
6 located in the contiguous area and under the same common
7 control which directly support the operation of the citrus
8 juice processing function. For purposes of this section,
9 facilities that do not operate a citrus peel dryer are not
10 subject to the requirements of paragraph (2)(c). For purposes
11 of this section, "department" means the Department of
12 Environmental Protection. Notwithstanding any other provision
13 of law to the contrary, for purposes of the permitted emission
14 limits of this section, "new sources" means emissions units
15 constructed or added to a facility on or after July 1, 2000,
16 and "existing sources" means emissions units constructed or
17 modified before July 1, 2000.

18 (2) PERMITTED EMISSIONS LIMITS.--All facilities
19 authorized to construct and operate under this section shall
20 operate within the most stringent of the emissions limits set
21 forth in paragraphs (a)-(g) for each new and existing source:

22 (a) Any applicable standard promulgated by the United
23 States Environmental Protection Agency.

24 (b) Each facility shall comply with the emissions
25 limitations of its Title V permit, and any properly issued and
26 certified valid preconstruction permits, until October 31,
27 2002, at which time the requirements of this section shall
28 supersede the requirements of the permits. Nothing in this
29 paragraph shall preclude the department's authority to
30 evaluate past compliance with all department rules.

31

1 (c) After October 31, 2002, for volatile organic
2 compounds, the level of emissions achievable by a 50-percent
3 recovery of oil from citrus fruits processed as determined by
4 the methodology described in subparagraph (4)(a)1. One year
5 after EPA approval pursuant to subsection (9), for volatile
6 organic compounds, the level of emissions achievable by a 65
7 percent recovery of oil from citrus fruits processed as
8 determined by the methodology described in subparagraph
9 (4)(a)1.

10 (d) After October 31, 2002, except as otherwise
11 provided herein, no facility shall fire fuel oil containing
12 greater than 0.5 percent sulfur by weight. Those facilities
13 without access to natural gas shall be limited to fuel oil
14 containing no greater than 1 percent sulfur by weight. In
15 addition, facilities may use fuel oil with no greater than 1.5
16 percent sulfur by weight for up to 400 hours per calendar
17 year. The use of natural gas is not limited by this paragraph.
18 The use of d-limonene as a fuel is not limited by this
19 paragraph.

20 (e) After October 31, 2002, for particulate matter of
21 10 microns or less, the emissions levels, expressed in pounds
22 per million British thermal units of heat input, unless
23 otherwise specified, are established for the following types
24 of new and existing sources:

25 1. Citrus peel dryer, regardless of production
26 capacity: 15 pounds per hour.

27 2. Pellet cooler or cooling reel, regardless of
28 production capacity: 5 pounds per hour.

29 3. Process steam boiler:

30 a. Sources fired with natural gas, propane, ethanol,
31 biogas, or d-limonene: not limited.

1 b. New sources fired with fuel oil: 0.10 pounds per
2 million British thermal units.

3
4 No process steam boiler shall fire any fuel other than natural
5 gas, propane, ethanol, biogas, d-limonene, or fuel oil. No
6 process steam boiler shall fire used oil.

7 4. Combustion turbine:

8 a. Existing sources regardless of fuel: not limited.

9 b. New sources fired with natural gas, propane, or
10 biogas: not limited.

11 c. New sources fired with fuel oil: 0.10 pounds per
12 million British thermal units.

13
14 No combustion turbine shall fire any fuel other than natural
15 gas, propane, ethanol, biogas, or fuel oil. No combustion
16 turbine shall fire used oil.

17 5. Duct burner:

18 a. New and existing sources fired with natural gas,
19 propane, or biogas: not limited.

20 b. New and existing sources fired with fuel oil: 0.10
21 pounds per million British thermal units.

22
23 No duct burner shall fire any fuel other than natural gas,
24 propane, biogas, or fuel oil. No duct burner shall fire used
25 oil.

26 6. Glass plant furnace: existing sources with a
27 maximum non-cullet material process input rate of 18 tons per
28 hour; hourly emissions limited as determined by the following
29 equation: Emission limit (pounds per hour) = 3.59 x (process
30 rate, tons per hour raised to the 0.62 power). No glass plant
31 furnace shall fire any fuel other than natural gas, propane,

1 biogas, d-limonene, or fuel oil. No glass plant furnace shall
2 fire used oil.

3 7. Biogas flare for anaerobic reactor: not limited.

4 8. Emergency generator: not limited.

5 9. Volatile organic compounds emission control
6 incinerator: not limited.

7 (f) After October 31, 2002, for nitrogen oxides, the
8 emissions levels, expressed in pounds of nitrogen dioxide per
9 million British thermal units of heat produced, unless
10 otherwise specified, are established for the following types
11 of new and existing sources:

12 1. Citrus peel dryer:

13 a. Sources that fire natural gas, propane, biogas, or
14 d-limonene: not limited.

15 b. Sources that fire fuel oil: 0.34 pounds per
16 million British thermal units.

17 2. Process steam boiler:

18 a. New sources with a heat input capacity of 67
19 million British thermal units per hour or less and existing
20 sources regardless of heat input capacity: not limited.

21 b. New sources with a heat input capacity of more than
22 67 million British thermal units per hour: 0.10 pounds per
23 million British thermal units.

24 3. Combustion turbine:

25 a. Existing sources regardless of fuel:

26 (I) Existing combustion turbine of approximately 425
27 million British thermal units per hour heat input capacity:
28 42 parts per million volume dry at 15 percent oxygen.

29 (II) Existing combustion turbines of approximately 50
30 million British thermal units per hour heat input capacity
31

1 each, constructed prior to July 1999: 168 parts per million
2 volume dry at 15 percent oxygen.

3 (III) Existing combustion turbine of approximately 50
4 million British thermal units per hour heat input capacity,
5 constructed after July 1999: 50 parts per million volume dry
6 at 15 percent oxygen.

7 b. New sources with less than 50 megawatts of
8 mechanically generated electrical capacity, regardless of
9 fuel: 25 parts per million volume dry at 15 percent oxygen.

10 c. New sources with greater than or equal to 50
11 megawatts of mechanically generated electrical capacity,
12 regardless of fuel: 3.5 parts per million volume dry at 15
13 percent oxygen.

14 4. Duct burner:

15 a. Existing sources fired with natural gas, propane,
16 or biogas: not limited.

17 b. Sources fired with fuel oil: 0.20 pounds per
18 million British thermal units.

19 5. Glass plant furnace:

20 a. Existing sources regardless of production capacity:
21 not limited.

22 b. New sources firing gaseous fuels or fuel oil,
23 regardless of production capacity: 5.5 pounds per ton of
24 glass produced.

25 6. Biogas flare for anaerobic reactor: not limited.

26 7. Emergency generator: not limited.

27 8. Volatile organic compound emission control
28 incinerator: not limited.

29 (g) After October 31, 2002, for visible emissions, the
30 levels of visible emissions at all times during operation,
31

1 expressed as a percent of opacity, are established for the
2 following types of emission sources:

3 1. Citrus peel dryer: 20 percent.

4 2. Pellet cooler or cooling reel: 5 percent.

5 3. Process steam boiler: 20 percent.

6 4. Combustion turbine: 10 percent.

7 5. Duct burner: limited to the visible emissions
8 limit of the associated combustion turbine.

9 6. Glass plant furnace: 20 percent.

10 7. Biogas flare for anaerobic reactor: 20 percent.

11 8. Emergency generator: 20 percent.

12 9. Lime storage silo: 10 percent.

13 10. Volatile organic compounds emission control
14 incinerator: 5 percent.

15 (3) EMISSIONS DETERMINATION AND REPORTING.--

16 (a) All information submitted to the department by
17 facilities authorized to operate under this section shall be
18 certified as true, accurate, and complete by a responsible
19 official of the facility. For purposes of this section,
20 "responsible official" means that person who would be allowed
21 to certify information and take action under the department's
22 Title V permitting rules.

23 (b) All emissions for which the facility is limited by
24 any standard promulgated by the United States Environmental
25 Protection Agency must be determined and reported by a
26 responsible official of the facility in accordance with the
27 promulgated requirement. Reports required by this section
28 shall be certified and submitted to the department.

29 (c) All emissions units subject to any enhanced
30 monitoring requirement under any regulation promulgated by the

31

1 United States Environmental Protection Agency must comply with
2 such requirement.

3 (d) All emissions for which the facility is limited by
4 paragraphs (2)(b)-(f) shall be determined on a calendar-year
5 basis and reported to the department by a responsible official
6 of the facility no later than April 1 of the following year.
7 Emissions shall be determined for each emissions unit by means
8 of recordkeeping, test methods, units, averaging periods, or
9 other statistical conventions which yield reliable data; are
10 consistent with the emissions limit being measured; are
11 representative of the unit's actual performance; and are
12 sufficient to show the actual emissions of the unit.

13 (e) Each facility authorized to operate under this
14 section shall submit annual operating reports in accordance
15 with department rules.

16 (f) Each facility shall have a responsible official
17 provide and certify the annual and semiannual statements of
18 compliance required under the department's Title V permitting
19 rules.

20 (g) Each facility shall have a responsible official
21 provide the department with sufficient information to
22 determine compliance with all provisions of this section and
23 all applicable department rules, upon request of the
24 department.

25 (h) Records sufficient to demonstrate compliance with
26 all provisions of this section and all applicable department
27 rules shall be made available and maintained at the facility
28 for a period of 5 years, for inspection by the department
29 during normal business hours.

30 (i) Emission sources subject to limitations for
31 particulate matter, nitrogen oxides, and visible emissions

1 pursuant to paragraphs (2)(e)-(g) shall test emissions
2 annually, except as provided in subparagraphs 1.-4., in
3 accordance with department rules using United States
4 Environmental Protection Agency test methods or other test
5 methods specified by department rule.

6 1. Tests for particulate matter of 10 microns or less
7 may be conducted using United States Environmental Protection
8 Agency Method 5, provided that all measured particulate matter
9 is assumed to be particulate matter of 10 microns or less.

10 Tests for compliance with the particulate matter emission
11 limit of subparagraph (2)(e)2. for the pellet cooler or
12 cooling reel are waived as long as the facility complies with
13 the visible emissions limitation of subparagraph (2)(g)2. If
14 any visible emissions test for the pellet cooler or cooling
15 reel does not demonstrate compliance with the visible
16 emissions limitation of subparagraph (2)(g)2., the emissions
17 unit shall be tested for compliance with the particulate
18 matter emission limit of subparagraph (2)(e)2. within 30 days
19 after the visible emissions test.

20 2. Tests for visible emissions shall be conducted
21 using United States Environmental Protection Agency Method 9.
22 Annual tests for visible emissions are not required for biogas
23 flares, emergency generators, and volatile organic compounds
24 emission control incinerators.

25 3. Tests for nitrogen oxides shall be conducted using
26 Environmental Protection Agency Method 7E.

27 4. Tests for particulate matter of 10 microns or less
28 for process steam boilers, combustion turbines, and duct
29 burners, and tests for nitrogen oxides for citrus peel dryers,
30 process steam boilers, and duct burners, are not required
31

1 while firing fuel oil in any calendar year in which these
2 sources did not fire fuel oil for more than 400 hours.

3 (j) Measurement of the sulfur content of fuel oil
4 shall be by latest American Society for Testing and Materials
5 methods suitable for determining sulfur content. Sulfur
6 dioxide emissions shall be determined by material balance
7 using the sulfur content and amount of the fuel or fuels fired
8 in each emission source, assuming that for each pound of
9 sulfur in the fuel fired, two pounds of sulfur dioxide are
10 emitted.

11 (k) A situation arising from sudden and unforeseeable
12 events beyond the control of the source which causes a
13 technology-based emissions limitation to be exceeded because
14 of unavoidable increases in emissions attributable to the
15 situation and which requires immediate corrective action to
16 restore normal operation shall be an affirmative defense to an
17 enforcement action in accordance with the provisions and
18 requirements of 40 CFR 70.6(g)(2) and (3), hereby adopted and
19 incorporated by reference as the law of this state. It shall
20 not be a defense for a permittee in an enforcement action that
21 maintaining compliance with any permit condition would
22 necessitate halting of or reduction of the source activity.

23 (4) EMISSIONS TRADING.--If the facility is limited by
24 the emission limit listed in paragraph (2)(c) for any such
25 limit which the facility exceeded during the calendar year,
26 the facility must obtain, no later than March 1 of the
27 reporting year, sufficient allowances, generated in the same
28 calendar year in which the limit was exceeded, to meet all
29 limits exceeded. Any facility which fails to meet the limit
30 and fails to secure sufficient allowances that equal or exceed
31 the emissions resulting from such failure to meet the limit

1 shall be subject to enforcement in the same manner and to the
2 same extent as if the facility had violated a permit
3 condition. For purposes of this section, an "allowance" means
4 a credit equal to emissions of 1 ton per year of a pollutant
5 listed in paragraph (2)(c), subject to the particular
6 limitations of paragraphs (a) and (b).

7 (a) Emissions allowances may be obtained from any
8 other facility authorized to operate under this section,
9 provided such allowances are real, excess, and are not
10 resulting from the shutdown of an emissions unit. Emissions
11 allowances must be obtained for each pollutant the emissions
12 limit of which was exceeded in the calendar year. Allowances
13 can be applied on a pollutant-specific basis only. No
14 cross-pollutant trading shall be allowed.

15 1. Real allowances are those created by the difference
16 between the emissions limit imposed by this section and the
17 lower emissions actually measured during the calendar year.
18 Measurement of emissions for allowance purposes shall be
19 determined in the manner described in this subparagraph. For
20 purposes of measuring whether an allowance was created, a
21 single stack test or use of emissions estimates cannot be
22 used. Measurement of recovery of oil from citrus fruits
23 processed shall be by material balance using the measured oil
24 in the incoming fruit, divided into the sum of the oil
25 remaining in juice, the cold press oil recovered, d-limonene
26 recovered, and oil remaining in the dried pellets, expressed
27 as a percentage. Alternatively, the material balance may use
28 the measured oil in the incoming fruit divided into the oil
29 measured remaining in the pressed peel prior to introduction
30 into the feed mill dryers, in which case the decimal result
31 shall be subtracted from the numeral one, and added to the

1 decimal result of the measured oil in the incoming fruit
2 divided into the oil measured remaining in the dried pellets,
3 with the resulting sum expressed as a percentage. Measurement
4 of recovery of oil shall be made each operational day and
5 averaged over the days of facility operation during each
6 calendar year. Facilities may accept wet peel from offsite
7 sources for drying, provided that the facility receives
8 sufficient recorded information from the offsite source to
9 measure available oil and oil recovery at the offsite source,
10 and accounts for those values in determining compliance with
11 the limitation of paragraph (2)(c) and the number of
12 allowances that are required to be obtained, if any. Wet peel
13 not processed through the peel dryer shall be excluded from
14 the oil recovery calculations. Methodologies for determining
15 oil contents shall be developed by the Institute of Food and
16 Agricultural Sciences and approved by rule of the department.
17 Other methods of measuring oil recovery or determining oil
18 content may be approved by rule of the department, for trading
19 purposes, provided the methods yield results equivalent to the
20 approved methodologies.

21 2. Excess allowances are those not used for any other
22 regulatory purpose.

23 (b) No facility located in an area designated
24 nonattainment for ozone shall be allowed to acquire allowances
25 of volatile organic compounds. Nothing shall preclude such a
26 facility from trading volatile organic compounds allowances
27 that it might generate to facilities not located in a
28 nonattainment area for ozone.

29 (5) EMISSIONS FEES.--All facilities authorized to
30 operate under this section shall pay annual emissions fees in
31 the same amount to which the facility would be subject under

1 the department's Title V program. For purposes of determining
2 fees until October 31, 2002, emission fees shall be based on
3 the requirements of s. 403.0872. Commencing July 1, 2002, the
4 allowable annual emissions for fee purposes shall be computed
5 as the emissions limits established by this section multiplied
6 by the actual operation rates, heat input, and hours of
7 operation of each new and existing source for the previous
8 calendar year. Actual operation rates, heat input, and hours
9 of operation of each new and existing source shall be
10 documented by making and maintaining records of operation of
11 each source. Fees shall not be based on stack test results. In
12 the event that adequate records of actual operation rates and
13 heat input are not maintained, actual operation shall be
14 assumed to occur at the source's maximum capacity during hours
15 of actual operation, if adequately documented. In the event
16 that adequate records of hours of operation are not
17 maintained, the source shall be assumed to have operated from
18 January 1 through May 31 and October 1 through December 31 of
19 the previous calendar year. All such annual emissions fees
20 shall be due and payable April 1 for the preceding calendar
21 year. Failure to pay fees shall result in penalties and
22 interest in the same manner and to the same extent as failure
23 to pay fees under the department's Title V program. For
24 purposes of determining actual emissions for fee purposes, any
25 allowances traded away shall be deducted and any allowances
26 acquired shall be included. All fees shall be deposited into
27 the Air Pollution Control Trust Fund.

28 (6) MODIFICATIONS AND NEW CONSTRUCTION.--Any facility
29 authorized to operate under this section that makes any
30 physical change or any change to the method of operation of
31 the facility shall comply with the requirements of this

1 section at all times, except that any facility located in an
2 area designated as a nonattainment area for any pollutant
3 shall also comply with limits established by department rules
4 for all changes which increase emissions of such pollutant,
5 and except that any facility that becomes subject to the
6 federal acid rain program is no longer authorized to construct
7 or operate under this section and must obtain proper
8 department permits.

9 (7) RULES.--The department shall adopt rules pursuant
10 to ss. 120.54 and 120.536(1) to implement the provisions of
11 this section. Such rules shall, to the maximum extent
12 practicable, assure compliance with substantive federal Clean
13 Air Act requirements.

14 (8) LEGISLATIVE REVIEW.--By March 2004, the
15 department, after consultation with the citrus industry, shall
16 report to the Legislature concerning the implementation of
17 this section, and shall make recommendations for any changes
18 necessary to improve implementation.

19 (9) ENVIRONMENTAL PROTECTION AGENCY APPROVAL.--No
20 later than February 1, 2000, the department shall submit this
21 act to the United States Environmental Protection Agency as a
22 revision of Florida's state implementation plan and as a
23 revision of Florida's approved state Title V program. If the
24 United States Environmental Protection Agency fails to approve
25 this act as a revision of Florida's state implementation plan
26 within 2 years after submittal, this act shall not apply with
27 respect to construction requirements for facilities subject to
28 regulation under the act, and the facilities subject to
29 regulation thereunder must comply with all construction
30 permitting requirements, including those for prevention of
31 significant deterioration, and must make application for

1 construction permits for any construction or modification at
2 the facility which was not undertaken in compliance with all
3 permitting requirements of the Florida state implementation
4 plan, within 3 months thereafter. If the United States
5 Environmental Protection Agency fails to approve this act as a
6 revision of Florida's approved state Title V program within 2
7 years after submittal, this act shall not apply with respect
8 to operation requirements, and all facilities subject to
9 regulation under the act must immediately comply with all
10 Title V program requirements and must make application for
11 Title V operation permits within 3 months thereafter.

12 Section 11. Subsection (16) is added to section
13 120.80, Florida Statutes, to read:

14 120.80 Exceptions and special requirements;
15 agencies.--

16 (16) DEPARTMENT OF ENVIRONMENTAL
17 PROTECTION.--Notwithstanding the provisions of s.
18 120.54(1)(d), the Department of Environmental Protection, in
19 undertaking rulemaking to establish best available control
20 technology, lowest achievable emissions rate, or case-by-case
21 maximum available control technology for purposes of s.
22 403.08725, shall not adopt the lowest regulatory cost
23 alternative if such adoption would prevent the agency from
24 implementing federal requirements.

25 Section 12. The Department of Environmental Protection
26 is directed to explore alternatives to traditional methods of
27 regulatory permitting, provided that such alternative methods
28 will not allow a material increase in pollution emissions or
29 discharges. Working with industry, business associations,
30 other government agencies, and interested parties, the
31 department is directed to consider specific limited pilot

1 projects to test new compliance measures. These measures
 2 should include, but not be limited to, reducing transaction
 3 costs for business and government and providing economic
 4 incentives for emissions reductions. The department shall
 5 report to the Legislature prior to implementation of a pilot
 6 project initiated pursuant to this section.

7 Section 13. The introductory paragraph of section
 8 403.0872, Florida Statutes, is amended to read:

9 403.0872 Operation permits for major sources of air
 10 pollution; annual operation license fee.--Provided that
 11 program approval pursuant to 42 U.S.C. s. 7661a has been
 12 received from the United States Environmental Protection
 13 Agency, beginning January 2, 1995, each major source of air
 14 pollution, including electrical power plants certified under
 15 s. 403.511, must obtain from the department an operation
 16 permit for a major source of air pollution under this section.
 17 This operation permit, which is the only department operation
 18 permit for a major source of air pollution required for such
 19 source; provided, at the applicant's request, the department
 20 shall issue a separate Acid Rain permit for a major source of
 21 air pollution that is an affected source within the meaning of
 22 42 U.S.C. s. 7651a(1). Operation permits for major sources of
 23 air pollution, except general permits issued pursuant to s.
 24 403.814, must be issued in accordance with the ~~following~~
 25 procedures contained in this section and in accordance with
 26 chapter 120; however, to the extent that chapter 120 is
 27 inconsistent with the provisions of this section, the
 28 procedures contained in this section prevail.+

29 Section 14. This act shall take effect July 1, 2000.

30 Section 15. Section 403.08725, Florida Statutes, is
 31 created to read:

1 403.08725 Citrus juice processing facilities.--
2 (1) COMPLIANCE REQUIREMENTS; DEFINITIONS.--Effective
3 July 1, 2002, all existing citrus juice processing facilities
4 shall comply with the provisions of this section in lieu of
5 obtaining air pollution, construction, and operation permits,
6 notwithstanding the permit requirements of ss. 403.087(1) and
7 403.0872. For purposes of this section, "existing juice
8 processing facility" means any facility that currently has air
9 pollution construction or operation permits issued by the
10 department with a fruit processing capacity of 2 million boxes
11 per year or more. For purposes of this section, "facility"
12 means all emissions units at a plant that processes citrus
13 fruit to produce single-strength or frozen concentrated juice
14 and other products and byproducts identified by Major Group
15 Standard Industrial Classification Codes 2033, 2037, and 2048
16 which are located within a contiguous area and are owned or
17 operated under common control, along with all emissions units
18 located in the contiguous area and under the same common
19 control which directly support the operation of the citrus
20 juice processing function. For purposes of this section,
21 facilities that do not operate a citrus peel dryer are not
22 subject to the requirements of paragraph (2)(c). For purposes
23 of this section, "department" means the Department of
24 Environmental Protection. Notwithstanding any other provision
25 of law to the contrary, for purposes of the permitted emission
26 limits of this section, "new sources" means emissions units
27 constructed or added to a facility on or after July 1, 2000,
28 and "existing sources" means emissions units constructed or
29 modified before July 1, 2000.
30 (2) PERMITTED EMISSIONS LIMITS.--All facilities
31 authorized to construct and operate under this section shall

1 operate within the most stringent of the emissions limits set
2 forth in paragraphs (a)-(g) for each new and existing source:

3 (a) Any applicable standard promulgated by the United
4 States Environmental Protection Agency.

5 (b) Each facility shall comply with the emissions
6 limitations of its Title V permit, and any properly issued and
7 certified valid preconstruction permits, until October 31,
8 2002, at which time the requirements of this section shall
9 supersede the requirements of the permits. Nothing in this
10 paragraph shall preclude the department's authority to
11 evaluate past compliance with all department rules.

12 (c) After October 31, 2002, for volatile organic
13 compounds, the level of emissions achievable by a 50-percent
14 recovery of oil from citrus fruits processed as determined by
15 the methodology described in subparagraph (4)(a)1. One year
16 after EPA approval pursuant to subsection (9), for volatile
17 organic compounds, the level of emissions achievable by a 65
18 percent recovery of oil from citrus fruits processed as
19 determined by the methodology described in subparagraph
20 (4)(a)1.

21 (d) After October 31, 2002, except as otherwise
22 provided herein, no facility shall fire fuel oil containing
23 greater than 0.5 percent sulfur by weight. Those facilities
24 without access to natural gas shall be limited to fuel oil
25 containing no greater than 1 percent sulfur by weight. In
26 addition, facilities may use fuel oil with no greater than 1.5
27 percent sulfur by weight for up to 400 hours per calendar
28 year. The use of natural gas is not limited by this paragraph.
29 The use of d-limonene as a fuel is not limited by this
30 paragraph.

31

1 (e) After October 31, 2002, for particulate matter of
2 10 microns or less, the emissions levels, expressed in pounds
3 per million British thermal units of heat input, unless
4 otherwise specified, are established for the following types
5 of new and existing sources:

6 1. Citrus peel dryer, regardless of production
7 capacity: 15 pounds per hour.

8 2. Pellet cooler or cooling reel, regardless of
9 production capacity: 5 pounds per hour.

10 3. Process steam boiler:

11 a. Sources fired with natural gas, propane, biogas, or
12 d-limonene: not limited.

13 b. New sources fired with fuel oil: 0.10 pounds per
14 million British thermal units.

15
16 No process steam boiler shall fire any fuel other than natural
17 gas, propane, biogas, d-limonene, or fuel oil. No process
18 steam boiler shall fire used oil.

19 4. Combustion turbine:

20 a. Existing sources regardless of fuel: not limited.

21 b. New sources fired with natural gas, propane, or
22 biogas: not limited.

23 c. New sources fired with fuel oil: 0.10 pounds per
24 million British thermal units.

25
26 No combustion turbine shall fire any fuel other than natural
27 gas, propane, biogas, or fuel oil. No combustion turbine
28 shall fire used oil.

29 5. Duct burner:

30 a. New and existing sources fired with natural gas,
31 propane, or biogas: not limited.

1 b. New and existing sources fired with fuel oil: 0.10
2 pounds per million British thermal units.

3
4 No duct burner shall fire any fuel other than natural gas,
5 propane, biogas, or fuel oil. No duct burner shall fire used
6 oil.

7 6. Glass plant furnace: existing sources with a
8 maximum non-cullet material process input rate of 18 tons per
9 hour; hourly emissions limited as determined by the following
10 equation: Emission limit (pounds per hour) = 3.59 x (process
11 rate, tons per hour raised to the 0.62 power). No glass plant
12 furnace shall fire any fuel other than natural gas, propane,
13 biogas, d-limonene, or fuel oil. No glass plant furnace shall
14 fire used oil.

15 7. Biogas flare for anaerobic reactor: not limited.

16 8. Emergency generator: not limited.

17 9. Volatile organic compounds emission control
18 incinerator: not limited.

19 (f) After October 31, 2002, for nitrogen oxides, the
20 emissions levels, expressed in pounds of nitrogen dioxide per
21 million British thermal units of heat produced, unless
22 otherwise specified, are established for the following types
23 of new and existing sources:

24 1. Citrus peel dryer:

25 a. Sources that fire natural gas, propane, biogas, or
26 d-limonene: not limited.

27 b. Sources that fire fuel oil: 0.34 pounds per
28 million British thermal units.

29 2. Process steam boiler:
30
31

1 a. New sources with a heat input capacity of 67
2 million British thermal units per hour or less and existing
3 sources regardless of heat input capacity: not limited.

4 b. New sources with a heat input capacity of more than
5 67 million British thermal units per hour: 0.10 pounds per
6 million British thermal units.

7 3. Combustion turbine:

8 a. Existing sources regardless of fuel:

9 (I) Existing combustion turbine of approximately 425
10 million British thermal units per hour heat input capacity:
11 42 parts per million volume dry at 15 percent oxygen.

12 (II) Existing combustion turbines of approximately 50
13 million British thermal units per hour heat input capacity
14 each, constructed prior to July 1999: 168 parts per million
15 volume dry at 15 percent oxygen.

16 (III) Existing combustion turbine of approximately 50
17 million British thermal units per hour heat input capacity,
18 constructed after July 1999: 50 parts per million volume dry
19 at 15 percent oxygen.

20 b. New sources with less than 50 megawatts of
21 mechanically generated electrical capacity, regardless of
22 fuel: 25 parts per million volume dry at 15 percent oxygen.

23 c. New sources with greater than or equal to 50
24 megawatts of mechanically generated electrical capacity,
25 regardless of fuel: 3.5 parts per million volume dry at 15
26 percent oxygen.

27 4. Duct burner:

28 a. Existing sources fired with natural gas, propane,
29 or biogas: not limited.

30 b. Sources fired with fuel oil: 0.20 pounds per
31 million British thermal units.

- 1 5. Glass plant furnace:
2 a. Existing sources regardless of production capacity:
3 not limited.
4 b. New sources firing gaseous fuels or fuel oil,
5 regardless of production capacity: 5.5 pounds per ton of
6 glass produced.
7 6. Biogas flare for anaerobic reactor: not limited.
8 7. Emergency generator: not limited.
9 8. Volatile organic compound emission control
10 incinerator: not limited.
11 (g) After October 31, 2002, for visible emissions, the
12 levels of visible emissions at all times during operation,
13 expressed as a percent of opacity, are established for the
14 following types of emission sources:
15 1. Citrus peel dryer: 20 percent.
16 2. Pellet cooler or cooling reel: 5 percent.
17 3. Process steam boiler: 20 percent.
18 4. Combustion turbine: 10 percent.
19 5. Duct burner: limited to the visible emissions
20 limit of the associated combustion turbine.
21 6. Glass plant furnace: 20 percent.
22 7. Biogas flare for anaerobic reactor: 20 percent.
23 8. Emergency generator: 20 percent.
24 9. Lime storage silo: 10 percent.
25 10. Volatile organic compounds emission control
26 incinerator: 5 percent.
27 (3) EMISSIONS DETERMINATION AND REPORTING.--
28 (a) All information submitted to the department by
29 facilities authorized to operate under this section shall be
30 certified as true, accurate, and complete by a responsible
31 official of the facility. For purposes of this section,

1 "responsible official" means that person who would be allowed
2 to certify information and take action under the department's
3 Title V permitting rules.

4 (b) All emissions for which the facility is limited by
5 any standard promulgated by the United States Environmental
6 Protection Agency must be determined and reported by a
7 responsible official of the facility in accordance with the
8 promulgated requirement. Reports required by this section
9 shall be certified and submitted to the department.

10 (c) All emissions units subject to any enhanced
11 monitoring requirement under any regulation promulgated by the
12 United States Environmental Protection Agency must comply with
13 such requirement.

14 (d) All emissions for which the facility is limited by
15 paragraphs (2)(b)-(f) shall be determined on a calendar-year
16 basis and reported to the department by a responsible official
17 of the facility no later than April 1 of the following year.
18 Emissions shall be determined for each emissions unit by means
19 of recordkeeping, test methods, units, averaging periods, or
20 other statistical conventions which yield reliable data; are
21 consistent with the emissions limit being measured; are
22 representative of the unit's actual performance; and are
23 sufficient to show the actual emissions of the unit.

24 (e) Each facility authorized to operate under this
25 section shall submit annual operating reports in accordance
26 with department rules.

27 (f) Each facility shall have a responsible official
28 provide and certify the annual and semiannual statements of
29 compliance required under the department's Title V permitting
30 rules.

31

1 (g) Each facility shall have a responsible official
2 provide the department with sufficient information to
3 determine compliance with all provisions of this section and
4 all applicable department rules, upon request of the
5 department.

6 (h) Records sufficient to demonstrate compliance with
7 all provisions of this section and all applicable department
8 rules shall be made available and maintained at the facility
9 for a period of 5 years, for inspection by the department
10 during normal business hours.

11 (i) Emission sources subject to limitations for
12 particulate matter, nitrogen oxides, and visible emissions
13 pursuant to paragraphs (2)(e)-(g) shall test emissions
14 annually, except as provided in subparagraphs 1.-4., in
15 accordance with department rules using United States
16 Environmental Protection Agency test methods or other test
17 methods specified by department rule.

18 1. Tests for particulate matter of 10 microns or less
19 may be conducted using United States Environmental Protection
20 Agency Method 5, provided that all measured particulate matter
21 is assumed to be particulate matter of 10 microns or less.
22 Tests for compliance with the particulate matter emission
23 limit of subparagraph (2)(e)2. for the pellet cooler or
24 cooling reel are waived as long as the facility complies with
25 the visible emissions limitation of subparagraph (2)(g)2. If
26 any visible emissions test for the pellet cooler or cooling
27 reel does not demonstrate compliance with the visible
28 emissions limitation of subparagraph (2)(g)2., the emissions
29 unit shall be tested for compliance with the particulate
30 matter emission limit of subparagraph (2)(e)2. within 30 days
31 after the visible emissions test.

1 2. Tests for visible emissions shall be conducted
2 using United States Environmental Protection Agency Method 9.
3 Annual tests for visible emissions are not required for biogas
4 flares, emergency generators, and volatile organic compounds
5 emission control incinerators.

6 3. Tests for nitrogen oxides shall be conducted using
7 Environmental Protection Agency Method 7E.

8 4. Tests for particulate matter of 10 microns or less
9 for process steam boilers, combustion turbines, and duct
10 burners, and tests for nitrogen oxides for citrus peel dryers,
11 process steam boilers, and duct burners, are not required
12 while firing fuel oil in any calendar year in which these
13 sources did not fire fuel oil for more than 400 hours.

14 (j) Measurement of the sulfur content of fuel oil
15 shall be by latest American Society for Testing and Materials
16 methods suitable for determining sulfur content. Sulfur
17 dioxide emissions shall be determined by material balance
18 using the sulfur content and amount of the fuel or fuels fired
19 in each emission source, assuming that for each pound of
20 sulfur in the fuel fired, two pounds of sulfur dioxide are
21 emitted.

22 (k) A situation arising from sudden and unforeseeable
23 events beyond the control of the source which causes a
24 technology-based emissions limitation to be exceeded because
25 of unavoidable increases in emissions attributable to the
26 situation and which requires immediate corrective action to
27 restore normal operation shall be an affirmative defense to an
28 enforcement action in accordance with the provisions and
29 requirements of 40 CFR 70.6(g)(2) and (3), hereby adopted and
30 incorporated by reference as the law of this state. It shall
31 not be a defense for a permittee in an enforcement action that

1 maintaining compliance with any permit condition would
2 necessitate halting of or reduction of the source activity.

3 (4) EMISSIONS TRADING.--If the facility is limited by
4 the emission limit listed in paragraph (2)(c) for any such
5 limit which the facility exceeded during the calendar year,
6 the facility must obtain, no later than March 1 of the
7 reporting year, sufficient allowances, generated in the same
8 calendar year in which the limit was exceeded, to meet all
9 limits exceeded. Any facility which fails to meet the limit
10 and fails to secure sufficient allowances that equal or exceed
11 the emissions resulting from such failure to meet the limit
12 shall be subject to enforcement in the same manner and to the
13 same extent as if the facility had violated a permit
14 condition. For purposes of this section, an "allowance" means
15 a credit equal to emissions of 1 ton per year of a pollutant
16 listed in paragraph (2)(c), subject to the particular
17 limitations of paragraphs (a) and (b).

18 (a) Emissions allowances may be obtained from any
19 other facility authorized to operate under this section,
20 provided such allowances are real, excess, and are not
21 resulting from the shutdown of an emissions unit. Emissions
22 allowances must be obtained for each pollutant the emissions
23 limit of which was exceeded in the calendar year. Allowances
24 can be applied on a pollutant-specific basis only. No
25 cross-pollutant trading shall be allowed.

26 1. Real allowances are those created by the difference
27 between the emissions limit imposed by this section and the
28 lower emissions actually measured during the calendar year.
29 Measurement of emissions for allowance purposes shall be
30 determined in the manner described in this subparagraph. For
31 purposes of measuring whether an allowance was created, a

1 single stack test or use of emissions estimates cannot be
2 used. Measurement of recovery of oil from citrus fruits
3 processed shall be by material balance using the measured oil
4 in the incoming fruit, divided into the sum of the oil
5 remaining in juice, the cold press oil recovered, d-limonene
6 recovered, and oil remaining in the dried pellets, expressed
7 as a percentage. Alternatively, the material balance may use
8 the measured oil in the incoming fruit divided into the oil
9 measured remaining in the pressed peel prior to introduction
10 into the feed mill dryers, in which case the decimal result
11 shall be subtracted from the numeral one, and added to the
12 decimal result of the measured oil in the incoming fruit
13 divided into the oil measured remaining in the dried pellets,
14 with the resulting sum expressed as a percentage. Measurement
15 of recovery of oil shall be made each operational day and
16 averaged over the days of facility operation during each
17 calendar year. Facilities may accept wet peel from offsite
18 sources for drying, provided that the facility receives
19 sufficient recorded information from the offsite source to
20 measure available oil and oil recovery at the offsite source,
21 and accounts for those values in determining compliance with
22 the limitation of paragraph (2)(c) and the number of
23 allowances that are required to be obtained, if any. Wet peel
24 not processed through the peel dryer shall be excluded from
25 the oil recovery calculations. Methodologies for determining
26 oil contents shall be developed by the Institute of Food and
27 Agricultural Sciences and approved by rule of the department.
28 Other methods of measuring oil recovery or determining oil
29 content may be approved by rule of the department, for trading
30 purposes, provided the methods yield results equivalent to the
31 approved methodologies.

1 2. Excess allowances are those not used for any other
2 regulatory purpose.

3 (b) No facility located in an area designated
4 nonattainment for ozone shall be allowed to acquire allowances
5 of volatile organic compounds. Nothing shall preclude such a
6 facility from trading volatile organic compounds allowances
7 that it might generate to facilities not located in a
8 nonattainment area for ozone.

9 (5) EMISSIONS FEES.--All facilities authorized to
10 operate under this section shall pay annual emissions fees in
11 the same amount to which the facility would be subject under
12 the department's Title V program. For purposes of determining
13 fees until October 31, 2002, emission fees shall be based on
14 the requirements of s. 403.0872. Commencing July 1, 2002, the
15 allowable annual emissions for fee purposes shall be computed
16 as the emissions limits established by this section multiplied
17 by the actual operation rates, heat input, and hours of
18 operation of each new and existing source for the previous
19 calendar year. Actual operation rates, heat input, and hours
20 of operation of each new and existing source shall be
21 documented by making and maintaining records of operation of
22 each source. Fees shall not be based on stack test results. In
23 the event that adequate records of actual operation rates and
24 heat input are not maintained, actual operation shall be
25 assumed to occur at the source's maximum capacity during hours
26 of actual operation, if adequately documented. In the event
27 that adequate records of hours of operation are not
28 maintained, the source shall be assumed to have operated from
29 January 1 through May 31 and October 1 through December 31 of
30 the previous calendar year. All such annual emissions fees
31 shall be due and payable April 1 for the preceding calendar

1 year. Failure to pay fees shall result in penalties and
2 interest in the same manner and to the same extent as failure
3 to pay fees under the department's Title V program. For
4 purposes of determining actual emissions for fee purposes, any
5 allowances traded away shall be deducted and any allowances
6 acquired shall be included. All fees shall be deposited into
7 the Air Pollution Control Trust Fund.

8 (6) MODIFICATIONS AND NEW CONSTRUCTION.--Any facility
9 authorized to operate under this section that makes any
10 physical change or any change to the method of operation of
11 the facility shall comply with the requirements of this
12 section at all times, except that any facility located in an
13 area designated as a nonattainment area for any pollutant
14 shall also comply with limits established by department rules
15 for all changes which increase emissions of such pollutant,
16 and except that any facility that becomes subject to the
17 federal acid rain program is no longer authorized to construct
18 or operate under this section and must obtain proper
19 department permits.

20 (7) RULES.--The department shall adopt rules pursuant
21 to ss. 120.54 and 120.536(1) to implement the provisions of
22 this section. Such rules shall, to the maximum extent
23 practicable, assure compliance with substantive federal Clean
24 Air Act requirements.

25 (8) LEGISLATIVE REVIEW.--By March 2004, the
26 department, after consultation with the citrus industry, shall
27 report to the Legislature concerning the implementation of
28 this section, and shall make recommendations for any changes
29 necessary to improve implementation.

30 (9) ENVIRONMENTAL PROTECTION AGENCY APPROVAL.--No
31 later than October 1, 2000, the department shall submit this

1 act to the United States Environmental Protection Agency as a
2 revision of Florida's state implementation plan and as a
3 revision of Florida's approved state Title V program. If the
4 United States Environmental Protection Agency fails to approve
5 this act as a revision of Florida's state implementation plan
6 within 2 years after submittal, this act shall not apply with
7 respect to construction requirements for facilities subject to
8 regulation under the act, and the facilities subject to
9 regulation thereunder must comply with all construction
10 permitting requirements, including those for prevention of
11 significant deterioration, and must make application for
12 construction permits for any construction or modification at
13 the facility which was not undertaken in compliance with all
14 permitting requirements of the Florida state implementation
15 plan, within 3 months thereafter. If the United States
16 Environmental Protection Agency fails to approve this act as a
17 revision of Florida's approved state Title V program within 2
18 years after submittal, this act shall not apply with respect
19 to operation requirements, and all facilities subject to
20 regulation under the act must immediately comply with all
21 Title V program requirements and must make application for
22 Title V operation permits within 3 months thereafter.

23 Section 16. Subsection (16) is added to section
24 120.80, Florida Statutes, to read:

25 120.80 Exceptions and special requirements;
26 agencies.--

27 (16) DEPARTMENT OF ENVIRONMENTAL
28 PROTECTION.--Notwithstanding the provisions of s.
29 120.54(1)(d), the Department of Environmental Protection, in
30 undertaking rulemaking to establish best available control
31 technology, lowest achievable emissions rate, or case-by-case

1 maximum available control technology for purposes of s.
 2 403.08725, shall not adopt the lowest regulatory cost
 3 alternative if such adoption would prevent the agency from
 4 implementing federal requirements.

5 Section 17. The Department of Environmental Protection
 6 is directed to explore alternatives to traditional methods of
 7 regulatory permitting, provided that such alternative methods
 8 will not allow a material increase in pollution emissions or
 9 discharges. Working with industry, business associations,
 10 other government agencies, and interested parties, the
 11 department is directed to consider specific limited pilot
 12 projects to test new compliance measures. These measures
 13 should include, but not be limited to, reducing transaction
 14 costs for business and government and providing economic
 15 incentives for emissions reductions. The department shall
 16 report to the Legislature prior to implementation of a pilot
 17 project initiated pursuant to this section.

18 Section 18. The introductory paragraph of section
 19 403.0872, Florida Statutes, is amended to read:

20 403.0872 Operation permits for major sources of air
 21 pollution; annual operation license fee.--Provided that
 22 program approval pursuant to 42 U.S.C. s. 7661a has been
 23 received from the United States Environmental Protection
 24 Agency, beginning January 2, 1995, each major source of air
 25 pollution, including electrical power plants certified under
 26 s. 403.511, must obtain from the department an operation
 27 permit for a major source of air pollution under this section.
 28 This operation permit, which is the only department operation
 29 permit for a major source of air pollution required for such
 30 source; provided, at the applicant's request, the department
 31 shall issue a separate Acid Rain permit for a major source of

1 air pollution that is an affected source within the meaning of
2 42 U.S.C. s. 7651a(1). Operation permits for major sources of
3 air pollution, except general permits issued pursuant to s.
4 403.814, must be issued in accordance with the ~~following~~
5 procedures contained in this section and in accordance with
6 chapter 120; however, to the extent that chapter 120 is
7 inconsistent with the provisions of this section, the
8 procedures contained in this section prevail.†

9 Section 19. Subsection (5) of section 403.7165 and
10 section 403.7199, Florida Statutes, are repealed.

11 Section 20. This act shall take effect July 1, 2000.
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