

EPC COMMISSIONERS

Kevin Beckner, *Chair*
Lesley "Les" Miller, Jr., *Vice Chair*
Victor D. Crist
Ken Hagan
Al Higginbotham
Sandra L. Murman
Mark Sharpe



Richard Garrity, PhD
Executive Director

Richard Tschantz, Esq.
General Counsel

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY**

MEETING AGENDA

AUGUST 9, 2012

9 a.m.

*Commissioner's Board Room, County Center 2nd Floor
601 East Kennedy Boulevard, Tampa, FL*

INVOCATION AND PLEDGE OF ALLEGIANCE

REMOVAL OF CONSENT AGENDA ITEMS FOR QUESTIONS, COMMENTS, or SEPARATE VOTE

APPROVAL OF CHANGES TO THE AGENDA

I. PUBLIC COMMENT

Three (3) Minutes Are Allowed for Each Speaker (unless the Commission directs differently)

II. CITIZENS' ENVIRONMENTAL ADVISORY COMMITTEE

Summary of recent CEAC meeting by CEAC Chair

III. CONSENT AGENDA

A. Approval of Minutes: June 28, 2012	3
B. Monthly Activity Reports – June and July 2012	7
C. Pollution Recovery Fund Report	19
D. Gardinier Settlement Trust Fund Report	21
E. Legal Case Summary, July and August 2012	23
F. Implementation of Information Technology Virtualization Project	27
G. 2012 Second Quarter Strategic Action Plan Updates	29

IV. PUBLIC HEARING

Agency-wide Rule Revision Public Hearing to Approve Amendments to Multiple Rules	49
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V. WATER MANAGEMENT DIVISION

Discussion on EPC Rule 1-15 required study on "The Effectiveness of Fertilizer Regulations" and citizen comments on this topic	109
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VI. WETLANDS MANAGEMENT DIVISION

A. Lakes Initiative Report: Discussion of Lake Levels in Various Parts of the County	111
B. Wetlands Advanced Leadership Development Program (ALDP) Project Presentation	113

VII. EXECUTIVE DIRECTOR REPORT

- A. Brief Discussion of Customer Survey
- B. Strategy Action Plan Update

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.

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An agency with values of environmental stewardship, integrity, honesty, and a culture of fairness and cooperation.

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JUNE 28, 2012 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting scheduled for Thursday, June 28, 2012, at 9:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Kevin Beckner and Commissioners Ken Hagan, Al Higginbotham, Sandra Murman, and Mark Sharpe (arrived at 9:19 a.m.)

The following members were absent: Commissioners Victor Crist and Lesley Miller Jr.

▶ Chairman Beckner called the meeting to order at 9:01 a.m.

▶ INVOCATION AND PLEDGE OF ALLEGIANCE

CHANGES TO THE AGENDA

▶ Dr. Richard Garrity, EPC Executive Director, reviewed the changes. Chairman Beckner sought a motion to approve the changes. Commissioner Higginbotham so moved, seconded by Commissioner Murman, and carried four to zero. (Commissioner Sharpe had not arrived; Commissioners Crist and Miller were absent.)

I. PUBLIC COMMENT

▶ Mr. Todd Josko, 2900 West Azeele Street, Unit A, spoke to fertilizer ordinance study participants. Following remarks, ▶ Commissioner Higginbotham moved to bring the item back to the next meeting to ask more in-depth questions as to why the EPC was on the website as a partner, seconded by Commissioner Murman. ▶ Offering clarification, Commissioner Higginbotham said the motion was to evaluate to make sure the direction of the study did encompass the scientific aspects. ▶ Subsequent to reiteration, the motion carried four to zero. (Commissioner Sharpe had not arrived; Commissioners Crist and Miller were absent.)

II. CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Summary of recent CEAC meeting by CEAC Chairman

▶ Dr. Garrity summarized CEAC activities. ▶ Chairman Janet Dougherty, CEAC, reiterated previous comments relative to recent CEAC happenings.

THURSDAY, JUNE 28, 2012 - DRAFT MINUTES

III. CONSENT AGENDA

- A. Approval of Minutes: May 17, 2012.
- B. Monthly Activity Reports - May 2012.
- C. Pollution Recovery Fund (PRF) Report.
- D. Gardinier Settlement Trust Fund Report.
- E. Legal Case Summary, June 2012.

► Chairman Beckner called for a motion to approve the Consent Agenda. **Commissioner Murman so moved, seconded by Commissioner Higginbotham, and carried four to zero.** (Commissioner Sharpe had not arrived; Commissioners Crist and Miller were absent.)

IV. PUBLIC HEARING

Hillsborough County Rule Waiver Request to not require an EPC Conservation Easement, as a proposed mitigation site was already maintained as conservation lands by the Southwest Florida Water Management District

► EPC General Counsel Richard Tschantz introduced the item. ► Chairman Beckner sought a motion to open the public hearing. **Commissioner Murman so moved, seconded by Commissioner Higginbotham, and carried four to zero.** (Commissioner Sharpe had not arrived; Commissioners Crist and Miller were absent.) ► Attorney Andrew Zodrow, EPC Legal Department, elaborated on the item purpose. Hearing no response to the call for public comment, ► **Commissioner Murman moved the item, seconded by Commissioner Higginbotham, and carried four to zero.** (Commissioner Sharpe had not arrived; Commissioners Crist and Miller were absent.)

V. LEGAL AND ADMINISTRATIVE SERVICES DIVISION

- A. Agency-Wide Rule Revision Update Regarding Obsolete, Contrary to New Legislation, Confusing, and/or Unnecessary Rules

► Attorney Tschantz introduced legal department interns. Mr. Sam Elrabi, Director, EPC Water Management Division, expounded on background material. Staff responded to queries posed by Commissioner Higginbotham. ► Regarding Rule 1-7, Waste Management, Commissioner Higginbotham favored holding a workshop/public hearing prior to taking action. Remarks ensued.

THURSDAY, JUNE 28, 2012 - DRAFT MINUTES

Attorney Tschantz advised on procedures and suggested taking those changes to the August 2012 EPC meeting. ► **Commissioner Higginbotham so moved, seconded by Commissioner Murman.** Commissioner Higginbotham restated his desire to hold a workshop prior to the July 2012 EPC meeting. ► Commissioner Murman wanted County Attorney's Office staff to review the revisions. ► Concerned there might be conflicts between EPC regulations and County Ordinance 12-12, Chairman Beckner requested staff review noise control standards and bring back any needed adjustments. ► Following restatement, **the motion carried five to zero.** (Commissioners Crist and Miller were absent.)

B. Presentation of New EPC Website

► Ms. Elaine Deleeuw, EPC, illustrated website access/features and responded to EPC Board member queries.

VI. WETLANDS MANAGEMENT DIVISION

A. Lakes Initiative Report: Lake Hooker Minimum Flows and Levels

► Dr. Scott Emery, Director, EPC Wetlands Management Division, expanded on a presentation and would research and provide an update on recent weather-related environmental/erosion issues.

B. PRF Request - EPC/U.S. Geological Survey (USGS) Collaboration

► Dr. Emery summarized the item and replied to EPC Board member queries. Commissioner Murman asked Dr. Emery to confer with the Economic Prosperity Committee to address any concerns. ► Chairman Beckner sought a motion to direct staff to approve the use of the PRF to enter into a joint funding agreement with the USGS and authorize the Chairman to execute the joint funding agreement with the USGS. **Commissioner Murman so moved, seconded by Commissioner Sharpe, and carried four to zero.** (Commissioner Hagan was out of the room; Commissioners Crist and Miller were absent.)

THURSDAY, JUNE 28, 2012 - DRAFT MINUTES

VII. EXECUTIVE DIRECTOR REPORT

Advanced Leadership Development Program Project Presentations

▶ Dr. Garrity introduced the item and speakers. ▶ Mses. Christina Bryant and Laura Thorne, EPC, elaborated on staff projects, as furnished in background material.

▶ Dr. Garrity offered appreciative remarks relative to contract approval, discussed customer service processes, and would provide information on the number of daily calls received by EPC, as requested by Commissioner Murman.

▶ There being no further business, the meeting was adjourned at 10:29 a.m.

READ AND APPROVED: _____

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

By: _____
Deputy Clerk

yc

**FY 12 - MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION**

	<u>JUN</u>	<u>JUL</u>
A. Public Outreach/Education Assistance		
1. Phone calls	214	203
2. Literature Distributed	3	1
3. Presentations	0	4
4. Media Contacts	1	2
5. Internet	65	87
6. Host/Sponsor Workshops, Meetings, Special Events	0	0
B. Industrial Air Pollution Permitting		
1. Permit Applications received (Counted by Number of Fees Received)		
a. Operating	12	10
b. Construction	0	6
c. Amendments / Transfers / Extensions	3	0
d. Title V Operating:	0	5
e. Permit Determinations	2	0
f. General	5	1
2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ^1 (Counted by Number of Fees Collected) - ^2 Counted by Number of emission Units affected by the Review)		
a. Operating ^1	4	11
b. Construction ^1	15	1
c. Amendments / Transfers / Extensions^1	0	2
d. Title V Operating ^2	0	0
e. Permit Determinations	5	0
f. General	1	5
3. Intent to Deny Permit Issued	0	0
C. Administrative Enforcement		
1. New cases received	1	0
2. On-going administrative cases		
a. Pending	3	3
b. Active	7	7
c. Legal	1	1
d. Tracking compliance (Administrative)	8	8
e. Inactive/Referred cases	0	0
TOTAL	19	19
3. NOIs issued	1	3
4. Citations issued	0	0
5. Consent Orders Signed	0	1
6. Contributions to the Pollution Recovery Fund	\$0	\$ 2,500.00
7. Cases Closed	0	1

**FY 12 - MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION**

JUN JUL

D. Inspections

1.	Industrial Facilities	10	8
2.	Air Toxics Facilities		
	a. Area Sources (i.e. Drycleaners, Chrome Platers, etc.)	3	5
	b. Major Sources	4	2
3.	Asbestos Demolition/Renovation Projects	18	20

E. Open Burning Permits Issued

3	1
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F. Number of Division of Forestry Permits Monitored

1936	1388
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G. Total Citizen Complaints Received

35	31
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H. Total Citizen Complaints Closed

33	32
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I. Noise Sources Monitored

1	3
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J. Air Program's Input to Development of Regional Impacts

0	0
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K. Test Reports Reviewed

43	34
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L. Compliance

1.	Warning Notices Issued	6	5
2.	Warning Notices Resolved	4	4
3.	Advisory Letters Issued	2	1

M. AOR's Reviewed

3	0
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N. Permits Reviewed for NESHAP Applicability

3	7
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O. Planning Documents coordinated for Agency Review

2	4
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**FY 12 - MONTHLY ACTIVITIES REPORT
WASTE MANAGEMENT DIVISION**

JUN JUL

A. ENFORCEMENT

1.	New cases received	-	1
2.	On-going administrative cases	80	81
	Pending	1	2
	Active	28	28
	Legal	8	8
	Tracking Compliance (Administrative)	42	42
	Inactive/Referred Cases	1	1
3.	NOI's issued	-	-
4.	Citations issued	1	-
5.	Consent Orders and Settlement Letter Signed	-	-
6.	Civil Contributions to the Pollution Recover Fund (\$)	\$ -	\$ 525
7.	Enforcement Costs Collected (\$)	\$ -	\$ -
8.	Cases Closed	-	-

B. SOLID AND HAZARDOUS WASTE

1.	FDEP Permits Received	0	
2.	FDEP Permits Reviewed	0	
3.	EPC Authorization for Facilities NOT Requiring DEP Permit	1	
4.	Other Permits and Reports		
	County Permits Received	2	
	County Permits Reviewed	14	
	Reports Received (SW/HW + SQG)	16	
	Reports Reviewed (SW/HW + SQG)	30	
5.	Inspections (Total)		
	Complaints (SW/HW + SQG)	22	
	Compliance/Reinspections (SW/HW + SQG)	20	
	Facility Compliance	19	
	Small Quantity Generator Verifications	146	
	P2 Audits	0	
6.	Enforcement (SW/HW + SQG)		
	Complaints Received	22	
	Complaints Closed	21	
	Warning Notices Issued	3	
	Warning Notices Closed	4	
	Compliance Letters	96	
	Letters of Agreement	0	
	Agency Referrals	10	
7.	Pamphlets, Rules and Material Distributed	49	

C. STORAGE TANK COMPLIANCE

1.	Inspections		
	Compliance	39	51
	Installation	4	4
	Closure	4	3
	Compliance Re-Inspections	-	16

**FY 12 - MONTHLY ACTIVITIES REPORT
WASTE MANAGEMENT DIVISION**

	<u>JUN</u>	<u>JUL</u>
2. Installation Plans Received	6	2
3. Installation Plans Reviewed	7	5
4. Closure Plans & Reports		
Closure Plans Received	3	1
Closure Plans Reviewed	2	1
Closure Reports Received	1	-
Closure Reports Reviewed	2	4
5. Enforcement		
Non-Compliance Letters Issued	17	25
Warning Notices Issued	1	-
Warning Notices Closed	-	1
Cases Referred to Enforcement	-	1
Complaints Received	1	1
Complaints Investigated	-	1
Complaints Referred	-	-
6. Discharge Reporting Forms Received	1	1
7. Incident Notification Forms Received	4	7
8. Cleanup Notification Letters Issued	1	1

D. STORAGE TANK CLEANUP

1. Inspections	30	30
2. Reports Received	76	76
3. Reports Reviewed	64	79
Site Assessment Received	10	4
Site Assessment Reviewed	8	5
Source Removal Received	2	1
Source Removal Reviewed	1	-
Remedial Action Plans (RAP'S) Received	8	11
Remedial Action Plans (RAP'S) Reviewed	6	8
Site Rehabilitation Completion Order/No Further Action Rec'd	4	4
Site Rehabilitation Completion Order/No Further Action Revw'd	2	4
Active Remediation/Monitoring Received	39	33
Active Remediation/Monitoring Reviewed	35	35
Others Received	13	23
Others Reviewed	12	27

E. RECORD REVIEWS

15	9
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F. LEGAL PIR'S

11	13
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**FY 12 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

JUN JUL

A. ENFORCEMENT

1.	New Enforcement Cases Received	-	-
2.	Enforcement Cases Closed	1	1
3.	Enforcement Cases Outstanding	37	37
4.	Enforcement Documents Issued	-	1
5.	Recovered Costs to the General Fund	\$ 238	\$ 1,450
6.	Contributions to the Pollution Recovery Fund	\$ -	\$ -

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1.	Permit Applications Received	14	13
	a. Facility Permit	2	4
	(i) Types I and II	-	1
	(ii) Type III	2	3
	b. Collection Systems - General	6	4
	c. Collection systems-Dry Line/Wet Line	6	5
	d. Residuals Disposal	-	-
2.	Permit Applications Approved	24	15
	a. Facility Permit	6	1
	b. Collection Systems - General	7	3
	c. Collection systems-Dry Line/Wet Line	7	2
	d. Residuals Disposal	-	-
3.	Permit Applications Recommended for Disapproval	4	9
	a. Facility Permit	-	1
	b. Collection Systems - General	-	1
	c. Collection systems-Dry Line/Wet Line	-	-
	d. Residuals Disposal	-	-
4.	Permit Applications (Non-Delegated)	-	-
	a. Recommended for Approval	-	-
5.	Permits Withdrawn	-	-
	a. Facility Permit	-	-
	b. Collection Systems - General	-	-
	c. Collection systems-Dry Line/Wet Line	-	-
	d. Residuals Disposal	-	-
6.	Permit Applications Outstanding	38	45
	a. Facility Permit	7	10
	b. Collection Systems - General	11	12
	c. Collection systems-Dry Line/Wet Line	20	23
	d. Residuals Disposal	-	-
7.	Permit Determination	2	4
8.	Special Project Reviews	-	-

**FY 12 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

	<u>JUN</u>	<u>JUL</u>
a. Reuse	-	-
b. Residuals/AUPs	-	2
c. Others	-	-

C. INSPECTIONS - DOMESTIC

1. Compliance Evaluation	11	6
a. Inspection (CEI)	2	3
b. Sampling Inspection (CSI)	9	3
c. Toxics Sampling Inspection (XSI)	-	-
d. Performance Audit Inspection (PAI)	-	-
2. Reconnaissance	25	40
a. Inspection (RI)	6	14
b. Sample Inspection (SRI)	-	-
c. Complaint Inspection (CRI)	19	26
d. Enforcement Inspection (ERI)	-	-
3. Engineering Inspections	8	17
a. Reconnaissance Inspection (RI)	2	1
b. Sample Reconnaissance Inspection (SRI)	-	-
c. Residual Site Inspection (RSI)	-	-
d. Preconstruction Inspection (PCI)	1	-
e. Post Construction Inspection (XCI)	5	16
f. On-site Engineering Evaluation	-	-
g. Enforcement Reconnaissance Inspection (ERI)	-	-

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL

1. Permit Applications Received	2	-
a. Facility Permit	-	-
(i) Types I and II	-	-
(ii) Type III with Groundwater Monitoring	-	-
(iii) Type III w/o Groundwater Monitoring	2	-
b. General Permit	-	-
c. Preliminary Design Report	-	-
(i) Types I and II	-	-
(ii) Type III with Groundwater Monitoring	-	-
(iii) Type III w/o Groundwater Monitoring	-	-
2. Permits Recommended to DEP for Approval	-	1
3. Special Project Reviews	1	1
a. Facility Permit	1	1
b. General Permit	-	-
4. Permitting Determination	-	-
5. Special Project Reviews	52	40

**FY 12 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

	<u>JUN</u>	<u>JUL</u>
a. Phosphate	13	9
b. Industrial Wastewater	13	8
c. Others	26	23

E. INSPECTIONS - INDUSTRIAL

1. Compliance Evaluation (Total)	14	11
a. Inspection (CEI)	14	10
b. Sampling Inspection (CSI)	-	1
c. Toxics Sampling Inspection (XSI)	-	-
d. Performance Audit Inspection (PAI)	-	-
2. Reconnaissance (Total)	15	11
a. Inspection (RI)	3	1
b. Sample Inspection (SRI)	-	-
c. Complaint Inspection (CRI)	12	10
d. Enforcement Inspection (ERI)	-	-
3. Engineering Inspections (Total)	9	6
a. Compliance Evaluation (CEI)	9	6
b. Sampling Inspection (CSI)	-	-
c. Performance Audit Inspection (PAI)	-	-
d. Complaint Inspection (CRI)	-	-
e. Enforcement Reconnaissance Inspections (ERI)	-	-

F. INVESTIGATION/COMPLIANCE

1. Citizen Complaints		
a. Domestic	25	24
(i) Received	12	15
(ii) Closed	13	9
b. Industrial	23	10
(i) Received	10	6
(ii) Closed	13	4
2. Warning Notices		
a. Domestic	5	1
(i) Issued	2	1
(ii) Closed	3	-
b. Industrial	4	-
(i) Issued	-	-
(ii) Closed	4	-
3. Non-Compliance Advisory Letters	6	9
4. Environmental Compliance Reviews	182	161
a. Industrial	50	50
b. Domestic	132	111

**FY 12 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

	<u>JUN</u>	<u>JUL</u>
5. Special Project Reviews	5	7

G. RECORD REVIEWS

1. Permitting Determination	4	5
2. Enforcement	-	1

**H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS
REVIEWED (LAB)**

1. Air division	64	55
2. Waste Division	-	-
3. Water Division	20	15
4. Wetlands Division	-	-
5. ERM Division	161	177
6. Biomonitoring Reports	3	3
7. Outside Agency	19	35

I. SPECIAL PROJECT REVIEWS

1. DRIs	-	4
2. ARs	-	-
3. Technical Support	3	4
4. Other	-	-

**FY 12 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

JUN JUL

ASSESSMENT REPORT

Agriculture Exemption Report

# Agricultural Exemptions Reviews	-	-
# Isolated Wetlands Impacted	-	-
# Acres of Isolated Wetlands Impacted	-	-
# Isolated Wetlands qualify for Mitigation Exemption	-	-
# Acres of Wetlands qualify for Mitigation Exemption	-	-

Development Services Reviews Performance Report

# of Reviews	45	28
Timeframes Met	100%	96%
Year to Date	99%	99%

Formal Wetland Delineation Surveys

Projects	11	5
Total Acres	280	4
Total Wetland Acres	34	1
# Isolated Wetlands < 1/2 Acre	3	-
Isolated Wetland Acreage	0.71	0

Construction Plans Approved

Projects	10	8
Total Wetland Acres	60	7
#Isolated Wetlands < 1/2 Acre	1	1
Isolated Wetland Acreage	0.07	0.14
Impacts Approved Acreage	9.3	0
Impacts Exempt Acreage	4.9	0

Mitigation Sites in Compliance

Ratio	168/177	166/175
Percentage	95%	95%

Compliance Actions

Acreage of Unauthorized Wetland Impacts	0.70	0.20
Acreage of Water Quality Impacts	0.00	0.00
Acreage Restored	0.60	0.00

TPA Minor Work Permit

Permit Issued	12	14
Permits Issued Fiscal Year 2011	122	136
Cumulative Permits Issue Since TPA Delegation (07/09)	551	565

REVIEW TIMES

# of Reviews	254	234
% On Time	95%	93%
% Late	5%	7%

WETLANDS MANAGEMENT DIVISION

JUN JUL

A. General

1.	Telephone conferences	558	675
2.	Unscheduled Citizen Assistance	375	387
3.	Scheduled Meetings	420	319
4.	Correspondence	1,672	1,825
1/ 5.	Intergency Coordination	130	97
1/ 6.	Trainings	23	5
1/ 7.	Public Outreach/Education	-	8
1/ 8.	Quality Control	104	58

B. Assessment Reviews

1.	Wetland Delineations	16	22
2.	Surveys	11	8
3.	Miscellaneous Activities in Wetland	25	21
4.	Mangrove	8	4
5.	Notice of Exemption	1	1
6.	Impact/Mitigation Proposal	6	5
7.	Tampa Port Authority Reviews	54	34
8.	Wastewater Treatment Plants (FDEP)	1	1
9.	Development Reg'n'l Impact (DRI) Annual Report	-	-
10.	On-Site Visits	57	96
11.	Phosphate Mining	2	-
12.	Comp Plan Amendment (CPA)	-	-
1/ 13.	AG SWM	4	2
	Sub-Total		

Planning and Growth Management Review

14.	Land Alteration/Landscaping	-	-
15.	Land Excavation	-	-
16.	Rezoning Reviews	10	5
17.	Site Development	18	13
18.	Subdivision	24	12
19.	Wetland Setback Encroachment	3	-
20.	Easement/Access-Vacating	-	-
21.	Pre-Applications	29	28
1/ 22.	Agriculture Exemption	-	-
	Sub-Total		
	Total Assessment Review Activities		

C. Investigation and Compliance

1.	Warning Notices Issued	8	4
2.	Warning Notices Closed	7	1
1/ 3.	Complaints Closed	26	25
4.	Complaint Inspections	30	55

WETLANDS MANAGEMENT DIVISION

	<u>JUN</u>	<u>JUL</u>
5. Return Compliance Inspections for Open Cases	45	42
6. Mitigation Monitoring Reports	15	11
7. Mitigation Compliance Inspections	15	29
8. Erosion Control Inspections	3	4
9. MAIW Compliance Site Inspections	3	62
10. TPA Compliance Site Inspections	25	2
2/ 11. Mangrove Compliance Site Inspections	-	-
1/ 12. Conservation Easement Inspection	1	2

D. Enforcement

1. Active Cases	6	6
2. Legal Cases	5	5
3. Number of "Notice of Intent to Initiate Enforcement"	1	4
4. Number of Citations Issued	-	-
5. Number of Consent Orders Signed	3	2
6. Administrative - Civil Cases Closed	4	4
7. Cases Referred to Legal Department	5	5
8. Contributions to Pollution Recovery	\$ 700	\$ 1,780
9. Enforcement Costs Collected	\$ 510	\$ 300

E. Ombudsman

1. Agriculture	5	5
2. Permitting Process & Rule Assistance	4	4
3. Staff Assistance	6	6
4. Citizen Assistance	3	4

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**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
FY 12 POLLUTION RECOVERY FUND
10/1/2011 through 6/30/2012**

REVENUE		EXPENDITURES		RESERVES		NET PRF
Beginning Balance	\$ 641,781	Artificial Reef	\$ 136,652	Minimum Balance	\$ 120,000	
Interest	\$ 4,661	Project Monitoring	\$ 123,507	PROJ. FY 13 Budgets	\$ 180,000	
Deposits	\$ 65,671	FY 12 Projects	\$ 106,700	Asbestos Removal	\$ 5,000	
Refunds	\$ 53,184					
Total	\$ 765,297	Total	\$ 366,859	Total	\$ 305,000	\$ 93,438



PROJECT		Project Amount	Project Balance
FY 10 Projects			
#09-01 - Basis of Review for Borrow Pit Applications	EPE30442	\$ 68,160	\$ 3,369
#09-02 - Effects of Restoration on Use of Habitat	EPE30443	84,081	43,621
#09-03 - Artificial Wetland Cells	EPE30444	5,500	2,169
#09-04 - Pilot Project for Outfall Water Quality Lake Mag	EPE30446	92,000	81,213
		\$ 249,741	\$ 130,372
FY 12 Projects			
Bahia Beach Mangrove Enhancement	EPE30449	\$ 56,700	\$ 56,700
Fertilizer Rule Implementation	EPE40206	\$ 50,000	\$ 50,000
		\$ 106,700	\$ 106,700
			\$ 237,072

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
FY 12 POLLUTION RECOVERY FUND
10/1/2011 through 7/31/2012**

REVENUE		EXPENDITURES		RESERVES		NET PRF
Beginning Balance	\$ 641,781	Artificial Reef	\$ 136,652	Minimum Balance	\$ 120,000	
Interest	\$ 4,371	Project Monitoring	\$ 123,507	PROJ. FY 13 Budgets	\$ 179,342	
Deposits	\$ 69,751	FY 12 Projects	\$ 131,700	Asbestos Removal	\$ 5,000	
Refunds	\$ 53,284					
Total	\$ 769,187	Total	\$ 391,859	Total	\$ 304,342	\$ 72,986



PROJECT		Project Amount	Project Balance
FY 10 Projects			
#09-01 - Basis of Review for Borrow Pit Applications	EPE30442	\$ 68,160	\$ 3,369
#09-02 - Effects of Restoration on Use of Habitat	EPE30443	84,081	43,621
		\$ 152,241	\$ 46,990
FY 12 Projects			
Bahia Beach Mangrove Enhancement	EPE30449	\$ 56,700	\$ 56,700
Fertilizer Rule Implementation	EPE40206	\$ 50,000	\$ 50,000
USGS Partnership	EPE30450	\$ 25,000	\$ 25,000
		\$ 131,700	\$ 131,700
			\$ 178,690

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
FY 12 GARDINIER SETTLEMENT TRUST FUND
10/1/2011 - 6/30/2012**

Fund Balance as of 10/1/11	\$ 254,131
Interest Accrued	954
Disbursements FY 12	(193,985)
Fund Balance	<u>\$ 61,100</u>
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	\$ 61,100
Total Encumbrances	<u>\$ 61,100</u>
Fund Balance Available	<u><u>\$ -</u></u>

ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
FY 12 GARDINIER SETTLEMENT TRUST FUND
10/1/2011 - 7/31/2012

Fund Balance as of 10/1/11	\$ 254,131
Interest Accrued	930
Disbursements FY 12	(193,985)
Fund Balance	\$ 61,076
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	\$ 61,076
Total Encumbrances	\$ 61,076
Fund Balance Available	\$ -



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 9, 2012

Subject: Legal Case Summary for July and August 2012

Agenda Section: Consent Agenda

Division: Legal and Administrative Services

Recommendation: None, informational update.

Brief Summary: The EPC Legal Department provides a monthly summary of its ongoing civil, appellate, and administrative matters.

Financial Impact: No Financial Impact anticipated; information update only.

Background: In an effort to provide the Commission with timely information regarding legal challenges, the EPC staff provides this monthly summary. The update serves not only to inform the Commission of current litigation but may also be used as a tool to check for any conflicts they may have. The summary provides general details as to the status of the civil and administrative cases. There is also a listing of cases where parties have asked for additional time in order to allow them to decide whether they will file an administrative challenge to an agency action (e.g. – permit or enforcement order), while concurrently attempting to seek resolution of the agency action.

**EPC LEGAL DEPARTMENT MONTHLY REPORT
July and August 2012**

I. ADMINISTRATIVE CASES

Joseph and Jennifer Ferrante [12-EPC-006]: On May 7, 2012 the EPC received a Request for Variance or Waiver from Joseph and Jennifer Ferrante. The Applicant is requesting a waiver from a provision within the Submerged Lands Management Rules of the Tampa Port Authority regarding setback encroachments. Upon completion of the staff review, the request will be scheduled for a public hearing. (AZ)

Richard Medero and Susan Medero [12-EPC-005]: On May 11, 2012 Richard and Susan Medero filed a Notice of Appeal challenging the Executive Director's Notice of Change of Agency Action regarding the Appellants' permit for modifications to a dock. In accordance with Chapter 1-2, Administrative Procedures, a Hearing Officer has been assigned to this case and an administrative hearing will be conducted. A neighbor has also requested to intervene in the case in support of the EPC Executive Director's decision. (AZ)

Hillsborough County [12-EPC-003]: On March 20, 2012, the EPC received a Request for a Waiver from Hillsborough County regarding a waiver from a portion of the EPC Wetland rule. The Applicant is requesting a waiver to the Conservation Easement requirement for mitigation areas in excess of 0.5 acres, Section 1-11.08(6)(e), Rules of the EPC. A public hearing was held on June 28, 2012, the Commission approved the waiver request and the case is closed. . (AZ).

John T. Keenan [11-EPC-013]: On November 28, 2011 the Appellant, John T. Keenan, filed a request for an extension of time to file an Appeal to challenge EPC's issuance of a Minor Work Permit for modifications to an existing dock. The request was granted and the Appellant ultimately filed a Notice of Appeal on January 12, 2012. Based on new information, the Executive Director modified the decision and the matter has been appealed in the above case identified as Richard Medero and Susan Medero. Mr. Keenan can request to intervene in that appeal. In the event Mr. Keenan does not ask to intervene, this case is moot and the appeal will be closed. The Appellant did not file a motion to intervene and this case is closed. (AZ)

II. CIVIL CASES

Peter L. Kadyk/Eco Wood Systems, Inc. [11-EPC-007]: On August 18, 2011, the Commission granted authority to pursue appropriate legal action against Defendant Peter L. Kadyk/Eco Wood Systems, Inc. for failure to comply with the terms of a signed Consent Order to resolve Chapter 1-11 wetlands violations. A small claims action was filed but is still pending based on the failure to timely serve the respondent. (AZ)

6503 US Highway 301, LLC [LEPC10-021]: On November 4, 2010, the EPC Legal Department filed a Complaint for Civil Penalties and Injunctive Relief against the new owner Defendant 6503 US Highway 301, LLC. This case is a continuation of the previous action against SJ Realty for environmental violations at the former 301 Truckstop site on Highway 301. The parties are in negotiation to settle the matter. (AZ)

Greg and Karin Hart [LEPC10-004]: On March 18, 2010 the Commission granted authority to take legal action against the Defendants Mr. and Mrs. Greg Hart for various impacts to wetlands that are violations of the EPC Act, Chapter 1-11 (Wetland Rule), and a conservation easement encumbering the Defendants' property. On March 29, 2010, the EPC filed a civil lawsuit in Circuit Court. The case was consolidated with a related Hillsborough County case seeking an injunction to remove fill from a drainage canal. A second mediation on January 21, 2011, resulted in a very limited partial settlement with EPC and full settlement with the County. A jury trial was held the week of September 19, 2011. The jury returned a verdict in favor of the EPC. Defendants filed a motion for new trial and an appeal of the jury verdict. The appeal was dismissed as premature and the request for a new trial was denied. The Defendants then appealed the denial of a new trial, which was dismissed. A hearing was held on February 13 and 23, 2012, to impose corrective actions and penalties. A Final Judgment Against Defendants was entered on March 5, 2012, requiring Defendants to restore the wetland and pay penalties. Defendants filed a Motion for Relief from Judgment dated May 22, 2012 and the court denied the motion on July 30, 2012. On July 31, 2012, the court awarded the EPC reasonable trial costs. (RM)

Charles H. Monroe, individually, and MPG Race Track LTD [LEPC09-017]: On September 17, 2009 the EPC Board granted authority to take legal action against Respondents for violations of the EPC Act and EPC Rule Chapter 1-11. A Citation was issued on June 29, 2009, the Respondent failed to appeal the citation and it became a final order of the Agency enforceable in Court. (AZ)

Dubliner North, Inc. [LEPC09-015]: On September 17, 2009 the Commission granted authority to take legal action against Respondent for violations of the EPC Act and EPC Rules, Chapter 1-10 (Noise). A Citation to Cease and Order to Correct Violation was issued on July 24, 2009, the Respondent failed to appeal the citation and it became a final order of the Agency enforceable in court. On May 5, 2010 the EPC filed a civil lawsuit in Circuit Court. The Defendant did not respond to the complaint, thus a default was issued on September 30, 2010. A trial was set for the week of May 9, 2011. The parties attended court-ordered mediation on April 22, 2011. A Mediation Settlement Agreement was entered on April 22, 2011. On August 8, 2011, the EPC filed a Notice of Voluntary Dismissal. Defendant has not complied with the terms of the settlement, EPC filed a motion to enforce the Settlement and a hearing is scheduled for August 2, 2012 (RM)

U.S. Bankruptcy Court in re Jerry A. Lewis [LEPC09-011]: On May 1, 2009 the U.S. Bankruptcy Court Middle District of Florida filed a Notice of Chapter 13 Bankruptcy Case regarding Jerry A. Lewis. On May 26, 2009, the EPC filed a Proof of Claim with the Court. The EPC's basis for the claim is a recorded judgment lien awarded in Civil Court against Mr. Lewis concerning unauthorized disposal of solid waste. The EPC is preparing to seek relief from the bankruptcy stay to get an award of stipulated penalties from the state court. The site remains out of compliance with applicable EPC solid waste regulations. (AZ)

Grace E. Poole and Michael Rissell [LEPC08-015]: Authority to take appropriate legal action against Grace E. Poole and Michael Rissell for failure to properly assess petroleum contamination in accordance with EPC and State regulations was granted on June 19, 2008. The property owner and/or other responsible party are required to initiate a site assessment and submit a Site Assessment Report. They have failed to do the required work and the EPC is attempting to obtain appropriate corrective actions. (AZ)

Petrol Mart, Inc. [LEPC07-018]: Authority to take appropriate action against Petrol Mart, Inc. to seek corrective action, appropriate penalties and recover administrative costs for improperly abandoned underground storage tanks and failure to address petroleum contamination was granted on June 21, 2007. The owner of the property is insolvent and the corporation inactive; however, the Waste Management Division intends on obtaining a judgment and lien on the property for the appropriate corrective actions. The Legal Department filed a civil lawsuit on September 26, 2007. The defendant was served with the lawsuit on October 12, 2007. The Court entered a default on November 9, 2007 for the Defendant's failure to respond. The EPC Legal Department set this matter for trial on March 26, 2008. The Court ruled in favor of EPC and entered a Default Judgment against the Defendant awarding all corrective actions, penalties of \$116,000 and costs of \$1,780. In the event the corrective actions are not completed the court also authorized the EPC to contract to have the site cleaned and to add those costs to the lien on the property. PRF monies were allocated in November 2008 to assist in remediating the site. (AZ)

Tranzparts, Inc. and Scott Yaslow [LEPC06-012]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Tranzparts, Inc., Scott Yaslow, and Ernesto and Judith Baizan to enforce the agency requirement that various corrective actions and a Preliminary Contamination Assessment Plan be conducted on the property for discharges of oil/transmission fluid to the environment. The EPC entered a judicial settlement (consent final judgment [CFJ]) with Tranzparts and Yaslow only on February 16, 2007 (no suit was filed against the Baizans). The Defendants have only partially complied with the CFJ, thus a hearing was held on April 28, 2008, wherein the judge awarded the EPC additional penalties. A second hearing was held on January 25, 2010, for a second contempt proceeding and additional penalties. The Judge found the Defendants in contempt and levied stipulated penalties/costs, and a contempt order was executed by the judge on March 15, 2010 requiring the facility to temporarily shut down until the facility is remediated. (RM)

Boyce E. Slusmeyer [LEPC10-019]: On Sept 20, 2001 the EPC staff received authority to take legal action for failure to comply with an Executive Director's Citation and Order to Correct Violation for the failure to initiate a cleanup of a petroleum-contaminated property. The Court entered a Consent Final Judgment on March 13, 2003. The Defendant has failed to perform the appropriate remedial actions for petroleum contamination on the property. The EPC filed a lawsuit on October 7, 2010 seeking injunctive relief and recovery of costs and penalties. The EPC is waiting for the lawsuit to be served. (AZ)

III. PENDING ADMINISTRATIVE CHALLENGES

The following is a list of cases assigned to the EPC Legal Department that are not in litigation, but a party has asked for an extension of time to file for administrative litigation in an effort to negotiate a settlement prior to forwarding the case to a Hearing Officer. The below list may also include waiver or variance requests.

Cordoba-Ranch Development, LLC [11-EPC-008]: On September 9, 2011 the Appellant, Cordoba-Ranch Development, LLC, filed a request for an extension of time to file an Appeal challenging the Citation to Cease and Order to Correct Violation that was issued on August 25, 2011. The extension was granted and the Appellant has until September 10, 2012 to file a Notice of Appeal in this matter. (AZ)

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 9, 2012

Subject: Implementation of Information Technology Virtualization project

Agenda Section: Consent Agenda

Division: Legal and Administrative Services

Recommendation: Authorize Executive Director to execute purchase of hardware and software.

Brief Summary: As part of EPC's ongoing efficiency efforts, staff has begun implementation of the IT Virtualization project. This efficiency concept was presented to the BOCC during our budget presentation at the July 27, 2011 Budget Workshop. IT Virtualization will condense computer operations to central servers versus individual desktop computers. IT Virtualization will result in a computer system that is vastly powerful with greater reliability and is much more efficient to maintain. The first steps are the purchase of four servers and a storage area network in the amount of \$71,420 and a three-year package of software licenses/maintenance services in the amount \$48,850.

Financial Impact: The required funds are available in the FY12 budget.

Background: During the past twelve months, the EPC MIS department has been evaluating the benefits of replacing desktop computers with virtual desktop clients (VDI). Thus, the MIS department will no longer need to purchase and maintain 100 plus individual desktop computers and employees will use virtual computers linked to servers. As part of this evaluation, we have compared multiple vendor products, performed proof-of-concept testing, held employee forums to receive feedback on this concept, and conducted a production beta test with field personnel.

Benefits of deploying VDI include more efficient workstation management, improved security, increased return on investment, and gains in productivity produced by fully redundant systems resulting in near zero downtime.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 9, 2012

Subject: 2012 Second Quarter Action Plan Updates

Consent Agenda **Regular Agenda** **Public Hearing**

Division: Executive Director

Recommendation: None - Informational Only

Brief Summary: In January 2012, EPC staff brought the Agency's Strategic Plan to the Board for approval. It included some sixteen individual initiatives which are detailed in measureable action plans. The second quarter status reports are listed for all sixteen action plans in this year's Strategic Plan.

Financial Impact: No Financial Impact

Background: As part of the Agency's Sterling Management planning process, staff held a strategic planning retreat in December 2011. This included input from the Board and a broad range of EPC staff. Also taken into consideration were the most recent Employee and Customer Surveys.

Following the retreat, staff drafted a Strategic Plan for 2012 and brought it to the Board at the regular EPC meeting. It was approved and sixteen initiatives reflecting the Agency's strategic objectives were launched. Each initiative is described in an individual Action Plan with measurable goals.

These Action Plans will be reported in more detail at the Agency's annual report to the EPC in the fall.

List of Attachments: Second Quarter Updates for the 2012 Action Plans

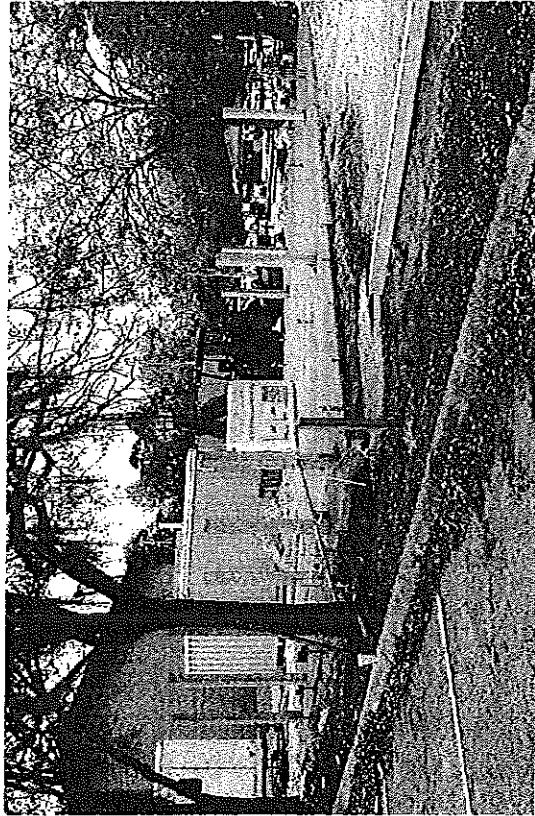
Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Protect & Enhance Water Quality	1.1 Nutrient Management	Public Education Materials are posted on EPC website	Continue to develop new innovative materials and information/distribution outlets.
		Passed EPC Fertilizer Rule (Ch 1-15) and initiated a regional study.	Ensure all licensed commercial applicators have an IFAS decal.
		Established database for commercial applicators and working with IFAS.	
		Study of rule effectiveness has been developed and data collection will commence this year.	Review year-one data and evaluate any issues or changes in methodology as needed.
		Collaborate and attend meetings and stay apprised of state and federal TMDL and Numeric Nutrient Criteria development & implementation.	Continue tracking issues and partner with stakeholders providing EPC technical support and field work.



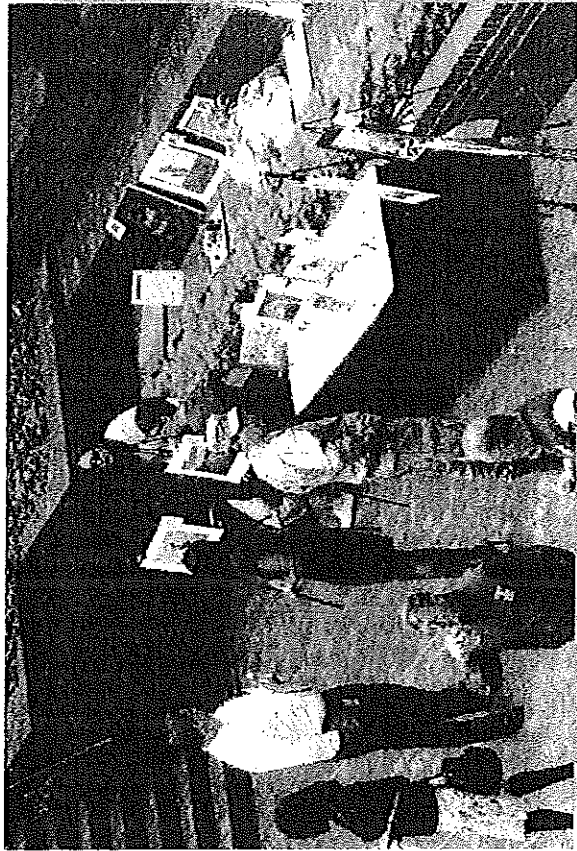
Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Promote Environmental Stewardship	1.2 Green Initiatives II	Agency's Green Team is changing employee behavior and electric consumption is down by greater than 10% in the first quarter.	Reducing electricity consumption at RPS Center by 5% from 2011.
		Construction of Chiller Plant has begun.	Working with Facilities to have new Chiller Plant in operation at RPS Center.
			Evaluate RPS Center for Energy Star application.



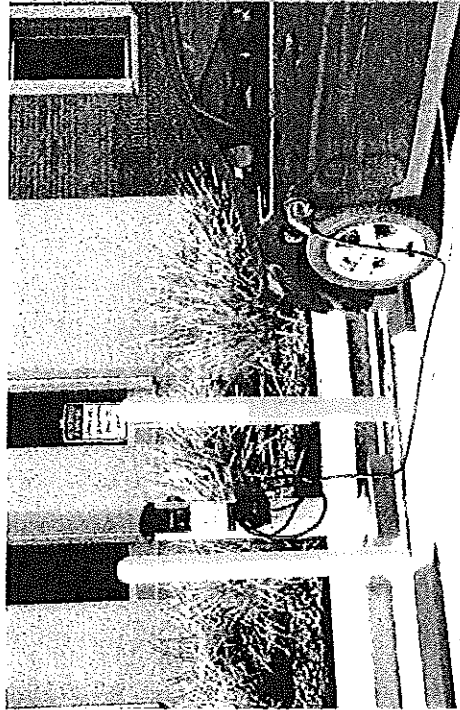
Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Promote Environmental Stewardship	1.2 School Outreach	Formed Outreach Team with County Communications, EPC, and School District Officials.	Obtain School District approval to rotate student's environmental art display to designated schools and have it displayed 3 times by year's end.
		Developing program outline to include types of material, standards, and logistics of moving any displays.	



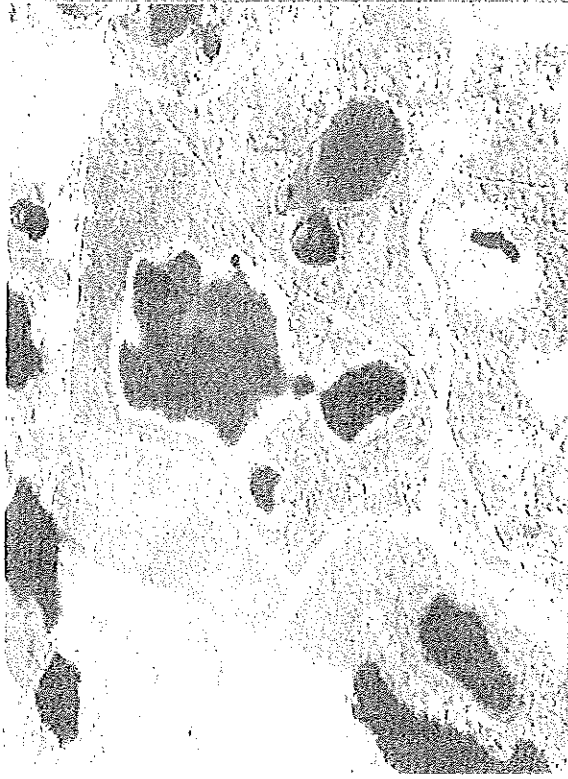
Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Promote Environmental Stewardship	1.2 Develop Office of Sustainability	Secured funding for FY 12 and coordinator's position filled.	Start Energy Management teams in various departments throughout the County.
		Completed Energy & Sustainability Plan for the County.	
		Received grant for 7 electric vehicle (EV) recharge stations and all 7 have been installed.	Have all 7 EV stations operational.
		Compressed Natural Gas (CNG) Committee has met with 3 suppliers and made recommendation to solicit assistance through a RFI.	Made final recommendations to workgroup on CNG.



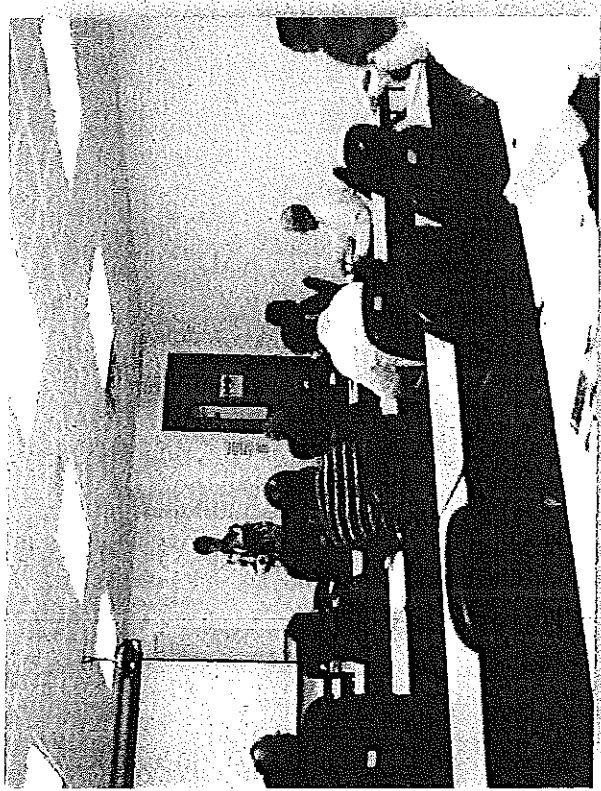
Green website is under development for EPC's web page.	Launch Green Hillsborough website in final form.
Have signed agreement in place with TECO, EPC and Patel to fund the CCC for the first year. Application will follow.	Clean Cities Coalition for Florida Westcoast is in the process of designation by DOE. Application due June 2013.
In collaboration with Fleet purchased a Chevy Volt and taken delivery. A second all electric vehicle is on order.	Take delivery of electric vehicle as part of alternative fuels pilot program.

Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Improve Regulatory Compliance	1.3 Lakes Initiative	Developed template; made first 4 Board Presentations; provided information matrix; and participated in annual HOA event at HCC.	Make up to 4 Board presentations and reach out to 8 HOAs.
		Developing a presentation applicable to HOAs and other interested groups; customized to location within the County and to hydrologic conditions.	See a 5% drop in observed wetland violations on freshwater lakes in Hillsborough County per number of citizen complaints.

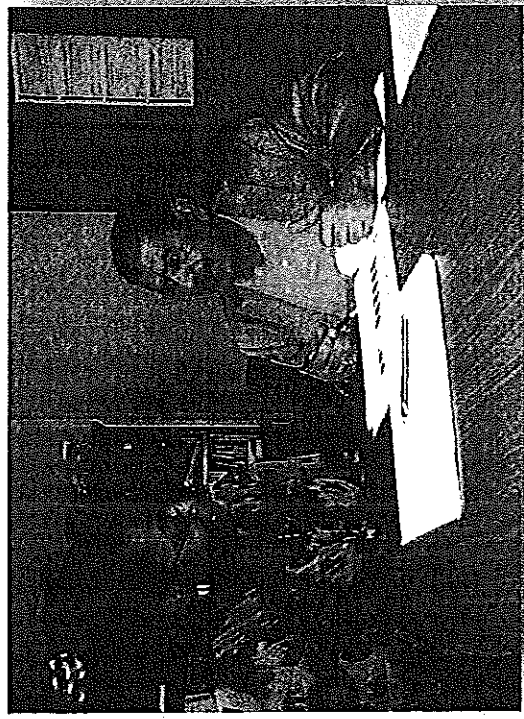
Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Ensure employees receive ongoing training and development	2.1 Increase Staff Training Opportunities	Formed a training committee and conducted a staff training survey.	Establish a formal Agency training program to include a budget, course roster, and a committee to oversee it.
		Created a Training Resource Intranet Page for staff.	



Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Improve Employee Satisfaction	2.2 Develop Incentive Pay Programs	Extraordinary Performance Increase Policy signed 2-3-12 and effective immediately.	Begin implementing the policy.
		Drafted EPC specific annual lump sum performance incentive policy to replace longevity bonus, but waiting for the County's policy to come out to avoid any inconsistencies.	Have annual lump sum performance incentive policy executed by December.



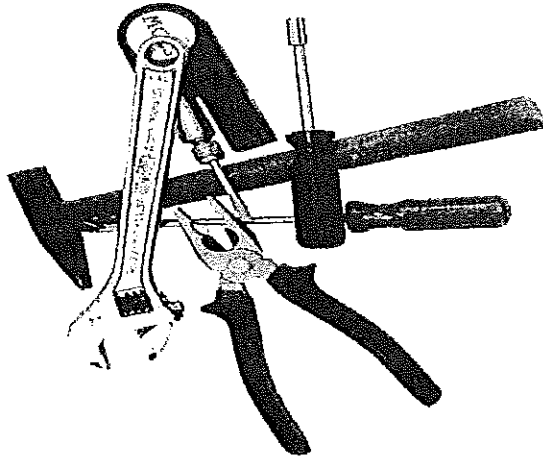
Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Improve Employee Participation and Involvement	2.3 Prepare Sterling Challenge Application	Completed Strategic Plan for the Agency including Priorities & Objectives; Organizational Profile; Action Plans; and Performance Measures. Finished two of the seven sections for the Sterling Challenge Application (Category 1 – Leadership & Category 2 – Strategic Planning).	To complete narrative of all 7 Sterling Categories and make a decision on a Sterling Challenge submittal by December 2012.
		Category 3 – Customer Focus has been reviewed by a staff committee.	
		Staff have organized an outline response and a completed narrative is expected by mid-August	



Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Improve Customer Satisfaction	3.1 Rule Efficiency Initiative	<p>Completed efficiencies review of EPC Rules 1-1 through 1-15.</p> <p>Produced a list of sections and rules for deletion, modification, and updating.</p> <p>Presented proposed rule revisions to Board in May & June</p> <p>Held two public workshops & briefed CEAC</p> <p>Set public hearing on August 9th before EPC Board.</p>	Eliminate obsolete rules and update others. Bring revised rules to the Board for a Public Hearing by September 2012.



Quarterly Update for 2012 Action Plans

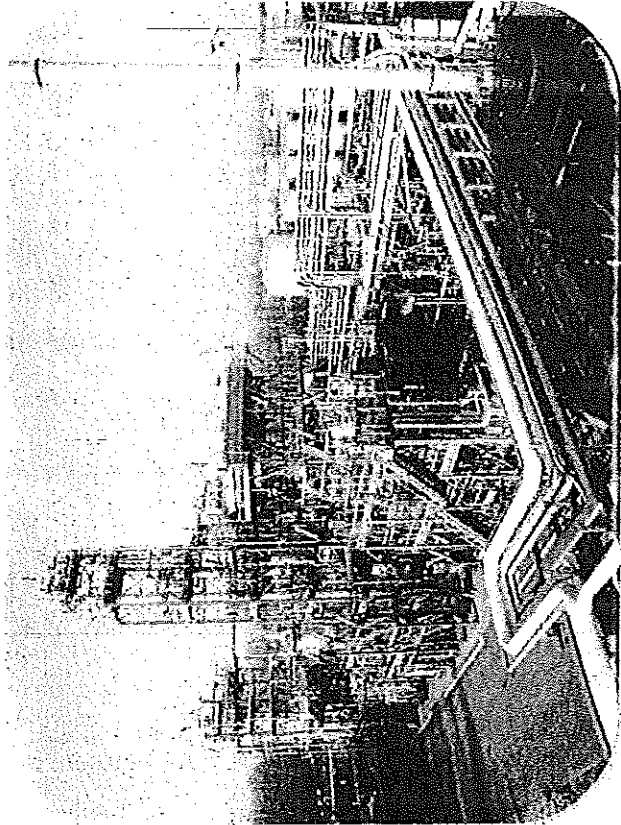
Strategic Objective	Action Plans	Status	2012 Year End Goal
Improve Partnering Relationships	3.2 One Stop Permitting	Forming Environmental Resource Permitting (ERP) delegation application team with County Stormwater to approach State DEP.	Start preparing application for full delegation of ERP from DEP.
		Multiple interagency sessions with Assistant County Administrator and/or Sr. Staff to focus efforts.	
		Develop SOW for Consultant to assist County/EPC in delegation efforts.	



Presented approach in seminar on July 19 along with FDEP lead on ERP delegation.	Enter agreements with: Parks Department for ELAPP wetlands restoration; Property Appraiser's Office on wetland lines; County on upland habitat designs; and Public Utilities on Water Use Permitting and reclaimed water advice.
Identified potential projects to partner with other organizations. Met with UF/IFAS on possible interactions. Obtained commitment from Parks Director.	

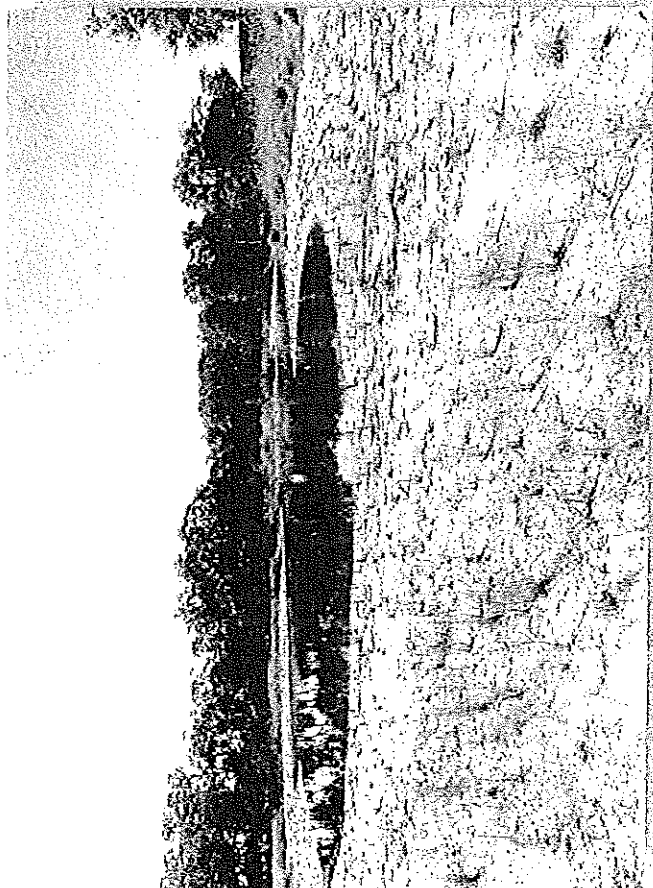
Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	Year End Goal
Improve Stakeholder Relationships	3.3 Enhanced Priority Permitting	Developed program and set up feedback system through surveys.	100% of applications processed in half statutory limits.
		100 % of applications processed in half statutory limits.	100% of applications processed in half statutory limits.
		EPC receives a 4.0 or better on 100% of applicant surveys.	EPC receives a 4.0 or better on 100% of applicant surveys.
		Video conferencing with EPC is available in the County Center.	Improve communication with public on permitting matters.

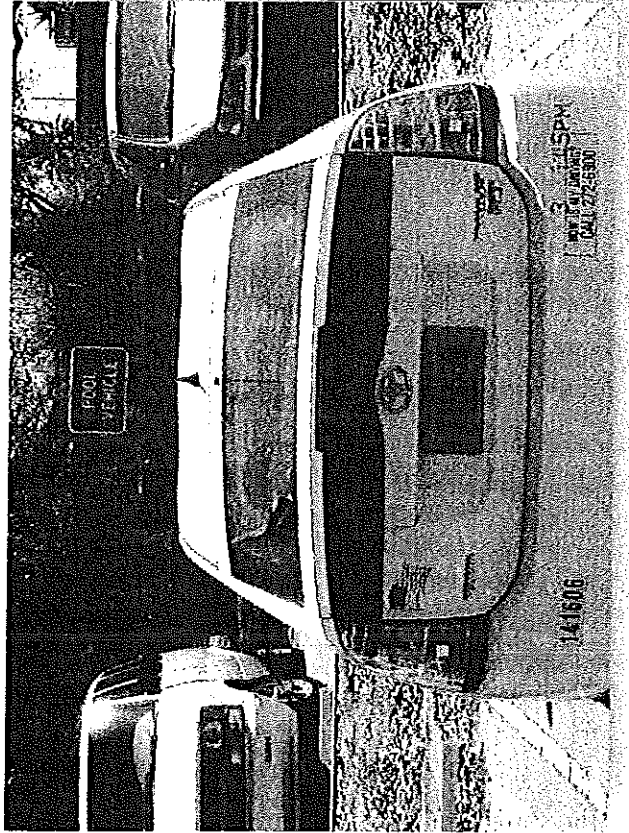


Met with the City of Tampa, Plant City and Temple Terrace permitting centers.	Meet with all three municipalities's permitting centers.
Met with DEP district office.	Improve communication with the district.
Met with Accela and County officials. Awaiting statement of work from Accela.	Fully evaluate use of Accela for EPC permitting activities.

Quarterly Update for 2012 Action Plans

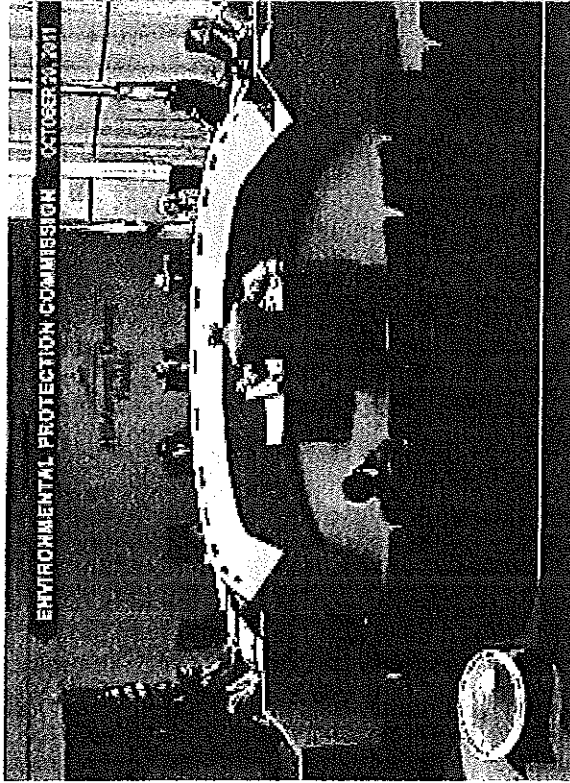
Strategic Objective	Action Plans	Status	2012 Year End Goal
Maximize Funding	4.1 Grant Writing Committee	Formed Agency Committee and summarized goals. Surveyed the Agency for grant needs.	Develop grant-writing SOP for Agency and apply for grants in the top three areas of need.
			
		Drafted Grant Guidance Document	
		Updated Grant Policy	

Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Control Expenditures	4.2 Employee Efficiency Team	Drafted policy in-house.	Form employee committee.
		Create intranet link to the Executive Director for staff to submit cost-savings ideas.	Produce \$5,000 in savings in the first year.
			Develop a list of potential savings for the two-year budget cycle of FY 2014-2015.

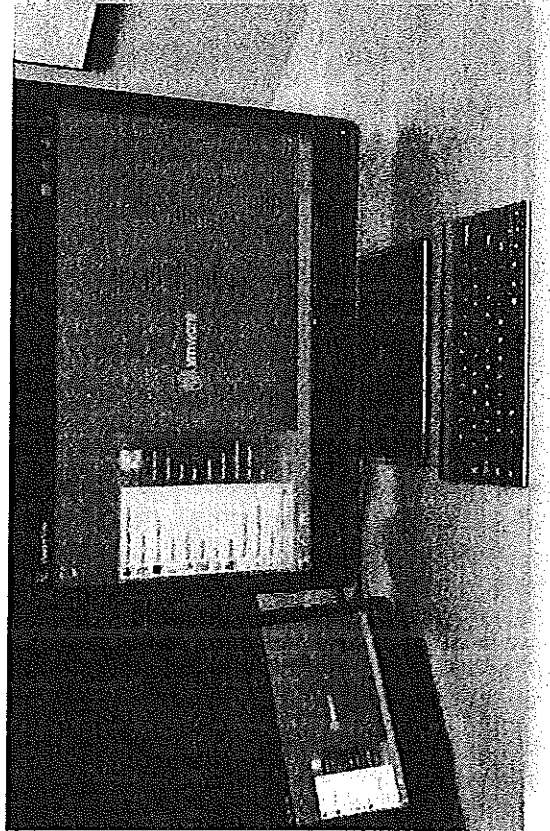
Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Improve Process Performance	5.1 Agency Performance Measures	Selected core function performance measures and determined historical trend.	
		Set goals for 2012 at EPC Board meeting.	
		Second Quarter YTD Results	
		Delegated Permitting 38 days	< 36 days
		Local Permitting 21 days	< 28 days
		Timely Compliance 93%	90%
		Timely Complaint Inv. 99%	99%
		Timely Enf. Resolution 58%	>67%




Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Improve the Use of Technology	5.2 Upgrade Server and IT Service	Evaluated host server requirements for virtual system support.	Purchase and install server hardware.
		Evaluated network storage requirements for client virtual desktop.	Purchase storage hardware and install.
		Determined OS/Software required.	Purchase software licenses and install on server.
		Determined Client desktop hardware.	Purchase desktop hardware and systematically deploy.
		Evaluated remote client hardware platform.	Determine divisional requirements. Purchase mobile user hardware and deploy.



Quarterly Update for 2012 Action Plans

Strategic Objective	Action Plans	Status	2012 Year End Goal
Ensure Effective Leadership Development and Succession Planning	5.3 Advanced Leadership Development Program (ALDP)	We are looking forward to graduating Class I of the EPC ALDP at the end of August.	Completion of the first group program is expected this summer with the second group to start this Fall.
		As part of the Class I requirements, the first two ALDP special projects were presented by the candidates to the EPC Board in June and the remaining four will be presented in the next few months. All Class I candidates will also complete an exit survey.	To have fully completed the first ALDP group and survey them for program evaluation and to start second group.
		ALDP Class 2 has held an orientation meeting and will officially get underway in July.	



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 9, 2012

Subject: Agency-wide Rule Revision Public Hearing

Agenda Section: Regular Agenda

Division: Legal and Administrative Services Division

Recommendation: Conduct a Public Hearing to approve amendments to multiple rules.

Brief Summary: In the spring of 2011, Dr. Garrity instructed EPC staff to review the EPC's rules that are promulgated by the EPC Board and provide suggested revisions to rules that are obsolete, contrary to new legislation, confusing, and/or unnecessary. Staff proposes revisions to seven rules and proposes to repeal in its entirety an obsolete air pollution rule, Chapter 1-8, Rules of the EPC (Mobile Source). The rule changes do not add any new environmental regulations, and mainly repeal outdated material. On June 28, 2012, the EPC Board instructed staff to hold an informal workshop and to set a public hearing for August 9, 2012. The EPC conducted two informal workshops, will present the rule to CEAC, and received public comments. The rules have been slightly amended since receiving public feedback and now are ready for adoption.

Financial Impact: No Financial Impact.

Background: The EPC Act, Section 5, provides that the EPC Board has the power to adopt, revise, and amend rules reasonably necessary for the implementation and effective enforcement, administration, and interpretation of the EPC Act to provide for the effective control of pollution. In the spring of 2011, Dr. Garrity instructed EPC staff to review the EPC's rules that are promulgated by the EPC Board and provide suggested revisions to rules that are obsolete, contrary to new legislation, confusing, and/or unnecessary. An employee from each division was assigned to review the rules managed by that employee's division and provide suggestions. Staff proposes revisions to at least seven rules and the repeal of one air rule. The rule Chapters proposed to be revised include Chp. 1-1 (General Rules), Chp. 1-2 (Administrative Procedures), Chp. 1-3 (Stationary Air Pollution Sources and Ambient Air Quality Standards), Chp. 1-5 (Water Quality Standards), Chp. 1-7 (Waste Management), Chp. 1-10 (Noise Pollution), and Chp. 1-12 (Storage Tank Rule). Staff also proposes to repeal in its entirety an obsolete air pollution rule, Chp. 1-8 (Mobile Source). The rule changes do not add any new environmental regulations. The majority of the changes delete or revise rule sections that are obsolete, such as references to old agencies or outdated laws. For example, Revisions to Chp. 1-10 are intended to eliminate EPC regulation of noise emanating from shooting ranges, as it arguably could be viewed as a local rule regulating fire arms, which is prohibited by recent legislation. In addition to clarifications of the EPC's permit noticing rules, Chp. 1-2 adds a provision on the procedures to revoke non-delegated permits similar to Florida's law.

To accomplish these rule revisions a public hearing must be held pursuant to the EPC Act. The Board voted in May to set a public hearing for July. At the next EPC Board meeting on June 28, 2012, the EPC Board instructed staff to hold an informal workshop and to set a public hearing for August 9, 2012; instead of July. The EPC conducted two informal workshops, will present the rule to CEAC, and received citizen comments. Some of the rules have been slightly amended since receiving public feedback and now are ready for adoption by the EPC

Board. The public hearing was properly noticed in the newspaper on July 27, 2012, and hundreds of e-mails have been sent to interested parties regarding the workshops and the public hearing.

List of Attachments: Proposed Revisions to Chps. 1-1, 1-2, 1-3, 1-5, 1-7, 1-8, 1-10, 1-12, Rules of the EPC

**RULES OF THE
ENVIRONMENTAL PROTECTION
COMMISSION
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-1
GENERAL RULES**

- 1-1.01 Declaration of Intent
- 1-1.02 Definitions
- 1-1.03 Approval Required
(Repealed)
- 1-1.04 Operating Records,
Sampling and Testing
- 1-1.05 Abnormal Events To Be
Reported
- 1-1.06 Pollution Control
Equipment To Be Kept In
Service and In Good Repair
- 1-1.07 General Restrictions

1-1.01 DECLARATION OF INTENT

It is the intent of the Commission to provide for the protection or enhancement of the environment of Hillsborough County. The policy inherent in the following Rules shall be to protect air, soil, and water quality, and noise levels, existing at the time of adoption of these Rules or to upgrade or enhance the air, soil, and water quality and noise levels within the county.

1-1.02 DEFINITIONS

~~“Regulatory Agency” shall mean the Hillsborough County Environmental Protection Commission.~~

(a) *Commission* means the Environmental Protection Commission of Hillsborough County.

(b) *Executive Director* means the appointed Environmental Director of the Environmental Protection Commission of Hillsborough County or authorized staff.

1-1.03 APPROVAL REQUIRED

~~1. No building permit shall be issued by Hillsborough the eCounty or any municipality for any industrial, commercial,~~

~~or governmental facility, equipment or operation which may reasonably be expected to be a source of air, soil, water or noise pollution as herein defined or for the alteration, enlargement or addition to any such existing facility, equipment or operation until such application has been forwarded by the County or municipality to the Environmental Executive Director.~~

~~2. It shall be the duty of the Executive Director to review the application and approve or disapprove same comment within fourteen days from receipt thereof unless the Executive Director shall request additional time for review.~~

~~3. If the application is not returned or disapproved by the Executive Director within the time so specified said application shall be considered approved.~~

**1-1.04 OPERATING RECORDS,
SAMPLING AND TESTING**

1. A person responsible for the operation of any facility that may be a source of air, soil, water or noise pollution shall conduct such tests and maintain such records as shall have been required by the Executive Director or law as necessary to show compliance with the Special Act Chapter 84-446, Laws of Florida as Amended by Chapter 87-495, known as the “Hillsborough County Environmental Protection Act” (EPC Act) or the Rules promulgated thereunder and Regulations. Such test data and operating records shall be available at all times for inspection by the Executive Director ~~or his designated agent~~.

2. All persons shall, upon request of the Commission or Executive Director, provide periodic or continuous automatic monitoring, testing and records of pollutants being emitted or discharged from any facility that may be a source of air, soil, water or noise pollution.

3. When the Commission or Executive Director, upon making investigations, has good reason to believe that the provisions of these Rules concerning the emission or discharge of air, soil, water, or noise

pollutants are being violated, it may require the persons responsible for the source of such pollutants to conduct tests which will identify the nature and quantity of the pollutant emission or discharge from the source and to provide the results of such tests to the Commission or Executive Director. These tests shall be carried out under the supervision of the Commission or Executive Director, and at the expense of the person responsible for the source of pollutants.

4. All analyses and tests shall be conducted in a manner approved by the Commission or Executive Director. Results of analyses and tests shall be calculated and reported in a manner specified by the Commission or Executive Director.

5. Analyses and tests for compliance may be performed by the Commission or Executive Director at the expense of the person responsible for the emission or discharge of air, soil, water or noise pollutants.

1-1.05 ABNORMAL EVENTS TO BE REPORTED

In case of breakdown or lack of proper functioning of any facility or equipment or operation causing or which could reasonably be expected to cause air, soil, water or noise pollution and has the potential to cause substantive harm to the environment or represents an immediate threat to public health, it shall be the duty of the person responsible to promptly notify the Executive Director or his designated agent within 24 hours and to permit ~~him or his~~ any designated agent immediate access to the premises for the purpose of investigating the problem.

1-1.06 POLLUTION CONTROL EQUIPMENT TO BE KEPT IN SERVICE AND IN GOOD REPAIR

1. The person responsible for the operation of any pollution control equipment or facilities shall keep in service

all equipment and facilities required or approved to control, treat, sample, test and/or measure pollution and shall maintain such equipment or facilities in good repair to perform adequately the function for which it was intended.

2. In cases where such equipment or facility is removed ~~from~~ from the service for which it is intended the person responsible shall have the duty to promptly notify the Executive Director within 24 hours, unless a different reporting period is specified in State law or any applicable Commission or Department of Environmental Protection permit.

1-1.07 GENERAL RESTRICTIONS

1. Nondegradation - If those portions of the County which have on the effective date of these Rules better ambient air or water quality or noise levels than as herein specified as minimum standards, no person shall cause, let, permit, suffer or allow the emission into the air or the discharge into the water or soil pollutants, or cause noise, which degrade or tend to degrade the air, soil, or waters of the County or noise levels in the County, nor commit any act which degrades or tends to degrade said air, soil, or water quality or noise levels.

2. Latest Technology - If the latest available technology as may be applied to air, soil, water, and noise pollution sources results in or is expected to result in lower or improved emissions, then the latest available technology as determined by the Commission and consistent with the State Department of Pollution Control Department of Environmental Protection shall apply.

3. Operation Rates - No plant, process, or source shall operate at capacities which exceed the limits of operation of a control device permitted or regulated under ~~Chapter 17-4 Rules of the State of Florida Department of Pollution Control Florida Statute, the Florida Administrative Code, the EPC Act or Commission Rules~~ or

exceed the capability of the plant or control device to maintain the discharge or emission within the standard limitations imposed by the Hillsborough County Environmental Protection Act or the Commission Rules and Regulations.

4. Concealment - No person shall build, erect, install or use any article, machine, equipment or other contrivance, the use of which will conceal the emission or discharge which would otherwise constitute a violation of any of the provisions of the EPC Act or the Commission Rules and Regulations.

5. Circumvention - No person shall cause, let, permit, suffer or allow the circumvention of any air, water, soil, or noise pollution control device or equipment or allow the emission or discharge of said pollutants without the applicable pollution control device(s) operating properly.

Amended 7/25/68

Amended 6/17/69

Amended _____

**RULES OF THE
ENVIRONMENTAL PROTECTION
COMMISSION**

**CHAPTER 1-2
ADMINISTRATIVE PROCEDURES**

**PART I GENERAL PROVISIONS
(Applicable to all Parts)**

- 1-2.00 Intent
- 1-2.001 Definitions
- 1-2.01 Documents
- 1-2.02 Legal Representation
- 1-2.03 Discovery
- 1-2.04 Options for Administrative Review
- 1-2.05 Request for Decision of the Executive Director
- 1-2.051 Public Notice Requirements
- 1-2.052 Repeal of Decision of the Executive Director
- 1-2.06 Petitions Invoking Several Procedural Processes (**Repealed**)
- 1-2.07 Appointment of Hearing Officers, Mediators and Special Masters
- 1-2.08 Judicial Review

PART II (Informal Process)

- 1-2.10 Pre-Application Meetings
- 1-2.11 Request for Mediation
- 1-2.12 Mediation Process

PART III (Estoppel)

- 1-2.20 Request for Hearing to Determine Estoppel

PART IV (Chapter 84-446 Appeal)

- 1-2.30 Administrative Review
- 1-2.31 Filing, Service
- 1-2.32 Process Before the Hearing Officer
- 1-2.33 Administrative Hearing
- 1-2.34 Report and Recommendation

PART V (Chapter 120 Delegated Programs)

- 1-2.40 Petition of Chapter 120 Delegated Action

PART VI (Variance or Waiver)

- 1-2.50 Request for Variance or Waiver

PART VII (Private Property Rights)

- 1-2.60 Claim Under the Bert Harris Act
- 1-2.61 Claim Under the Dispute Resolution Act

PART VIII (Rulemaking)

- 1-2.70 General Provisions
- 1-2.71 Adoption Procedures
- 1-2.72 General Procedures for Challenging the Validity of an Existing Rule or Proposed Rule
- 1-2.73 Challenging Proposed Rules; Special Provisions
- 1-2.74 Challenging Existing Rules; Special Provisions

**PART I GENERAL PROVISIONS
(Applicable to all parts)**

1-2.00 INTENT

It is the Commission's intent to encourage non-adversarial resolution of disputes whenever possible, and to facilitate prompt and efficient solutions for the protection of the environment. It is recognized that diverse environmental concerns and coordinating mechanisms between agencies, federal, state, regional and local, require and provide differing procedures for dispute resolution that in themselves can cause confusion. The following rule attempts to identify the available processes and clarify the procedures for their application.

Section History – amended March 16, 2006
Effective March 17, 2006

1-2.001 DEFINITIONS

For the purposes of this Chapter, the term:

- (a) *Commission* means the Environmental Protection Commission of Hillsborough County.
- (b) *Executive Director* means the environmental director appointed by the

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Commission pursuant to Section 7 of the Special Act Chapter 84-446, Laws of Florida as Amended by Chapter 87-495 (EPC Act) or staff authorized in writing to sign agency actions on his or her behalf.

Section History - adopted March 16, 2006
Effective March 17, 2006

1-2.01 DOCUMENTS

(a) All documents filed pursuant to the procedures in this rule shall contain the name of the person filing, their address and telephone number, their signature, the file number to which the request applies if any, and a certificate of service attesting to having simultaneously provided copies of the document to all known parties involved in the proceeding. The Executive Director or the Legal Department shall be served with a copy of all documents, except as may be filed pursuant to Part II below.

(b) All documents received after 5 P.M., including facsimile documents where permitted, shall be entered as received the following regular business day.

(c) The original initiating document for all processes shall be served upon the Commission or the Executive Director as provided in each part. The original of subsequent documents shall be provided to the appropriate Hearing Officer, mediator or party.

Section History - amended March 16, 2006
Effective March 17, 2006

1-2.02 LEGAL REPRESENTATION

It is not required that a party have legal counsel, although in some cases it may be advisable. It is intended that these procedures be as informal as possible, without prejudicing any party's rights, so that prompt and non-adversarial resolution can be achieved.

Section History - adopted August 21, 1997

Effective August 21, 1997

1-2.03 DISCOVERY

Public Records Act requests shall be processed according to the requirements of law. Any person may arrange directly with staff to view the administrative files of the agency during regular business hours. Copies will be made upon payment of cost. Each party to any of the proceedings below may avail itself of discovery at its own expense as allowed by the Rules of Civil Procedure or as permitted by the Hearing Officer, Administrative Law Judge or mediator.

Section History - amended March 16, 2006
Effective March 17, 2006

1-2.04 OPTIONS FOR ADMINISTRATIVE REVIEW

Pre-Application Meeting. If an applicant is uncertain regarding the applicable regulations or requirements for compliance with environmental regulations, the applicant may request a pre-application meeting with staff as provided in Part II below.

Mediation. If a substantially affected party disputes a fact or interpretation of the regulations asserted by staff, it may request mediation as provided in Part II below.

Estoppel Rights. If an applicant for a permit or Director's authorization alleges that the Commission or staff is estopped from taking a certain position in a matter because of a prior act of the Commission or staff, the applicant may request review to determine applicability of estoppel as provided in Part III below.

84-446 Appeal. If a substantially affected party challenges the correctness of a decision or order of the Executive Director issued pursuant to ~~Chapter 84-446~~the EPC Act and the rules

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adopted thereunder, it may file an appeal for administrative hearing pursuant to Part IV below.

Petition Under Chapter 120 Delegated Program. If a substantially affected party challenges the correctness of a permit decision or order of the Executive Director issued pursuant to delegation from the Florida Department of Environmental Protection (DEP) or the Southwest Florida Water Management District, it may file a Chapter 120, Florida Statutes (F.S.) petition as provided in Part V below.

Variance or Waiver. If a regulated entity seeks a variance or waiver from existing regulations, it may apply as provided in Part VI below.

Private Property Rights. If a regulated entity seeks relief as provided by section 70.001, F.S. because an existing use or vested right is inordinately burdened by the application of law, or that its use is unreasonably or unfairly burdened, it may request review pursuant to Part VII.

Dispute Resolution. If a regulated entity seeks relief as provided by section 70.51, F.S. because an enforcement action or development order unreasonably or unfairly burdens the use of its land or property, it may request review pursuant to Part VII.

Section History - amended March 16, 2006
Effective March 17, 2006

1-2.05 REQUEST FOR DECISION OF THE EXECUTIVE DIRECTOR

Any person applicant for any authorization or permit who is substantially affected by the application of Chapter 84-446, Laws of Florida,

~~and the rules promulgated thereby,~~ may request a written decision of the Executive Director approving or denying the application no earlier than 30 calendar days after submittal of a complete application. The written request shall cite this rule section and shall provide a basis for the need for a written decision from the Executive Director. Except where a different time is provided by another rule, the Executive Director shall issue a written decision setting forth the position and reasons within 30 calendar days of a written request therefore. The written decision shall include a point of entry to challenge the decision pursuant to section 1-2.30.

Section History - amended March 16, 2006
Effective March 17, 2006

1-2.051 PUBLIC NOTICE REQUIREMENTS

(a) **General Noticing.** Any applicant for any of the following ~~initial~~ permits or ~~initial~~ authorizations from the Executive Director shall provide notice to citizens who may be affected by the issuance of the permit or authorization: initial wastewater permits in excess of 100,000 gallons discharge per day; authorizations issued under Rule 1-7.202(1)(c) or (d); authorizations issued under Rule 1-10.05B(2)(a)(1); and air construction permits issued under Chapter 1-3. Public notification required by any other law that meets this noticing rule shall be sufficient and this rule shall not require any duplicate notice. Compliance with noticing requirements under Stationary Air Pollution Sources Chapter 1-3, Rules of the EPC shall serve as compliance with this sub-section (a). The notice must include posting a sign in a conspicuous place upon the property which is the subject of the permit or authorization. The posted sign must be no smaller than an 30 inch by 48 ~~8.5 inch by 11~~ inch sign and must be legible from the nearest public road. The notice format shall be

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available by contacting the Commission staff but shall be posted by the applicant at the applicant's expense no later than 15 calendar days after submittal of any application to the Executive Director. Signage must remain on the property for at least 30 calendar days but must be removed by the applicant no later than 30 calendar days after the issuance or denial of the permit or authorization sought. The notice must include the following: the location of the proposed site for permit or authorization; the type of permit or authorization requested; and how to obtain additional information from the staff regarding the proposed permit or authorization. Notice under this subsection (a) is not required for the following: application for renewal, modification, or transfer of the aforementioned permits or authorizations, and application for any initial operating permit that follows issuance of a construction permit at the same facility for any of the aforementioned permits or authorizations.

(b) **Projects of Heightened Public Concern.** Those activities which, because of their size, potential effect on the environment or the public, controversial nature, or location, are reasonably expected by the Executive Director to result in a heightened public concern or likelihood of request for a Chapter 120 petition or an appeal pursuant to section 9 of the EPC Act may be deemed by the Executive Director as "projects of heightened public concern." A project of heightened public concern may include any activity that requires an Executive Director's permit or authorization and also any renewal, modification, transfer, or subsequent operating permit (collectively referred to as "activity"). A project of heightened public concern may also include an activity referred to in subsection 1-2.051(a).

~~As further conditioned below, subsection (b) applies to Air General Permits, and to those initial permits and initial authorizations referred to in sub-section (a) and also to their renewals,~~

~~modifications, transfers, and subsequent operating permits (collectively referred to as "activity"). For those activities which, because of their size, potential effect on the environment or the public, controversial nature, or location, are reasonably expected by the Executive Director to result in a heightened public concern or likelihood of request for a Chapter 120 petition or an appeal pursuant to section 9 of Chapter 84 446, Laws of Florida, the following is required:~~

(1) (A) The following subsection applies to all applicable activities, except for Air General Permits and renewals of competitive motor vehicle events authorizations. Within 20 calendar days of notice from the Executive Director that the activity ~~has the potential for~~ is a project of heightened public concern, the applicant shall provide additional notice at the applicant's expense by mail or hand delivery to the following: (i) immediately adjacent property owners; (ii) all neighborhoods included in the Registry of Neighborhood Organizations pursuant to the Hillsborough County Neighborhood Bill of Rights, adopted in the Land Development Code in section 10.03.02, that are located within one mile of the activity; and (iii) all neighborhood organizations registered with the Commission or a municipality which lie within one mile of the activity. The staff will provide the applicant with the potentially affected neighborhood organization lists and, within 10 calendar days of receipt of the lists, the applicant shall provide the staff written evidence that the adjacent property owners and neighborhood organizations were notified. The notice must include the following: the location of the proposed site for the activity; the type of activity requested; and how to obtain additional information from the staff regarding the proposed activity.

(1) (B) For projects involving Air General Permits and renewals of competitive

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motor vehicle events authorizations, within 5 calendar days of notice from the Executive Director that the activity ~~has the potential for~~ is a project of heightened public concern, the applicant shall provide additional notice at the applicant's expense by mail or hand delivery to the following: (i) immediately adjacent property owners; (ii) all neighborhoods included in the Registry of Neighborhood Organizations pursuant to the Hillsborough County Neighborhood Bill of Rights, adopted in the Land Development Code in section 10.03.02, that are located within 1,000 feet of the activity; and (iii) all neighborhood organizations registered with the Commission or a municipality which lie within 1,000 feet of the activity. The staff will provide the applicant with the potentially affected neighborhood organization lists and, within 5 calendar days of receipt of the lists, the applicant shall provide the staff written evidence that the adjacent property owners and neighborhood organizations were notified. The notice must include the following: the location of the proposed site for the activity; the type of activity requested; and how to obtain additional information from the staff regarding the proposed activity.

(1) (C) If the ~~Air-General Permit~~ or competitive motor vehicle events authorization is a renewal and at the time of renewal it is deemed a project of heightened public concern, the applicant shall post a sign provided by the EPC. The sign must be posted conspicuously on the property so as to be readily viewable from the busiest adjacent public roadway. The applicant must pick up and post the sign within 5 calendar days of notice of the EPC's heightened public concern determination, and the sign must remain posted for 20 days.

(2) Within 20 calendar days of notice from Executive Director ~~of the potential for that~~ the activity is a project of heightened public concern, the applicant shall also post additional

signage that meets the following criteria: the posted sign must be no smaller than a 30 inch by 48 inch sign and must be legible from the nearest public road. The notice format shall be provided by the staff but shall be posted by the applicant at the applicant's expense. Signage must remain on the property for at least 30 calendar days but must be removed by the applicant no later than 30 calendar days after the denial or issuance of the activity being sought. The notice must include the following: the location of the proposed site for the activity; the type of activity requested; and how to obtain additional information from the staff regarding the proposed activity. This subsection is not applicable to ~~Air-General Permits and renewals of competitive motor vehicle events authorizations~~.

(3) Upon request from any substantially affected person or the Executive Director regarding a project of heightened public concern, the staff may also conduct a public workshop to be held no later than 10 calendar days before the intended agency action is issued or for ~~Air-General Permits and renewals of competitive motor vehicle events authorizations~~, as soon as practicable.

(4) ~~Upon-Within 20 days of~~ issuance of the agency action from the Executive Director for an activity deemed a project of heightened public concern the applicant shall publish at the applicant's expense, a notice of agency action or intended agency action, in a newspaper of general circulation, as defined in Chapter 50, F.S., within the affected area ~~a notice of agency action or intended agency action~~. The notice must include the notice of rights so that substantially affected parties may have the opportunity to file a petition or appeal. The requirements in this subsection are in addition to any other requirements contained in any other rules or laws. This subsection does not apply to ~~Air-General Permits~~. ~~Air-General Permits~~ are not required to be noticed unless so required

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under State rules or section 403.814(3), F.S. is utilized. Renewals of competitive motor vehicle events authorizations deemed a project of heightened public concern must also publish notice pursuant to this section, and publication by the applicant of such notice must occur within 20 days of agency action or within 20 days of the applicant becoming eligible to use the renewal.

(c) **Processing Timeframes.** Any form of notice or workshop required under subsections (a) or (b) shall not extend any timeframes for reviewing applications under any applicable laws governing application processing.

Section History - New and adopted 04/20/06 and effective 04/21/06; amended 12/13/07 and effective 12/14/07.

1-2.052 REPEAL OF DECISION OF THE EXECUTIVE DIRECTOR

(a) A decision of the Executive Director, including Director Authorizations, permits, or other decisions shall be effective until suspended, revoked, surrendered, or expired.

(b) Failure to comply with pollution control laws and rules shall be grounds for suspension or revocation.

(c) The Executive Director may suspend or revoke any decision issued by him or her if he or she finds that the permit holder or his or her agent:

(1) Submitted false or inaccurate information in the application or required reports.

(2) Has violated law, Commission or Executive Director orders, rules or approval conditions.

(3) Has failed to submit operational reports or other information required by Commission rules.

(4) Has refused lawful inspection.

(d) No suspension or revocation shall become effective except after notice is served by personal service or certified mail upon the person or persons named therein. However, if a hearing is requested pursuant to Part IV of this rule, the effective date will be based on a final order issued after the hearing process is finalized. The notice shall specify the provision of the law, or rule alleged to be violated, or the permit condition or order alleged to be violated, and the facts alleged to constitute a violation thereof. This subsection does not preclude the Commission from seeking immediate injunctive relief under section 18 of the EPC Act.

Section History - New and adopted _____ and effective _____.

1-2.06 PETITIONS INVOKING SEVERAL PROCEDURAL PROCESSES (Repealed)

Section History - repealed March 16, 2006

1-2.07 APPOINTMENT OF HEARING OFFICERS, MEDIATORS AND SPECIAL MASTERS

(a) Upon recommendation of the Executive Director, the Commission will appoint as many Hearing Officers as needed to hear appeals pursuant to section 9 of ~~Chapter 84-446~~ the EPC Act, and such other matters as designated by the Commission. Except as provided in paragraph (b) below, cases will be assigned to Hearing Officers on rotation and upon determination that no conflict of interest exists.

(b) In the case of legally sufficient petitions filed under Part V, Administrative Law Judges will be those assigned by the Division of Administrative Hearings.

(c) Mediators will be appointed by the Executive Director as provided in section 1-2.11. Special Masters will be appointed by the

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Executive Director upon mutual agreement of the parties as provided in section 1-2.61.

Section History - amended March 16, 2006

Effective March 17, 2006

1-2.08 JUDICIAL REVIEW

(a) Upon the conclusion of a section 9, Chapter 84-446, Laws of Florida administrative appeal process, any person aggrieved by the final administrative decision (Final Order) of the Commission may seek judicial review by filing an appeal with the Second District Court of Appeal.

(b) Upon conclusion of a Chapter 120 administrative petition process, any person aggrieved by the Final Order pursuant to a delegation from the DEP or the Southwest Florida Water Management District may seek judicial review by filing an appeal with the Second District Court of Appeal.

Section History - amended March 16, 2006

Effective March 17, 2006

PART II (Informal Process)

1-2.10 PRE-APPLICATION MEETING

Any applicant may seek assistance from staff by arranging a pre-application meeting with appropriate staff handling the proposed project. Staff will assist the applicant by explaining the type of information that will be reviewed and the standards and rules which may apply. Upon request, staff will make every reasonable effort to include other agency staff as appropriate.

Section History - amended March 16, 2006

Effective March 17, 2006

1-2.11 REQUEST FOR MEDIATION

(a) Any person desiring mediation to resolve a perceived dispute of fact or interpretation of law prior to or following a written decision of the Executive Director, may do so upon written request to the Executive Director. If an appropriate request is made hereunder, and the Executive Director agrees to using mediation, the following procedures shall apply. This option shall not be construed to limit efforts at any time to resolve or settle decisions or concerns through meetings and negotiation with appropriate staff or the Executive Director. If the written decision of the Executive Director states that mediation is not available, then sections 1-2.11 and 1-2.12 shall not apply. A request for mediation alone shall not toll the time for filing an appeal or petition of the written decision of the Executive Director.

(b) Mediation may consist of engaging the services of a trained mediator or may involve asking a mutually acceptable person uninvolved in the dispute (collectively referred to as "mediator") to listen to each side and assist in facilitating a resolution.

(1) Upon receipt of a request for mediation and an appeal or petition which cannot be resolved directly with staff or the Executive Director, the Executive Director will forward the names of three mediators for the petitioner or appellant's review and appropriate information regarding cost. The Executive Director shall also advise of the possibility of selecting an uninvolved person acceptable to both parties to assist in dispute resolution.

(2) If appellant does not make a selection within five business days of receipt of a list of three mediators, the Executive Director shall select a mediator and schedule the matter for mediation or the Executive Director may cancel the mediation.

Section History - amended March 16, 2006

Effective March 17, 2006

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1-2.12 MEDIATION PROCESS

(a) The mediation process shall be subject to Chapter 44, F.S. The Mediator shall schedule the mediation within 10 calendar days of the Mediator's selection and shall commence the mediation within 25 calendar days of the Mediator's selection, unless all parties agree to an extension. The Mediator may request the parties submit position papers or other documentation to assist in preparing the Mediator.

(1) The mediation shall be informal, should foster open communications between the parties to clarify facts and resolve the dispute, and should determine whether resolution can be achieved by agreement.

(2) Statements and settlement documents made at or in preparation for any mediation meeting shall not be used as evidence in any subsequent proceeding, unless agreed and signed by both parties.

(b) If settlement is reached, all terms and conditions shall be written and signed by the appellant or petitioner and the Executive Director and shall be binding in any subsequent proceeding. If all issues in dispute are resolved, any pending appeal or petition shall be dismissed.

(c) Unless agreed otherwise, the costs of mediation shall be divided and paid equally by the parties.

(d) If at any time, any party or the mediator believes that additional efforts at mediation will be futile in identifying issues or achieving settlement, written notice of termination of mediation shall be provided to the parties and the mediator.

(e) If mediation does not achieve settlement of an issue in a pending and timely filed appeal or petition, the Executive Director will immediately arrange for the Commission Chair to appoint a Hearing Officer pursuant to section

1-2.07 or will refer the matter to the Division of Administrative Hearings pursuant to Part V, with notice thereof provided to each party.

Section History - amended March 16, 2006
Effective March 17, 2006

PART III (Estoppel)

1-2.20 REQUEST FOR HEARING TO DETERMINE ESTOPPEL

(a) Any applicant for a permit or Director's authorization who claims that the Commission is estopped from implementing its regulations because of prior actions of the Commission, staff, or the Executive Director, may file a request for relief under this part with the Executive Director.

(b) A request for relief under this part shall contain information sufficient to permit a determination by the Commission pursuant to the following criteria:

(1) There was a valid, unexpired act of the Commission, the staff, or the Executive Director, upon which the applicant reasonably relied in good faith; and that

(2) The applicant made a substantial change in position or incurred extensive obligations or expenses in reliance upon that valid, unexpired act; and that

(3) Denying the applicant a permit or approval under the rules adopted pursuant to ~~Chapter 84-446~~the EPC Act, or issuing a permit or approval consistent with the criteria and standards of said rules, would destroy his rights and be inequitable, unjust or fundamentally unfair.

(c) If the Executive Director cannot resolve the matter to the applicant's satisfaction following reasonable efforts to address the concerns regarding application of the Commission's rules, the Executive Director

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shall review the request for compliance with the criteria set forth above, prepare a written report, and assign the request for hearing to a Hearing Officer within 30 calendar days of receipt, unless a different time is agreed to by the parties.

(d) The Hearing Officer shall determine procedural matters. Following a hearing and such review as necessary, the Hearing Officer shall render a recommendation to the Commission regarding estoppel by employing the criteria in subsection b 2—above. The applicant has the burden of demonstrating that the criteria are met. Upon receipt of the recommendation, the Commission will render a Final Order at its next regular meeting. If the recommendation is received within 15 calendar days or less of the next meeting, then the Commission may hear it at the following meeting.

(e) The Hearing Officer assigned to hear the request shall be a Hearing Officer appointed by the Commission pursuant to section 1-2.07(1) above.

(f) Notwithstanding anything in the Commission's regulations to the contrary, if the Hearing Officer determines that a finding of estoppel would result in a threat of peril to public health, safety or welfare of the residents of the county, the request for relief under this part may be denied by the Commission.

Section History - amended March 16, 2006
Effective March 17, 2006

PART IV **(Chapter 84-446 Appeal)**

1-2.30 ADMINISTRATIVE REVIEW

(a) Any person who has received a Citation of Violation, Order to Correct, or written decision of the Executive Director pursuant to ~~Chapter 84-446~~the EPC Act, and any person whose interests protected by ~~Chapter 84-446~~the

EPC Act are adversely affected by an action or decision of the Executive Director, may obtain administrative review of the basis for the action or decision by appealing to the Commission.

(b) To be accepted and processed, a Notice of Appeal must be received by the Commission Chair within 20 calendar days after receipt of notice of the disputed action or date of publication, whichever is earlier, unless the adversely affected person specifically requested such notice, then such date shall be 20 calendar days from receipt of notice.

(c) All Notices of Appeal filed under these rules shall contain:

(1) The name, address, and telephone number of the Appellant; the name, address, and telephone number of the Appellant's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the Appellant will be aggrieved or how his or her interests will be adversely affected by the Executive Director's determination;

(2) A statement of when and how the Appellant received notice of the agency decision;

(3) A statement of all disputed issues of material fact. If there are none, the Notice of Appeal must so indicate;

(4) The specific facts the Appellant contends warrant reversal or modification of the Executive Director's proposed action;

(5) A statement of the specific laws or rules the Appellant contends require reversal or modification of the Executive Director's proposed action; and

(6) A statement of the relief sought by the Appellant, stating precisely the action Appellant wishes the Commission to take with respect to the Executive Director's proposed action or decision.

(d) Upon receipt of a Notice of Appeal involving disputed issues of material fact, the Commission's Legal Department shall accept or

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dismiss the Notice of Appeal, and if accepted shall, unless otherwise provided by law, refer the matter to the assigned Hearing Officer. The Notice of Assignment of the Hearing Officer shall be accompanied by a copy of the Notice of Appeal and a copy of the Executive Director's proposed action or decision.

(e) A Notice of Appeal shall only be dismissed if it is not in substantial compliance with subsection (c) of this rule section or it has been untimely filed. Dismissal of a Notice of Appeal shall, at least once, be without prejudice to Appellant's filing a timely amended Notice of Appeal curing the defect, unless it conclusively appears from the face of the Notice of Appeal that the defect cannot be cured. The Order dismissing an appeal with prejudice shall be reviewed in accordance with a non-final order pursuant to Rule 9.030(c)(2), Florida Rules of Appellate Procedure by filing a petition for writ of certiorari in a court of competent jurisdiction.

(f) The Commission's Legal Department shall promptly give written notice to all parties of the action taken on the Notice of Appeal, shall state with particularity its reasons if the Notice of Appeal is not granted, and shall state the deadline for filing an amended Notice of Appeal, if applicable.

(g) The Appellant may amend the Notice of Appeal prior to the appointment of the Hearing Officer by filing and serving an amended Notice of Appeal in the manner prescribed for filing and serving an original Notice of Appeal. The Appellant may amend the Notice of Appeal after the designation of the Hearing Officer only upon order of the Hearing Officer.

Section History - amended March 16, 2006
Effective March 17, 2006

1-2.31 FILING, SERVICE

(a) A Notice of Appeal shall be served and filed by mail or hand delivery with the

Commission Chair, and a copy served on the Legal Department.

(b) Original pleadings, papers, documents or notices shall be filed with the Hearing Officer, until such time as the Hearing Officer issues his or her report and recommendation to the Commission, or the matter is otherwise resolved. Copies of any pleadings, papers, documents, motions, or notices filed with the Hearing Officer shall be provided to the Legal Department and any other party of record.

(c) Except for a Notice of Appeal, service of any pleadings, papers, documents or notices may be by regular United States mail, electronic mail ("e-mail") or facsimile if desired. Service by e-mail shall be available where all parties have access to e-mail and the procedures for service shall be in accordance with the Florida Rules of Civil Procedure regarding electronic filing and service. E-mail will not be mandatory unless the Hearing Officer enters an order requiring such method of service. If a party is represented by an attorney of record, service may shall be had by serving the party's attorney.

(d) The Commission's Legal Department may, for good cause shown, grant a request for an extension of time for filing the Notice of Appeal or any initial pleading. Requests for extension of time must be filed with the Legal Department prior to the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a Notice of Appeal until the request is acted upon.

(e) Any person who receives notice of an Executive Director decision and who fails to file a written request for a hearing within 20 calendar days waives the right to request a hearing on such matter and the decision shall become final.

Section History - amended March 16, 2006
Effective March 17, 2006

1-2.32 PROCESS BEFORE THE

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HEARING OFFICER

(a) For each timely and appropriate appeal raising factual or legal issues that cannot otherwise be resolved, a Hearing Officer shall be appointed as provided in section 1-2.07 and notice thereof provided to each party.

(b) The Hearing Officer shall set each appeal for hearing at the earliest reasonable date, and cause notice thereof to be served upon the Appellant and the Executive Director.

(c) Each party may avail itself of discovery at its own expense as allowed by the Rules of Civil Procedure. Hearings and the timing of any discovery shall be at the discretion of the Hearing Officer. Procedural motions may be decided by the Hearing Officer, without hearing, using the Rules of Civil Procedure as guidance. Requests for reconsideration or rehearing made within 10 calendar days of a ruling on a motion may be granted.

(d) The Hearing Officer shall have the power to issue notices of hearings, subpoenas, and to require the attendance of witnesses, and the production of evidence, to administer oaths, and take testimony as may be necessary. The Hearing Officer shall rule upon offers of proof, receive relevant evidence, dispose of procedural requests or similar matters, and in general, regulate the course of the hearings. The Hearing Officer may dismiss an appeal upon the Executive Director's written withdrawal of the appealed decision, or the Appellant's written withdrawal of his appeal.

(e) The Hearing Officer shall require the parties to prepare pre-hearing statements of the facts and issues in dispute, and may request written briefs or memoranda of law be furnished when deemed necessary.

(f) All requests for relief shall be by motion. All motions shall be in writing unless made on the record during a hearing and the Hearing Officer allows the introduction of an oral motion, and any motion shall fully state the

action requested and the grounds relied upon. When time allows, the other parties may, within seven business days of service of a written motion, file a response in opposition. Written motions will normally be disposed of after the response period has expired, based on the motion, together with any supporting or opposing memoranda. The Hearing Officer may conduct such proceedings and shall enter such orders as are deemed necessary to dispose of issues raised by the motion without the need for a hearing. Allowing hearings on motions shall be at the discretion of the Hearing Officer.

(g) Unless prohibited by law, all motions may be decided by the Hearing Officer. In the event the Hearing Officer enters any order granting a motion disposing the case other than an Order Relinquishing Jurisdiction pursuant to a voluntary dismissal or similar reason, the matter will be referred to the Commission as a recommendation and will be subject to sections 1-2.34 and 1-2.35.

(h) Motions, other than a motion to dismiss, shall include a statement that the party making the motion has conferred with all other parties of record and shall state as to each party whether the party has any objection to the motion.

(i) Any party may move for summary final order whenever there is no genuine issue as to any material fact. The motion may be accompanied by supporting affidavits. All other parties may, within seven business days of service, file a response in opposition, with or without supporting affidavits. A party moving for summary final order less than 12 calendar days prior to the final hearing waives any objection to the continuance of the final hearing.

(j) Motions for extension of time shall be filed prior to the expiration of the deadline sought to be extended, shall state good cause for the request, and may be granted at the discretion of the Hearing Officer.

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(k) At any time after a matter has been filed with the Commission, the Hearing Officer may direct the parties to confer for the purpose of clarifying and simplifying issues, discussing the possibilities of settlement, examining documents and other exhibits, exchanging names and addresses of witnesses, resolving other procedural matters, and entering into a pre-hearing stipulation. The Hearing Officer may also request the parties to meet at a case management conference at any reasonable time after the Notice of Appeal has been transferred to the Hearing Officer.

(l) The Hearing Officer may grant a continuance of a hearing for good cause shown. Except in cases of emergency, requests for continuance must be made at least five business days prior to the date noticed for the hearing.

(m) If there are separate matters which involve similar issues of law or fact, or identical parties, the matters may be consolidated by the Hearing Officer if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.

Section History - amended March 16, 2006

Effective March 17, 2006

1-2.33 ADMINISTRATIVE HEARING

(a) All hearings shall be public.

(b) The Hearing Officer shall afford all parties properly appearing before him or her the requisite due process of law including, but not limited to, the right to:

(1) Present the case by oral and documentary evidence.

(2) Submit rebuttal evidence and conduct such cross examination as may be required, subject, however, to the ruling of the Hearing Officer.

(3) Be accompanied, represented and advised by counsel, or to represent oneself.

(c) All testimony taken at any hearing before the Hearing Officer shall be under oath or affirmation.

(d) The burden of proof shall be on the Executive Director to establish each material fact reasonably raised in the appeal of a Citation. The burden of proof shall be on the ~~Appellant~~ applicant to establish entitlement to a permit, order, authorization, exemption, or exception allowed by the rules. Fact issues not raised by the Notice of Appeal shall be accepted as undisputed. Hearings held under this section shall be de novo in nature.

(e) The Hearing Officer shall give probative effect to evidence which would be admissible in civil proceedings in Florida courts, but in receiving evidence due regard shall be given to the technical and highly complicated subject matter which the Commission and Executive Director must handle, and the exclusionary rules of evidence shall not be used to prevent the receipt of evidence having substantial probative effect. Otherwise, effect shall be given to the rules of evidence recognized by Florida law.

(f) A full and complete record of all proceedings and testimony presented shall be taken by stenographic or mechanical device and accurately and completely preserved and filed, together with any exhibit or documentary evidence admitted during any hearing. Upon payment and receipt of all costs or fees necessary in producing same, a certified transcript of the whole, or any part of the record, shall be furnished to any party in such proceeding requesting the same.

Section History - amended March 16, 2006

Effective March 17, 2006

1-2.34 REPORT AND RECOMMENDATION

(a) The Hearing Officer shall hear and determine all factual disputes properly raised by

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the Notice of Appeal concerning actions or decisions of the Executive Director pursuant to ~~Chapter 84-446~~the EPC Act, and rules promulgated by the Commission.

(b) All parties may submit proposed findings of fact, conclusions of law, orders, and memoranda on the issues within a time designated by the Hearing Officer.

(c) The Hearing Officer shall within 30 calendar days after the hearing or receipt of the hearing transcript, whichever is later, file a report titled the "recommended order." The recommended order to be considered by the Commission shall include a caption, time and place of hearing, appearances entered at the hearing, statement of the issues, findings of fact and conclusions of law (separately numbered and stated), and a recommendation for final agency action based upon the evidence submitted to the Hearing Officer and based upon applicable laws and rules. The Hearing Officer shall not rule on constitutional issues, except when the law allows the Hearing Officer to make such a ruling and when the ruling is necessary for making a conclusion of law.

(d) When a Hearing Officer issues the recommended order, the file maintained by the Hearing Officer in that matter shall be forwarded to the Commission Chair, and the Hearing Officer shall have no further responsibility in the matter unless the Commission refers it back for additional review.

Section History - amended March 16, 2006

Effective March 17, 2006

1-2.35 EXCEPTIONS AND FINAL ORDER

(a) The parties may file exceptions to findings of fact and conclusions of law contained in the Hearing Officer's recommended order with the Commission Chair and copies to each of the other commissioners within 10 calendar days of entry of the recommended

order. Exceptions shall be limited to challenge of the Hearing Officer's determination of facts with specific reference to evidence in the record, or to the Hearing Officer's application of the existing laws and rules to the facts as found. Copies shall be served on all parties.

(b) Any party may file responses to another party's exceptions within 10 calendar days from the date the exceptions were served.

(c) If no exceptions are timely filed, the Commission shall adopt the Hearing Officer's findings of fact, and shall make appropriate conclusions of law, and render a Final Order.

(d) If exceptions are timely filed, they shall be heard by the Commission on reasonable notice. In such proceeding to review exceptions the Commission may hear argument from all parties on issues reasonably raised by the exceptions. Each party shall have ten minutes to argue their exceptions and respond to another party's exceptions, unless the Commission approves a different time limit. ~~No evidence will be taken, although opinions of the public may be heard at the Commission's discretion. If opinions of the public are heard, the parties will be allowed a brief closing argument.~~ Material questions of fact necessary to final application of the laws and rules, will be referred back to the Hearing Officer for review.

(e) The Commission may reject, reverse or modify a finding of fact only if it finds that the fact is not supported by substantial competent evidence in the record.

(f) The Commission shall affirm, reverse, or modify the Hearing Officer's findings of fact, make appropriate conclusions of law, and promptly render a written Final Order thereon, provided that the Commission shall not take any action which conflicts with or nullifies any provision of ~~Chapter 84-446~~the EPC Act or the rules enacted pursuant to said act.

Section History - amended March 16, 2006

Effective March 17, 2006

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**PART V
(Delegated Programs)**

**1-2.40 PETITION OF CHAPTER 120
DELEGATED ACTION**

(a) Any person who files a timely petition of the Executive Director's decision on a state permit, notice of violation, or other decision in a regulatory program for which the Commission has delegation from the DEP or the Southwest Florida Water Management District, and which by the terms of the delegation agreement requires administrative review pursuant to Chapter 120, F.S., such petition shall be subject to the applicable procedures of Chapter 120, F.S. and the rules promulgated thereunder.

(b) Any such petition shall be filed with the Executive Director and be copied to DEP Office of General Counsel, and shall meet the applicable requirements of Chapter 120, F.S. and Chapters 62-4, Florida Administrative Code.

(c) If timely, and if resolution cannot be obtained through other process such as mediation, a petition under this part will be referred to the Division of Administrative Hearings for processing pursuant to Chapter 120, F.S. and the rules promulgated thereunder.

(d) Upon receipt of the Administrative Law Judge's recommended order, the Executive Director or the Secretary of DEP, as required by the delegation agreement, shall issue a Final Order according to Chapter 120, F.S., the rules promulgated thereunder, the requirements of the delegation order, and any applicable operating agreements.

Section History - amended March 16, 2006
Effective March 17, 2006

**PART VI
(Variance or Waiver)**

**1-2.50 REQUEST FOR VARIANCE OR
WAIVER**

(a) Upon application, the Executive Director may recommend to the Commission that a variance or waiver be granted from the provisions of the rules adopted pursuant to ~~Chapter 84-446~~ the EPC Act, where the applicant demonstrates:

(1) A substantial hardship as defined by section 120.542, F.S., or that a violation of the principles of fairness as defined by section 120.542, F.S., would occur, and

(2) The purpose of the underlying rule can be, or has been, achieved by other means, and

(3) The provision from which the variance or waiver is being sought did not originate with the DEP where the variance must be considered by the DEP pursuant to section 403.201, F.S. or the variance or waiver must be considered by the DEP or the Southwest Florida Water Management District pursuant to Chapter 120, F.S. Additionally, the Commission does not process variances or waivers of state-delegated rules.

(b) The application must specify the rule for which the variance or waiver is requested, the type of action requested, the specific facts that would justify a variance or waiver, and the reasons why and the manner by which the purposes of the underlying rule would still be met.

(c) Notice of the application must be published by the applicant in a newspaper of general circulation, as defined in Chapter 50, F.S., in the County at least 10 calendar days prior to the public hearing, and such notice shall include a summary of summarizing the factual basis for the application, the date of the Commission hearing, and information regarding how interested persons can review the application and provide comment.

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(d) The Commission will consider the application, the Executive Director's recommendation, and the comments of the public at a public hearing during a Commission meeting. The Commission shall grant, in whole or part, or deny the application by written decision supported by competent substantial evidence. The Commission may impose additional conditions in a variance or waiver.

Section History - amended March 16, 2006
Effective March 17, 2006

PART VII (Private Property Rights)

1-2.60 CLAIM UNDER THE BERT HARRIS ACT

(a) Any person claiming that a specific action of the Commission or Executive Director in implementing regulations subject to section 70.001, F.S., has inordinately burdened an existing use or vested right in his property as defined in section 70.001(3), F.S., must present a written claim to the Commission Chair with a copy to the Executive Director, within one year of the challenged action. The claim must specifically identify the action taken by the Commission or staff, the property affected, the use or right claimed to be vested, the manner by which the action inordinately burdens the use or vested right, and must include an appraisal demonstrating the alleged loss in fair market value.

(b) The Executive Director will provide written notice of the claim by certified mail to the address kept on file by the County Property Appraiser to all owners of real property contiguous to the subject property, and to any substantially affected party who submitted testimony in support or opposition to the challenged action and who requests notice of any subsequent proceeding.

(c) The Executive Director will submit to the claimant, within 180 calendar days of receiving the claim or as may be agreed by the parties, a settlement offer which addresses any identified inordinate burden, if any, and which continues to protect the public interest served by the questioned regulation.

(d) If the settlement is accepted, the parties will proceed to implement the agreement. If the settlement contravenes an existing statute, the parties will jointly file a suit in circuit court to obtain judicial approval.

(e) If the settlement is rejected, the Executive Director will issue a No Further Administrative Action Letter (i.e., ripeness decision), identifying the allowable uses for the subject property.

(f) (1) If a judicial decision subsequently requires that the Commission compensate a claimant for an inordinate burden to his property, the Commission will seek legal title to that property interest.

(2) If the court finds that the Commission made a bona fide settlement offer and ripeness decision pursuant to section 70.001(6)c, F.S., which the claimant failed to accept, the Commission will seek attorneys' fees and costs.

Section History - amended March 16, 2006
Effective March 17, 2006

1-2.61 CLAIM UNDER THE DISPUTE RESOLUTION ACT

(a) Any person claiming that a Commission or Executive Director enforcement action, permit, authorization, or other development order unfairly burdens the use of his land or real property, may seek relief as allowed by section 70.51, F.S. by filing a written request for appointment of a special master to the Commission Chair with a copy to the Executive Director, within 30 calendar days of the

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challenged action. The request must specifically identify the action taken by the Commission or Executive Director, the property affected, and must explain how the action taken is alleged to be unreasonable or to unfairly burden the claimant's property.

(b) If all administrative appeals have not been exhausted at the time of the request, the Executive Director may:

(1) Treat the request for a special master as an administrative appeal under Chapter 84-446, Laws of Florida, as provided in Part IV above if made within 20 calendar days of the challenged action, granting the claimant the option to submit a new request at the conclusion of the appeal;

(2) Convert an ongoing administrative appeal to the special master process; or

(3) Suspend the request for a special master pending conclusion of an ongoing administrative appeal or expiration of 4 months, whichever occurs first.

(c) Within 10 calendar days of the filing or decision to proceed as described above, the Executive Director will forward the request to a mutually agreed upon special master.

(d) The Executive Director will provide written notice of the request by certified mail to the address kept on file by the County Property Appraiser to all owners of real property contiguous to the subject property, and to any substantially affected party who submitted testimony in support or opposition to the Commission or Executive Director action and who requests notice of any subsequent proceeding. Within 21 calendar days of the filing of the request or decision to proceed as described above, any property owner or substantially affected person receiving notice from the Commission or Executive Director, may request permission to participate in the special master proceeding, but not as a party or intervenor.

(e) Within 15 calendar days of the filing of the request or decision to proceed as described above, the Executive Director will respond to the claimant setting forth the Commission's position regarding the allegations, and include a statement explaining the public purpose of the regulations upon which the action or development order is based

(f) Within 45 calendar days of receipt of the request or as agreed by the parties, the special master must hold a hearing. The purpose of the hearing is to focus attention on the impact of the challenged action, and to explore alternatives.

(1) The special master will provide at least 40 calendar days notice prior to the hearing.

(2) The hearing will be informal and not require the services of an attorney. The hearing will be open to the public.

(3) The special master may subpoena any nonparty witness in the state to aid in the disposition of the matter.

(4) Actions or statements made by participants in the special master hearing are inadmissible in any subsequent judicial or administrative proceeding.

(5) The special master may hear from all parties and witnesses necessary to understand the matter, and must weigh all information offered at the hearing, in the request for relief, and any responses.

(g) The parties may settle the issues at any time and end the proceedings. If an acceptable solution is not reached after the special master's attempt at mediation, the special master must determine whether the action is unreasonable or unfairly burdens the real property. The circumstances to be examined in making this determination include those set forth in section 70.51(18), F.S.

(h) Within 14 calendar days after the conclusion of the hearing, the special master must prepare and submit a written recommendation to the parties.

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(1) If the special master determines that the action is not unreasonable or unfairly burdens the real property, the proceeding ends and the claimant may pursue other available remedies;

(2) If the special master determines that the action is unreasonable or unfairly burdens the real property, the special master may, with the claimant's consent, recommend one or more alternative solutions. The selected alternatives must protect the public interest served by the underlying regulation and also allow for reduced restraints on the use of the real property.

(i) Within 45 calendar days of receipt of the special master's recommendation, the Commission will accept, modify through agreement, or reject the recommendation. Failure to act is a rejection. The Executive Director will issue a written No Further Administrative Action Letter (i.e., ripeness decision) within 30 calendar days if the Commission rejects the recommendation, or if the claimant rejects the Commission's decision on the recommendation. The ripeness decision will describe the uses available to the real property.

(j) Fees, costs and expenses of the special master process are to be shared equally between all governmental parties and the claimant. The Commission or Executive Director shall estimate the costs and shall submit the analysis and allocation to the claimant at the time of submitting its response to the initial request. Payment shall be submitted to the special master or otherwise arranged for prior to the hearing being held.

Section History - amended March 16, 2006
Effective March 17, 2006

PART VIII (Rulemaking)

1-2.70 GENERAL PROVISIONS

(a) Any person may file a written request with the Commission's Legal Department to be given advance notice of Commission proceedings to adopt, amend, or repeal a rule, as provided in section 5 of Chapter 84-446, Laws of Florida. The written request may specify that advance notice is requested of all Commission rulemaking proceedings, or of only those Commission rulemaking proceedings involving specific subjects.

(b) Any person may file a written request to the Commission's Legal Department to adopt, amend, or repeal a rule.

(c) After a rule has become effective, it may be repealed or amended only through the rulemaking procedures specified in this chapter.
Section History - adopted March 16, 2006
Effective March 17, 2006

1-2.71 ADOPTION PROCEDURES

(a) Pursuant to section 5 of ~~Chapter 84-446~~the EPC Act, the Commission may adopt, amend, or repeal appropriate rules reasonably necessary for the implementation and effective enforcement, administration and interpretation of the provisions of ~~Chapter 84-446~~the EPC Act.

(b) Staff may conduct rule workshop(s) any time prior to the Commission hearing.

(c) No rule, rule amendment, or rule repeal shall be adopted or become effective without a noticed public hearing being held by the Commission. The notice of public hearing to adopt, amend, or repeal a rule shall generally explain the subject matter of the rulemaking at issue and the date, time, and location of the Commission's public hearing. The notice shall be published in a newspaper of general circulation, as defined in Chapter 50, F.S., in the County at least 10 calendar days prior to the hearing. The proposed rule shall be available for inspection and copying by the public at the

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time of the publication of notice by contacting the Commission's Legal Department. The latest revisions of the proposed rule may also be available on-line on the Commission's internet site.

(d) The notice shall be mailed or electronically mailed to all persons specifically named in the proposed rulemaking and to all persons who have made requests of the Commission as described in section 1-2.70(a) for advance notice of its proceedings if requested at least 14 calendar days prior to such hearing.

(e) At the Commission's public hearing, the Commission may adopt, revise and adopt, or reject the proposed rule, rule amendment, or rule repeal. Immediately after adoption, the staff shall file the adopted action with the Clerk of the Circuit Court and the rule or repeal shall become effective upon filing, unless timely challenged pursuant to section 1-2.73. For the limited purposes of this subsection, "filing" shall mean delivery to the Clerk of the Circuit Court – Board of County Commissioners Records Department.

Section History - adopted March 16, 2006
Effective March 17, 2006

**1-2.72 GENERAL PROCEDURES FOR
CHALLENGING THE VALIDITY
OF AN EXISTING RULE OR
PROPOSED RULE**

(a) Any person substantially affected by a rule or a proposed rule may seek an administrative determination of the validity of the rule on the grounds that the rule is an invalid exercise of delegated legislative authority.

(b) The petition seeking an administrative determination must state with particularity the provisions alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show

that the person challenging the rule is substantially affected by it, or that the person challenging the proposed rule would be substantially affected by it.

(c) The petition shall be filed with the Commission Chair and the Commission's Legal Department. Upon receipt of the petition on the existing rule or proposed rulemaking, the Commission's Legal Department shall accept or dismiss the petition, and if accepted shall, unless otherwise provided by law, refer the matter to the assigned Hearing Officer within 30 calendar days.

(d) The petition shall only be dismissed if it is not in substantial compliance with this Part or it has been untimely filed as to a proposed rule. Dismissal of a petition shall, at least once, be without prejudice to the party's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured. The Order dismissing with prejudice a petition filed under this Part shall be reviewed in accordance with a non-final order pursuant to Rule 9.030(c)(2), Florida Rules of Appellate Procedure by filing a petition for writ of certiorari in a court of competent jurisdiction.

(e) The Hearing Officer shall conduct a hearing within 60 calendar days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties or for good cause shown. The Commission shall follow the applicable rulemaking procedures set forth in this Part. In the event the Commission fails to follow any applicable procedure in this Part, the rule shall not be subject to invalidation if the Commission shows that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.

(f) Within 30 calendar days after the hearing, the Hearing Officer shall render a final decision and state the reasons in writing. The

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Hearing Officer shall forthwith transmit copies of the decision to the Commission.

(g) Hearings held under this section shall be de novo in nature. The standard of proof shall be the preponderance of the evidence. Hearings shall be conducted in the same manner as provided for in Part IV of this chapter, except that the Hearing Officer's order shall be final agency action. The petitioner and the Commission acting through its Executive Director shall be adverse parties. At the discretion of the Hearing Officer, substantially affected persons may petition to join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings, and the intervenors may not raise new issues in the case. Any petition to intervene must be filed no later than 20 days before the hearing.

(h) "Invalid exercise of delegated legislative authority" means action which goes beyond the powers, functions, and duties delegated by the Legislature. A proposed or existing rule is an invalid exercise of delegated legislative authority if any one of the following applies:

(1) The agency has exceeded its grant of rulemaking authority;

(2) The rule contravenes the specific provisions of law implemented;

(3) The rule is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency; or

(4) The rule is arbitrary or capricious. A rule is arbitrary if it is not supported by logic or the necessary facts; a rule is capricious if it is adopted without thought or reason or is irrational.

(i) Within 30 calendar days of issuance of the Hearing Officer's final decision, a substantially affected party may seek judicial review of the final decision by filing a writ of certiorari with the Thirteenth Judicial Circuit Court.

Section History - adopted March 16, 2006
Effective March 17, 2006

1-2.73 CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS

(a) In accordance with section 1-2.72, any substantially affected person may seek an administrative determination of the validity of any proposed rule by filing a petition seeking such a determination with the Commission. In accordance with section 1-2.72, the petition must be filed with the Commission Chair and Commission's Legal Department within 20 calendar days after the public hearing approving the proposed rulemaking. The petition shall state with particularity the objections to the proposed rule and the reasons that the proposed rule is an invalid exercise of delegated legislative authority. The petitioner has the burden of going forward. The Commission then has the burden to prove by a preponderance of the evidence that the proposed rule is not an invalid exercise of delegated legislative authority as to the objections raised. Any person who is substantially affected by a change in the proposed rule may seek a determination of the validity of such change.

(b) The Hearing Officer may declare in the final decision the proposed rule to be valid or wholly or partly invalid. The proposed rule or provision of a proposed rule declared invalid shall be withdrawn by the Commission and shall not be adopted. The Commission may proceed with all other steps in the rulemaking process as to the valid portions of the rule. If the Commission chooses to file the rule pursuant to the Hearing Officer's final decision, it shall immediately file it pursuant to section 1-2.71(e).

In the event part of a proposed rule is declared invalid, the Commission may, in its sole discretion, withdraw the proposed rule in its entirety. If the rule is invalidated in whole or part or if the Commission chooses to withdraw the proposed rule, the Commission shall give

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notice of the decision in a newspaper of general circulation in the County within 10 calendar days.

(c) When any substantially affected person seeks determination of the validity of a proposed rule pursuant to this section, the proposed rule is not presumed to be valid or invalid.

Section History - adopted March 16, 2006

Effective March 17, 2006

1-2.74 CHALLENGING EXISTING RULES; SPECIAL PROVISIONS

(a) In accordance with section 1-2.72, a substantially affected person may seek an administrative determination of the validity of an existing rule at any time during the existence of the rule. The petitioner has the burden of proving by a preponderance of the evidence that the existing rule is an invalid exercise of delegated legislative authority as to the objections raised.

(b) The Hearing Officer may declare all or part of a rule invalid. Unless the Hearing Officer's decision is reversed in whole or part by a court of competent jurisdiction, the rule or part thereof declared invalid shall become void when the time for filing an appeal expires. The Commission shall give notice of the decision in a newspaper of general circulation, as defined in Chapter 50, F.S., in the County within 10 calendar days.

Section History - adopted March 16, 2006

Effective March 17, 2006

Adopted 4/25/85

Substantially Amended 8/21/97

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Amended Referenced Sections 04/20/2006

Amended Referenced Sections 12/13/2007

Amended Referenced Sections _____/2012

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

**RULES OF THE
ENVIRONMENTAL PROTECTION
COMMISSION
OF HILLSBOROUGH COUNTY**

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

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PART 1

1-3.10 STATEMENT OF INTENT

1. The Environmental Protection Commission of Hillsborough County (Commission or EPC) 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 CommissionEPC recognizes that the Florida Department of Environmental Protection (Department) has environmental regulatory and enforcement authority pursuant to Chapter 403, Florida Statutes, and that the remedies of the Department under that chapter are available to the CommissionEPC as an approved local program pursuant to Chapter 403.182, F.S. It is the intent of the CommissionEPC 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. When CommissionEPC rules are more stringent or restrictive than Department rules, the CommissionEPC rules shall apply.

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. Other documented representations of Department policy may be used in support of a policy interpretation, but shall not themselves be official policy.

Section History - New and effective 02/26/86; amended and effective 09/14/88; amended and effective 06/25/98; readopted and effective 08/19/99; amended 09/19/02 and effective 10/15/02; amended 02/15/07 and effective 02/16/07.

1-3.11 DECLARATION OF LEGISLATIVE FINDINGS

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

Section History - New and effective 02/26/86; amended and effective 09/14/88; readopted and effective 06/25/98; readopted and effective 08/19/99.

1-3.12 DEFINITIONS

1. Definitions contained in the Act, apply to this rule.

2. With the exception of the definitions for "Air Pollution," and "Particulate Matter," definitions contained in Section 62-210.200, Florida Administrative Code (F.A.C.), shall, to the extent applicable apply to this rule.

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

(a) "Director" shall mean the Executive Director of the CommissionEPC or his authorized agent.

(b) "Objectionable odor" shall mean any odor present in the outdoor atmosphere

which by itself or in combination with other odors, is or may be harmful or injurious to human health or welfare, or which creates a nuisance as defined by the Act.

(c) "Stationary source" shall mean any building, structure, equipment, facility, or installation which emits or may emit an air pollutant and exists at or is designed to be operated as a unit at a fixed location, although parts of the source may move while the source is in operation.

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

Section History - New and effective 02/26/86; amended and effective 09/14/88; amended and effective 06/25/98; readopted and effective 08/19/99; amended 09/19/02 and effective 10/15/02.

PART 2

1-3.20 CIRCUMVENTION PROHIBITED

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

Section History - New and effective 02/26/86; readopted and effective 06/25/98; readopted and effective 08/19/99.

1-3.21 PERMITS REQUIRED

1. No air pollution source may be constructed, modified or operated in Hillsborough County without a valid permit as may be required by the Department pursuant to Chapters 62-210, 212, 213 and 214, F.A.C., Chapter 62-4, F.A.C., or as may be otherwise required by this rule.

2. Application for or renewal of a permit, or copy where appropriate, shall be submitted to the Director for his review, pursuant to Department and CommissionEPC requirements, and recommendation according to this rule.

Reasonable assurances shall be provided that all Department and ~~Commission~~EPC standards have or will be met by the applicant or the activity sought to be permitted. Activities under Citation at the time of application shall have the Citation resolved prior to the Director recommending approval of an application involving the same activity.

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

Section History - New and effective 02/26/86; amended and effective 06/25/98; amended and effective 08/19/99; amended 09/19/02 and effective 10/15/02.

1-3.22 PROHIBITIONS

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

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

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

Section History - New and effective 02/26/86; amended and effective 06/25/98; readopted and effective 08/19/99.

1-3.23 NECESSARY PRECAUTIONS

No person shall store, pump, handle, process, load, unload or use in any process or installation volatile organic compounds or

organic solvents without applying known and existing vapor emission control devices or systems as may be necessary.

Section History - New and effective 02/26/86; readopted and effective 06/25/98; readopted and effective 08/19/99.

1-3.24 PUBLIC NOTIFICATION

1. Construction and Operating Permits.

(a) Pursuant to Chapter 62-110.106 F.A.C., a Notice of Application and Notice of Proposed Agency Action for any air pollution permit may require public notice in a newspaper of general circulation by the applicant at the applicant's expense. In such instance, the notice must be published in a newspaper that meets the requirements of 50.011 and 50.031, F.S. Any Notice of Application shall be in addition to any public notice required under Chapter 62-110.106(7), F.A.C.

(b) Applicants shall give written notice to each Neighborhood Organization registered with the EPC which lies within one mile of any proposed activity under consideration for an initial construction permit. At the Director's discretion, applicants may be directed to provide the same written notice to Neighborhood Organizations further than one mile from the proposed activity for activities to be covered by an initial construction permit. Applicants shall, at the Director's discretion, give written notice to each Neighborhood Organization registered with the EPC, which lies within one mile of any proposed activity under consideration for an operation permit or modification of an existing facility. Also, at the Director's discretion, applicants may be directed to provide the same written notice to Neighborhood Organizations further than one mile from the proposed activity for activities to be covered by an operation permit or modification of an existing facility. The EPC will provide the applicant with the affected Neighborhood Organization list, and within 10 days of receipt of this list, the applicant will provide the EPC written evidence that the Neighborhood Organizations were notified. The notice to the Neighborhood Organizations shall include a description of the air emission source, the nature of the air emissions, the proposed startup date and the

name of a contact person at the EPC for further information.

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

2. General and Relocatable Permits. Applicants who intend to use an air general permit in Hillsborough County, or move a facility classified as a relocatable facility to a location in Hillsborough County for the first time at that location, shall post a sign at the facility. The EPC will provide the facility with a sign. It must be posted conspicuously on the property so as to be readily viewable from the busiest adjacent public roadway. The facility must pick up and post the sign within 5 days of submitting notification to EPC, and the sign must remain posted for 30 days, or for the duration of the operation if it is less than 30 days.

Section History - New and effective 06/25/98; amended and effective 08/19/99; amended 09/19/02 and effective 10/15/02.

1-3.25 EXCESS EMISSIONS

1. Excess emissions specifically allowed by Chapter 62-210, F.A.C., shall not be violations of this rule unless they are determined to be nuisances. The Director may request written verification that any such emissions fall within the designated conditions.

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

Section History - New and effective 02/26/86; amended and effective 06/25/98; readopted and effective 08/19/99.

1-3.26 DEPARTMENT REGULATIONS

The ~~Commission~~EPC acknowledges and reaffirms all existing rule adoptions, incorporations, and references in Chapter 1-3. In conformance with an operating agreement with the Department, which generally allows the ~~Commission~~EPC to act on behalf of the Department for certain air pollution permitting and enforcement matters, the ~~Commission~~EPC herein adopts and incorporates the following State regulations: Chapters 62-204, 62-210, 62-212, 62-213, 62-214, 62-257, 62-296, and 62-297, ~~Florida Administrative Code~~F.A.C.

Section History - New 02/15/07 and effective 02/16/07; re-adopted 12/13/07 and effective 12/14/07.

PART 3

1-3.30 AMBIENT AIR QUALITY STANDARDS

1. Standards established in Chapter 62-204, F.A.C., are adopted and hereby incorporated by reference.

2. Sampling and analysis of contaminants in this section shall be performed in accordance with the latest version of quality assurance project plans for ambient air quality monitoring submitted to EPA Region 4 by the State of Florida ~~Department of Environmental Protection "State-Wide Quality Assurance Plan, January 1985"~~.

Section History - New and effective 02/26/86; amended and effective 06/25/98; amended and effective 08/19/99.

1-3.31 DESIGNATION OF AIR POLLUTION STATUS OF AREA

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

Section History - New and effective 06/25/98; amended 09/19/02 and effective 10/15/02.

PART 4

1-3.40 NEW SOURCE REVIEW

Provisions contained in Chapter 62-212, F.A.C., pertinent to Hillsborough County, are adopted and hereby incorporated by reference.

Section History - New and effective 02/26/86; amended 09/19/02 and effective 10/15/02.

PART 5

1-3.50 EMISSION LIMITING AND PERFORMANCE STANDARDS

Provisions contained in Chapters 62-204 and 62-296, F.A.C., pertinent to Hillsborough County, are adopted and hereby incorporated by reference, except for Sections 62-296.320(4)(b) 2. and 62-296.513(1)(c), F.A.C., and except as may be modified herein.

Section History - New and effective 02/26/86; amended and effective 06/25/98; readopted and effective 08/19/99; amended 09/19/02 and effective 10/15/02.

1-3.51 PARTICULATE EMISSIONS

The particulate emission limits under RACT in Sections 62-296.700 through 62-296.712, F.A.C., shall apply to all new and existing emission units. In situations where the particulate emission limits under RACT, pursuant to Section 62-296.700, F.A.C., are less restrictive than process weight limits pursuant to Section 62-296.320, F.A.C., process weight limits shall apply, except as provided in Section 62-296.700(3), F.A.C.

Section History - New and effective 02/26/86; amended 09/19/02 and effective 10/15/02.

1-3.52 VISIBLE EMISSIONS

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

2. A 5% opacity standard shall apply in Hillsborough County to the following types of stationary sources: loading or unloading of materials to or from containers such as railcars, trucks, ships, storage structures and stockpiles; permanent conveyor systems; storage of

materials in structures such as silos or enclosed bins, which have a storage capacity of fifty cubic yards or more; crushing, grinding, sizing and screening operations; and static drop transfer points. The deadline for compliance with this standard shall be within 180 days of the effective date of this rule for existing sources, and on the effective date of the rule for new sources.

(a) Sources exempt from this standard are:

(1) Emissions of particulate matter from open stockpiles of materials, vehicular traffic and other emissions from roads and plant grounds;

(2) Construction and road maintenance activities;

(3) Sulfur storage and handling facilities—covered by Department Rule 62-296.411, F.A.C.;

(4) Sources with specific RACT emission limiting standards greater than 5% as set forth in Department Rule 62-296.711(2)(c), F.A.C.;

(5) When material is being discharged to the hold of a ship from a conveyor system, an opacity of 10% will be allowed when the conveyor and/or hatch covering is moved; and

(6) Facilities for grinding and screening of vegetation and yard waste material.

3. Annual visible emissions tests, conducted in accordance with EPA Method 9, shall be required of the permitted sources subject to the standards in this section or subject to Rule 62-296.320(4)(b) 1., F.A.C.

Section History - New and effective 02/26/86; amended 09/19/02 and effective 10/15/02.

1-3.53 SOURCE-SPECIFIC REQUIREMENTS

1. Emissions for the following specific sources shall have the following limits in Hillsborough County regardless of provisions otherwise contained in this rule or in Chapters 62-204 through 62-297 F.A.C., unless the provisions of Chapters 62-204 through 62-297, F.A.C., are more stringent.

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

(b) Nitric acid plants producing weak nitric acid (50 to 70%) by pressure or atmospheric pressure process - no visible emissions (5% opacity).

~~(c) Existing fossil fuel steam generators - sulfur dioxide emissions from liquid fuel shall be limited to 1.1 pounds per million BTU heat input.~~

(dc) Fossil fuel steam generators - visible emissions are limited to 20% opacity except for either one six-minute period per hour during which opacity shall not exceed 27 percent, or one two minute period per hour during which opacity shall not exceed 40 percent. The option selected shall be specified in the emission unit's construction and operation permits.

(ed) Bulk gasoline terminals - loading of liquid product into gasoline tank trucks shall be limited to vapor-tight gasoline tank trucks.

~~(fe) Municipal Waste Incinerators - mercury and dioxin/furan emissions shall be controlled by combustion practices, operation and maintenance, and operation of a carbon injection system. An alternative would be to install a continuous emission monitor for the pollutant mercury and adjust the carbon feed rate accordingly. This continuous emission monitor shall be installed and operated in accordance with a promulgated USEPA Performance Specification 12A of 40 CFR 60, Appendix B if it is used to adjust the carbon feed rate. Otherwise, EPA Performance Specification 12B of 40 CFR 60, Appendix B may be used. Any such alternative must be approved by the Executive Director prior to implementation.~~

~~The need to retain this requirement shall be reviewed by EPC and affected facilities five years from the effective date of this rule.~~

(gf) Human and Animal Crematories - for all human and animal crematories the following requirements shall apply, in addition to any requirements of state, federal, or local law:

(1) Each crematory unit shall be operated and maintained in accordance with the manufacturer's operation and maintenance requirements. Each crematory unit operator shall be trained by the crematory manufacturer or similarly qualified training provider prior to operating the crematory unit. Records of maintenance and operator training shall be maintained and made available to EPC staff for inspection upon request.

(2) ~~If a~~Any rain cap is used on the exhaust stack of a crematory unit it shall be designed so as not to obstruct the upward dispersion of emissions. ~~Rain caps are not mandatory, but all crematories utilizing rain caps on the effective date of this rule shall have six months from the effective date to comply with this requirement.~~

(3) Initial and annual visible emissions testing.

a. The testing for human crematories required pursuant to Rule 62-296.401(5)(h)(1), F.A.C., shall be conducted with the unit operating at a capacity of one (1) adult-sized cadaver. The size of the load, any containers used and the order of charge shall also be considered when determining representative conditions during visible emissions testing.

b. The testing for animal crematories required pursuant to Rule 62-296.401(6)(h)(1), F.A.C., shall be conducted with the unit operating at a capacity that is representative of normal operations and is not greater than the manufacturer's recommended capacity. The operating capacity shall be a batch load, in pounds, for a batch animal crematory unit and a charging rate, in pounds per hour, for a ram-charged animal crematory unit. The size of the load, any containers used and the order of charge shall also be considered when determining representative conditions during visible emissions testing.

(4) Thermocouple location.

a. For crematory units constructed after August 30, 1989, the thermocouple, which measures secondary chamber temperature, shall be located at or beyond the point where the 1.0 second gas

residence time at 1800 degrees Fahrenheit is calculated.

b. For crematory units constructed prior to August 30, 1989, the thermocouple shall be located at or beyond the point where the 1.0 second gas residence time at 1600 degrees Fahrenheit is calculated.

c. Proof of compliance with section (4)a. or (4)b. above, as applicable, shall be submitted in writing to the EPC in accordance with Rules 62-296.401(5)(c)(1) and 62-296.401(6)(c)(1), F.A.C. ~~All crematory units in operation on the effective date of this rule shall have one year from the effective date to comply with this requirement.~~ New crematory units shall be in compliance with this requirement upon start-up.

Section History - New and effective 02/26/86; amended 09/19/02 and effective 10/15/02; 12/13/07 and effective 12/14/07.

PART 6

1-3.60 SOURCE SAMPLING AND MONITORING

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

Section History - New and effective 02/26/86; amended 09/19/02 and effective 10/15/02.

Rule History:

Adopted and Effective 07/25/68
Amended 06/17/69 and Effective 07/07/69
Amended 08/29/72 and Effective 09/25/72
Amended 09/25/72 and Effective 09/25/72
Amended 06/02/75 and Effective 07/01/75
Amended 09/11/75 and Effective 09/12/75
Amended and Effective 02/26/86
Amended and Effective 08/07/86
Amended and Effective 09/14/88
Amended and Effective 06/25/98
Amended and Effective 08/19/99
Amended and Effective 10/19/00
Amended 09/19/02 and Effective 10/15/02
Amended 02/15/07 and Effective 02/16/07
Amended 12/13/07 and Effective 12/14/07
Amended xx/xx/12 and Effective xx/xx/12

**RULES OF THE ENVIRONMENTAL
PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-5
WATER
QUALITY STANDARDS**

Part I	General
1-5.01	Declaration and Intent
1-5.011	Definitions
Part II	Water Quality
1-5.02	Minimum Conditions of all Waters; Times and Places <u>(Repealed)</u>
1-5.03	General Water Quality <u>(Repealed)</u>
1-5.04	Water Quality Standards
Part III	Earthen Dams
1-5.05	Earthen Dams- Minimum Standards
Part IV	Permits
1-5.06	Permits

Part I GENERAL

1-5.01 DECLARATION AND INTENT

The Environmental Protection Commission of Hillsborough County ("Commission"), in order to more properly protect the waters of Hillsborough County, declares that the presence of pollutants in excess of concentrations, standards, or criteria hereinafter provided is harmful to the waters of this county and the presence of pollution is deemed to be prima facie evidence of pollution of the waters of Hillsborough County and the same is expressly prohibited. In lieu of maintaining its own criteria, the Commission adopts the State of Florida's water quality criteria, as amended from time to time and, as detailed in section 1-5.04 below, and finds that the criteria have been established through rigorous testing, review, and analysis by the Florida Department of Environmental Protection ("Department") and US Environmental Protection Agency. Where any standard or criteria for one pollutant or constituent conflicts

in this rule, the more stringent shall apply.
Section History - Amended 11/10/04; Amended xx/xx/12

1-5.011 DEFINITIONS

In construing the Hillsborough County Environmental Protection Commission Act, as amended, and the Rules of the Environmental Protection Commission of Hillsborough County, the following words and phrases shall have the following meanings unless some other meaning is clearly indicated within the content of this chapter:

1. "Waters of Hillsborough County" shall consist of the waters and the physical features which, regularly or intermittently, contain the waters and shall include, but not be limited to, bays, rivers, streams, lakes, ponds, swamps, springs, impoundments and all other waters or bodies of water, including fresh, brackish or saline, tidal or intermittent, surface or underground water, which are located, either entirely or partially, within the geographic boundaries of Hillsborough County.

2. "Department" shall mean the Florida Department of Environmental Protection.

3. "Groundwater" shall mean water beneath the surface of the ground within a zone of saturation, whether or not flowing through known and definite channels.

4. "Surface water" shall mean water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface.

Section History - Amended 11/10/04; Amended xx/xx/12

Part II WATER QUALITY

~~**1-5.02 MINIMUM CONDITIONS OF ALL
WATERS; TIMES AND PLACES**~~

~~The following minimum conditions are applicable to all waters, at all places and at all times. Within the limits of this county all such waters shall be free from:~~

~~1. Settleable Substances — substances attributable to municipal, industrial, agricultural, or other discharges that will settle to form putrescent or otherwise objectionable sludge deposits.~~

~~2. Floating Substances — floating debris,~~

oil, scum, and other floating materials attributable to municipal, industrial, agricultural, or other discharge in amounts sufficient to be unsightly or deleterious.

3. ~~Deleterious Substances~~ materials attributable to municipal, industrial, agricultural, or other discharges producing color, odor, or other conditions in such degree as to create a nuisance.

4. ~~Toxic Substances~~ substances attributable to municipal, industrial, agricultural or other discharges in concentrations or combinations which are toxic or harmful to humans, animal, plant or aquatic life.

~~1-5.03 GENERAL WATER QUALITY~~

~~Sewage, Industrial Wastes or Other Wastes~~ Any industrial wastes or other wastes shall be effectively treated by the latest modern technological advances to comply with permit conditions and this rule's established criteria and standards, unless other relief or condition is granted in a Department permit or order.

~~Section History Amended 11/10/04~~

1-5.04 WATER QUALITY STANDARDS

1. **COMPLIANCE.** An action or omission that causes any Waters of Hillsborough County to fail to comply with any standard or criteria in this chapter shall be a violation of the Hillsborough County Environmental Protection Commission Act and rules.

2. **CLASSIFICATIONS.** ~~The surface waters of Hillsborough County are classified by the Department according to their usage as follows:~~

~~a. Class I Public Water Supplies: any waters from which water is withdrawn for treatment and distribution as a potable supply.~~

~~b. Class II Shellfish Harvesting: waters in areas to be utilized for shellfish harvesting.~~

~~c. Class III Recreation Propagation and Management of Fish and Wildlife: waters to be used for recreational purposes, including such body contact activities as swimming and water skiing; and for the maintenance of a well-balanced fish and wildlife population.~~

~~d. Class IV Agricultural and Industrial Water Supply: waters to be used for agricultural or stock watering, or industrial water supply.~~

~~e. Class V Navigation, Utility and Industrial Use: waters which will be suitable for navigation and any other uses except for waters previously classified above.~~

~~3. SURFACE WATER QUALITY STANDARDS.~~

~~The surface water quality standards, classifications, definitions, and criteria established or adopted in Sections 62-4.242, 62-4.243, 62-4.244, 62-302.200, 62-302.300, 62-302.400, 62-302.500, 62-302.520, 62-302.530 (including the .530 Table), 62-302.700, and 62-302.800 Florida Administrative Code (F.A.C.) as they may be amended on July 19, 2004 (62-302) and May 1, 2003 (62-4) from time to time shall apply to all surface waters of Hillsborough County and are adopted and incorporated herein.~~

4. GROUNDWATER QUALITY STANDARDS.

The groundwater quality standards, groundwater classifications, and criteria established or adopted in Sections 62-520.400, 62-520.410, 62-520.420, 62-520.430, and 62-520.440, F.A.C. as they may be amended from time to time, on December 9, 1996 shall apply to all groundwaters of Hillsborough County and are adopted and incorporated herein.

Section History - Amended 11/10/04; Amended xx/xx/12

Part III EARTHEN DAMS

1-5.05 EARTHEN DAMS - MINIMUM STANDARDS

All earthen dams for impounding liquid wastes above natural ground elevation shall be constructed in accordance with the design prepared or approved by a Florida registered professional engineer competent in the field of dam design, construction, and maintenance and shall bear his signature and seal. Such dams shall be constructed in accordance with the following minimum standards and the requirements of Chapter 62-672, F.A.C., as it may be amended from time to time; however, subject to the approval of the ~~Pollution Control~~ Executive Director, the requirements of 12.0 shall be satisfied by filing a copy of any approval or permit for such a dam from the Florida Air and ~~Water Pollution Control Commission~~ Department and supplying the Commission copies of all reports with the said Florida Commission that are required by the Department concerning such a

dam.

1.0 Site Preparation

1.1 Remove all trees, stumps, palmettos, and other vegetation.

1.2 Remove all muck, mud, slime, and other material that has a tendency to flow under a heavy load, from the entire base of the dam.

1.3 The original ground surface not disturbed in complying with Section 1.1 of these specifications shall be swept clean and scarified by disking, harrowing, bulldozing, or other similar treatment.

1.4 The dam base shall be kept well drained during construction, except when placing hydraulic fill.

1.5 The foundation shall be safe from shear failure considering design shear strength, water pressures, and fill load weight distribution. Foundation stability calculations shall assume that the natural ground surface outside of the embankment is saturated. A foundation bearing capacity safety factor of not less than 1.5 shall be provided, based on inspection and testing of the foundation soils.

2.0 Dam Design

2.1 Soil Testing

A program of soil sampling adequate to determine the characteristics of the ground under the proposed dam and of the material to be used in dam construction shall be performed. Sampling shall include borings and/or in-place sampling from the exposed excavation face.

2.1a Tests including, but not limited to, the determination of shear strengths and permeabilities of the foundation and embankment soils, at soil densities to be used in construction, shall be performed.

2.1b All soil test data used for design shall be derived from tests performed in compliance with American Society of Testing Materials, American Association of State Highway Officials, or U.S. Corps of Engineering's soil testing specifications and procedures.

2.2 Stability Analysis, Basic Requirements

A flow net analysis shall be made to determine the location of the phreatic surface, flow lines, and head lines within the foundation and dam being designed. The flow net analysis may be based on either graphical construction, electrical or liquid analogs, or on soil prototype

methods; permeability's used for the analysis shall be based on the soil tests. The flow net and Stability analyses shall use the maximum pool elevation with not less than 5 feet below the inside crest of the dam.

3.0 Cord Ditching (cut-off trench)

3.1 A safety factor of at least 2.0 shall be used in design for protection against seepage instability. A core ditch (cut-off trench), clay dam core, core drain, blanket drain, toe drain, or other seepage control devices may be required to meet the 2.0 safety factor.

4.0 Drainage

Drainage facilities shall be provided to maintain the water level on the outside of the dam within design limitations.

5.0 Cross Section Design

5.1 There shall be a minimum freeboard of five feet below the inside crest.

5.2 Both inside and outside slopes shall be no steeper than two to one.

5.3 The outside of the top should be higher than the inside top to force all crest drainage to the inside of the dam.

5.4 A safety factor of at least 1.75 shall be provided against horizontal sliding of the embankment.

5.5 A safety factor of at least 1.5 shall be provided against separation and horizontal sliding due to seepage through a portion of the other embankment.

5.6 A safety factor of at least 1.5 for cast dams and for all other construction shall be provided against shear failure of any circular arc in either the inside or outside embankment slopes. It is imperative that water pressure distribution be included in the analysis.

6.0 Materials of Construction

6.1 Dams shall be constructed of material free of stumps, trees, palmettos and other vegetative material.

6.2 Materials such as muck, mud, and slimes shall not be used.

7.0 Methods of Construction

7.1 Each dam shall be constructed to meet or exceed the minimum safety requirements of the specific design. Draglines, drag scrapers, tractors, or other earth-moving equipment may be used to place materials in dam construction.

7.2 Regardless of the method of construc-

tion, the soil shall be compacted to densities equal to or greater than those required for seepage and structural stability as specified in Section 3.0.

8.0 Water Level Control Structure Installations

8.1 Seepage shall not be permitted to be concentrated around any water level control structure(s) pipe or any other conduit or discontinuity. All conduits through dams shall have a minimum of two seepage collars. The seepage collars shall be embedded in the middle 1/3 of the embankment. The seepage collar total width shall be at least twice the conduit's outside diameter, or 4 feet, whichever is greater.

8.2 All pipes and pipe joints extending through the dam shall be made leakproof, and shall be constructed of material suitable for the carried fluids and loads imposed.

8.3 Backfill around conduits shall consist of soil compacted to densities equal to or greater than those of the surrounding embankment.

8.4 In order to avoid cracks associated with differential settlement, conduits shall not be supported rigidly by piles or piers.

8.5 A sufficient water level control structure(s) capacity must be installed in an area to release water as necessary during periods of heavy rainfall. Water level control structure(s) capacity shall be provided to release 12 inches of rain in 24 hours on the watershed. All ponds containing less than 25% solids and covering an area greater than 50 acres shall have at least 2 water level control structure(s). In situations where watershed drainage cannot be diverted and flow into a settling area, water level control structure(s) capacity shall be installed to release the additional flow.

9.0 Building of Dams in Mined-out Cuts

9.1 Cross or partition dams built through mined areas shall not be permitted unless they satisfy all of the seepage and structural stability requirements and safety factors of section 1.0 through 9.5.

9.2 Tailings may be used to construct dams across a mined area, providing they satisfy all of the seepage and structural stability requirements and safety factors of Sections 1.0 through 9.5.

9.3 Perimeter dams constructed in mined areas shall not be constructed on slimes or

soft muds. Construction procedures may be required to displace slimes.

10.0 Building Dams using Pumped-in Tailings

Dams using pumped-in tailings will be permitted under the following conditions:

10.1 The dam shall meet the seepage and structural stability requirement of Section 1.0 through 9.5.

10.2 Depositing Tailings on Slopes of Existing Dams: If water within the settling areas to be enclosed with a tailings dam is above ground level, and if tailings are discharged inside or outside of an existing dam, any of the three following procedures may be used:

10.2a When the tailings are not de-watered, the discharge locations shall be changed at least every 8 hours and the section of dam pumped shall be allowed to drain at least 16 hours before pumping on this section again.

10.3b If the tailings are de-watered to not less than 50% solids by weight at the discharge point, the tailings may be deposited continuously.

10.4c If the discharge point is at or beyond the point at which the toe meets the foundation, or the discharge point is at least 75 feet from the point at which water meets the dam, the tailings may be deposited continuously.

11.0 Operational Requirements

11.1 The water level in a settling area shall not be raised or lowered more than one foot in a 24 hour period. It shall not be lowered more than 5 feet per month.

11.2 A good growth of grass shall be planted and maintained on all exposed portions of dams to prevent wind and water erosion. Grasses such as Bermuda Carpet, Centipede, Bahia, and other varieties that do not grow very high, and which form a good sod, are satisfactory.

11.3 Each active waste disposal area shall be inspected not less than once each day until one month after the area has been made inactive, and thereafter at least once each month for surface erosion, excessive toe seepage, cracking or sluffing, and condition of water level control structures and pool level measuring devices. A continuous maintenance program shall be followed, as required, to insure that the actual dam cross section meets design criteria.

11.4 A navigable all weather roadway

shall be provided at the top of the dam. Inspection access for the outside slope and toe shall be provided if the height of the dams precludes adequate inspection from the top and where a public roadway does not already provide such access.

12.0 Documentation

12.1 All soil tests, design calculations, and construction data and plans shall be maintained by the owner in a permanent file. A plan of the dam outline and typical dam design cross sections shall be furnished to the Commission as soon as available within 30 days after completion of the dam.

12.2 All monthly and other inspection reports shall be maintained by the owner in a permanent file. A written report shall be submitted monthly to the Commission certifying compliance with these specifications as to:

- a. Inspection procedures and schedules, and
- b. Freeboard and level fluctuation requirements.

12.3 Semi-annual inspections shall be made by a qualified Florida registered engineer who shall furnish a certified report of each inspection to the owner and to the Commission. The owner shall maintain these in a permanent file.

13.0 Contingency Plans.

13.1 The owner of the dam shall prepare contingency plans to be followed in the event of a dam failure. Each plan shall include mapping showing areas subject to downstream flooding and a notification of local and state officials. The contingency plans shall be updated annually and maintained on file for review by Commission staff upon request.

Section History - Amended xx/xx/12

Part IV PERMITS

1-5.06 PERMITS

1. A permit from the Executive Director may be required for the construction, alteration, expansion, or operation of any installation, facility, or activity if any of the aforementioned actions are exempt from or not regulated by Department rules, and which may reasonably be expected to discharge into Waters of the County

pollutants or contaminants in excess of concentrations, standards, or criteria herein created or adopted. This section shall not limit the Executive Director's authority to issue permits or other authorizations established in any Commission rule.

2. By adopting certain provisions of chapters 62-302 and 62-4, F.A.C. in section 1-5.04, the Commission recognizes mixing zones and site specific alternative criteria as water quality standard relief mechanisms. Applicants may only seek these relief mechanisms from the Department.

3. In an effort to streamline permitting, the Executive Director shall review permit applications received by the Department that are not specifically delegated to the Commission if they have a potential to pollute Waters of the County, and applicants shall submit a fee as detailed in Chapter 1-6.

Section History - Created 11/10/04

Rule History:

Adopted 10/14/76

Amended in part 11/10/04

Amended in part xx/xx/12

**RULES OF THE ENVIRONMENTAL PROTECTION
COMMISSION
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-7
WASTE MANAGEMENT**

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Part I General

1-7.100 Intent.

(1) The Environmental Protection Commission of Hillsborough County (Commission) finds that the improper

management, handling and disposal of solid waste, hazardous waste, and recyclable and recoverable materials can result in or contribute to the pollution of water, soil, and air.

(2) It is the Commission's intent, in adopting this rule, to apply reasonable control and regulation over the storage, collection, transportation, receiving in bulk, separation, processing, recycling, mining and disposal of solid waste, hazardous waste, recyclable and recoverable materials in order to protect the public health, safety and welfare and the environment, and to encourage the recycling of solid waste, recyclable and recoverable materials that would otherwise be destined for disposal.

(3) It is the Commission's intent to require a Director's Authorization for all solid waste management facilities in Hillsborough County prior to the construction, operation, modification, or use of the facility to ensure the proper location, design, management, operation and closure of such facilities in order to reduce or eliminate the risks of pollution.

(4) The Florida Legislature recognizes and requires in Sections 403.7225 and 403.7238, F.S., the need for increased participation by local governments in ensuring that small quantity generators and transfer facilities properly manage their hazardous waste and that waste reduction opportunities are promoted and realized. Counties are encouraged to adopt local ordinances to address compliance with and enforcement of the federal and state hazardous waste regulations for small quantity generators. Therefore, the Commission adopts rules to specifically address the proper management of hazardous wastes by small quantity generators and transfer facilities. Hillsborough County, obligated by Section 403.7234, F.S., to implement the small quantity generator notification and verification program, assigned its responsibility to the Commission by Interlocal Agreement [Document #93-1101] on June 18, 1993.

(5) Section 403.7225(12), F.S., authorizes imposition of an annual notification and verification surcharge on the business or occupational license of any firm that is classified as a small quantity generator of hazardous waste. The Commission has adopted such a fee in Section 1-6.03(6) of its rules, which is collected in part by agreement with the Hillsborough County Tax Collector through the County's occupational license program.

(6) All hazardous waste standards and criteria, notification requirements and permit conditions adopted by the Department in Chapter 62-730, Florida Administrative Code (F.A.C.), shall be fully applicable and enforceable on all facilities handling hazardous wastes in Hillsborough County. The Commission, however, intends to directly regulate under Part III of this rule, only those facilities identified as small quantity generators and hazardous waste transfer facilities.

1-7.101 Interpretation.

(1) By adopting certain rules of the Department, the Commission intends that any provision therein requiring

permits, application for alternative procedures,

notifications, or notices of general permit to the Department shall be interpreted as requiring submission of such documents to the Commission for review and/or issuance of a Director's Authorization under the provisions of this rule.

(2) In implementing any Department rule herein, the Commission will apply the Department's interpretations of its regulations where consistent within the context of these rules, however, any action or position taken by the Commission or its Director in conflict with a Department interpretation or policy applying such regulations will not be invalidated on that basis alone unless the Department interpretation or policy was formally issued in writing prior to the Commission's or the Director's action.

1-7.102 Definitions.

(1) For purposes of Part III of this rule, the definitions adopted or contained in Section 62-730.020, F.A.C., are incorporated herein. Where a definition cannot be reconciled with definitions adopted in this Section, the definitions in Section 62-730.020, F.A.C., shall prevail in application of Part III.

(2) The Commission also adopts for purposes of this rule the definitions contained in Sections 62-701.200, F.A.C. and Section 403.703, F.S., except as may be otherwise defined in Chapter 84-446, Laws of Florida. In addition, the following definitions shall apply:

(a) "Department" means the Florida Department of Environmental Protection

(b) "Director" means the Executive Director of the Environmental Protection Commission or his staff as appropriate.

(c) "Director's Authorization" means:

1. The specific written approval of the Director, or
2. A Department solid waste permit or general permit, the application or notification for which has been reviewed by the Director's staff as provided in this rule, and for which the Director has not issued a written Notice of Objection.

(d) "Leachate" is defined pursuant to Section 62-701.200(6659), F.A.C. For the purpose of this rule, leachate shall also include groundwater removed or recovered from solid waste disposal areas for the purpose of dewatering, surface water or storm water that has come in contact with excavated and/or in-situ solid waste, and liquids that may drain or otherwise be expressed from staged or excavated solid waste, separated or co-mingled soils, and RSM.

(e) "Notice of Objection" means a specific written document or letter signed by the Director and directed to the Department with copy(ies) provided to the applicant, which states an objection to the basis or criteria for a proposed permit.

(f) "Recovered Screen Material (RSM)" means the fines and/or soils fraction of the material generated through the screening or processing of excavated solid waste or construction and demolition debris.

(g) "Solid Waste Management Facility" as defined by Section 62-701.200(1128), F.A.C., and includes any solid waste disposal area, dump site, landfill, volume reduction plant (incinerator, pulverizer, compactor, shredding and baling plant), composting facility, waste recycling or disposal site or facility, recovered materials processing facility, waste processing facility, or other facility or operation the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste or recovered materials.

(h) "SWFWMD" or "District" means the Southwest Florida Water Management District.

1-7.103 Reference Standards.

Standard reference documents used in implementing these rules shall be those listed in Section 62-701.210, F.A.C.

1-7.104 Application Fees.

Applicable application fees for a Director's Authorization or other review required pursuant to this rule shall be as provided in Chapter 1-6, Rules of the Commission. Unless provided otherwise, fees required by regulations adopted by reference in this rule, are separate and shall be paid directly to the Department.

1-7.105 Confidential Information.

Confidential trade secrets shall be kept confidential pursuant to Sections 403.73 and Section 403.111, F.S.

1-7.106 Environmental Sampling.

Any person who may be responsible for the emission or discharge of pollutants to air, surface water, ground water, or soil, may be required by the Director to conduct, at their expense, tests which will identify and quantify the emission or discharge and to provide the results of such tests to the Commission.

Part II Solid Waste Management.

1-7.200 Prohibitions.

(1) The prohibitions of Section 62-701.300, F.A.C., are specifically adopted by reference.

(2) It is unlawful for any person in Hillsborough County to store, process, manage or dispose of solid waste or recovered materials except as provided for in Section 1-7.202.

(3) No person shall conduct the activities listed in Section 1-7.202 without a Director's Authorization.

(4) No person shall fail to comply with the requirements and conditions contained in a Director's Authorization or Department permit pursuant to this rule.

1-7.201 Alternate Procedures.

The provisions of Section 62-701.310(1), (2), (4), (5) and (7), F.A.C., are adopted by reference. A Director's Authorization shall be required for alternate procedures or requirements. Requests for alternate procedures shall be

accompanied by the appropriate application fee pursuant to Chapter 1-6, Rules of the Commission.

1-7.202 Director's Authorization.

(1) The following activities in Hillsborough County shall require a Director's Authorization:

(a) The construction, operation or use of a solid waste management facility requiring a permit or general permit pursuant to Chapter 62-701, F.A.C.;

(b) The construction, operation or use of any alternate procedures or requirements as provided in 1-7.201;

(c) The excavation of solid waste, the modification or development of a solid waste filled area, or the construction of buildings, structures or facilities, utility lines or pipes, parking areas or paved surfaces, on or through areas filled with solid waste or areas otherwise impacted by solid waste disposal; and

(d) The construction, operation or implementation of any solid waste management facility or recovered materials processing facility or activity otherwise exempt from Department regulation pursuant to Sections 62-701.220 and 62-701.320, F.A.C.

(2) The specific activities listed in Section 62-701.320(2), F.A.C., are hereby granted a Director's Authorization except for those activities identified in Sections 62-701.320(2)(a), 62-701.320(2)(b)3, and 62-701.320(2)(c), F.A.C.

(3) A permit or general permit granted by the Department pursuant to Chapters 62-701, 62-709, and 62-711, F.A.C., shall constitute a valid Director's Authorization provided the application or notification has been submitted to the Director, the or application notification has been reviewed according to Department criteria, and no Notice of Objection has been issued. Compliance with the application requirements outlined in Section 1-7.202(4) may be necessary only if the Director has issued a Notice of Objection.

(4) All applications for a Director's Authorization submitted pursuant to this rule shall include the following:

(a) The appropriate application fee as established in Section 1-6.03, Rules of the Environmental Protection Commission.

(b) A copy of the complete Department permit application or general permit notification where applicable, as required by Sections 62-701.320 or 62-701.330, F.A.C., including copies of all appendices, plans, and drawings.

(c) If the property owner is different from the applicant, evidence of authorization to use the property for the proposed facility.

(d) Verification that the siting of the facility will not violate local zoning or land use ordinances.

(e) A professionally certified boundary survey, legal description of the property and, property folio number or property identification number on file with the County Property Appraiser's Office.

(f) A regional map or plan illustrating the project location in relation to surrounding land use.

(g) A current vicinity map or aerial photograph taken

within one year preceding the application.

(h) A description of the general operating plan for the proposed facility, including equipment to be used and number of personnel.

(i) Detailed site plans of a scale no greater than one inch equals two hundred feet. The site plans must be signed, sealed and dated by a professional engineer registered in the State of Florida and must include notation of:

1. Project location and identification of all structures, roadways and other operational appurtenances;

2. Proposed disposal, handling, storage and processing areas;

3. Total acreage of the site;

4. Access control features and any other relevant physical features such as water bodies, wetlands, and areas subject to frequent or periodic flooding; and

5. Identification of all potable water wells on or within five hundred feet of the site boundary.

(j) A copy of any SWFWMD permit for the control of storm water or documentation that no permit is required. In the event that a SWFWMD permit is not required, plans including site topography and storm water control devices in accordance with Chapter 62-25, F.A.C., shall be provided. All plans and calculations must be signed, sealed and dated by a professional engineer registered in the State of Florida. Storm water shall not be impounded or otherwise accumulated atop areas impacted by solid waste disposal or in areas where RSM has been utilized as fill without Commission approved engineering controls.

(k) A signed and sealed general closure plan or site completion plan to include:

1. Cross section details of any disposal areas with final cover depths and site contours;

2. Revegetation plan details; and

3. A schedule for the removal and proper disposal of excess solid waste, hazardous waste, and recovered materials.

(l) Financial Assurance. The owner or operator of a site or facility requiring a Director's Authorization pursuant to Section 1-7.202(1)(c) and Section 1-7.202(1)(d) shall provide the Commission with proof of financial assurance in compliance with the following:

1. The financial assurance mechanism shall be issued in favor of Hillsborough County in the amount of the closing costs for the site or facility.

2. Proof of financial assurance may consist of one or more of the following instruments: performance bond; irrevocable letter of credit; deposit of cash or cash equivalent into an escrow account or; guarantee bond.

3. Proof of financial assurance along with an assessment of the anticipated cost of closure of the site or facility shall be submitted to the Commission as part of the Application for Director's Authorization. The Commission will accept a suitable financial assurance mechanism held by another regulatory agency upon assurance that the funds are available to the Commission.

4. The requirement to provide proof of financial

assurance for sites regulated pursuant to Section 1-7.202(1)(c) may be waived if reasonable assurance can be provided by the applicant which demonstrates that the applicant has the ability to effect proper site closure and that the site will be properly closed even in the event that the proposed development activities are not, for unforeseen reasons, completed in their entirety.

5. For sites or facilities regulated pursuant to Sections 1-7.202(1)(c) and 1-7.202(1)(d) which are owned or otherwise under the control of a local government, the requirement to provide financial assurance may be waived provided that verification, signed by or attested to by the highest ranking local government official an authorized public employee, may be provided which assures that the local government has the financial resources and ability to effect proper site closure and that the site will be properly closed.

(5) The Commission will accept submissions on the forms required by Section 62-701.900, F.A.C. For activities requiring submission pursuant to Section 1-7.202 (1)(c) and Section 1-7.202(1)(d), an application form may be obtained from the Commission.

(6) Pursuant to the existing Operating Agreement between the Department and the Commission, the Commission shall comment to the Department as to completeness on all applications and notifications within Hillsborough County requiring a Department permit or general permit as required therein. Recommendation for issuance or denial, based upon reasonable assurance that the facility will meet Department criteria and standards, shall be submitted to the Department as described in the Operating Agreement or Chapter 120, F.S.

(7) The requirements and standards for review of applications for a Director's Authorization shall be those contained in Section 62-701.320, F.A.C., this rule, and any other Commission or Department rule specifically providing conditions, standards, or criteria for the type of activity seeking authorization.

1-7.203 Construction on Areas Impacted by Solid Waste Disposal or Excavation of Solid Waste Disposal Areas.

Applications pursuant to Section 1-7.202(1)(c) will be reviewed, approved or denied based upon the written conclusions and recommendations of appropriately certified professionals according to the following:

(1) Detailed site plans in compliance with Section 1-7.202(4)(i) which clearly illustrate and delineate the following:

- (a) Horizontal and vertical extent of solid waste fill;
- (b) All proposed buildings, structures, utility lines or pipes, parking areas, paved or impervious surfaces, and storm water impoundment and conveyance structures;
- (c) Solid waste excavation locations, locations where construction will occur atop solid waste fill and where solid waste will be left in place;
- (d) Horizontal and vertical extent of areas where RSM

will be used as fill;

(e) Excavated solid waste handling, temporary storage, and processing areas;

(2) A geotechnical investigation and foundation analysis in accordance with the Florida Building Code and applicable industry standards must be submitted. In addition, appropriate building safeguards must be addressed in order to protect proposed structures that may be constructed on or through solid waste filled areas. The investigations, analyses and reports required by this Section shall be certified by an experienced professional engineer registered in the State of Florida.

(3) The applicant must comply with all local, state and federal building codes in order to ensure that proposed structures will not be damaged by potential landfill subsidence.

(4) A Preliminary Site Assessment Plan and Site Assessment Report must be submitted appropriate to the proposed project to demonstrate existing and potential contamination of air, water, soil and groundwater from the solid waste filled areas of the site. Preliminary site assessments activities must be conducted under the guidance of an experienced professional geologist or professional engineer registered in the State of Florida.

(5) Landfill-generated gas (LFG) shall be investigated and monitored at all sites requiring a Director's Authorization pursuant to Section 1-7.202(1)(c). LFG mitigation systems and LFG monitoring plans shall be designed, installed, and implemented under the supervision of an experienced professional engineer registered in the State of Florida. LFG control systems shall be designed to meet the requirements of Section 62-701.530(1)(a)1, (1)(a)2, and (1)(a)3, F.A.C., and the standards defined under Section 257.3-8, Title 40 of the Code of Federal Regulations. LFG flare units and/or LFG extraction units may require permitting through the Commission's Air Management Division if such a device is deemed necessary.

(a) LFG shall be monitored prior and subsequent to any excavation or development activity. Data generated through the monitoring of LFG prior to excavation or development activities may be submitted as part of the Site Assessment Report required pursuant to Section 1-7.203(4).

(b) All structures and enclosed spaces constructed atop or adjacent to areas where solid waste has been left in place or where RSM has been utilized as fill, will require protection through the design, implementation and operation of a LFG mitigation system.

(c) The design of LFG mitigation systems must provide for the effective collection and venting of LFG that may accumulate beneath structure slabs, foundations, impervious surfaces and within structures.

(d) A routine LFG monitoring schedule shall be developed and implemented. LFG monitoring data shall be collected through the monitoring of Commission approved mitigation systems, exterior LFG monitoring wells, and/or monitoring points, and interior monitoring devices. LFG monitoring data shall be submitted to the Commission in

accordance with an approved reporting schedule.

(6) Leachate generated at all sites requiring a Director's Authorization pursuant to Section 1-7.202(1)(c) shall be managed in accordance with the following:

(a) The off-site discharge of leachate is prohibited unless in accordance with a National Pollutant Discharge Elimination System (NPDES) permit.

(b) Leachate may be re-infiltrated only into areas up gradient of solid waste impacted areas and within areas previously impacted by solid waste disposal. Leachate re-infiltration shall not exacerbate, expand or otherwise contribute to or increase groundwater contamination or groundwater impacts.

(c) Leachate may require treatment prior to re-infiltration. The levels of treatment required will be determined based upon site specific conditions and proposals.

(7) RSM proposed for onsite reuse and excavated solid waste shall be characterized, managed, reused and disposed in accordance with the following:

(a) Characterization, through laboratory analyses, of RSM proposed for onsite reuse is required.

(b) Analytical data from the in-situ sampling of solid waste and/or soil matrices may not be used to support a reuse proposal in lieu of data generated from the analysis of RSM.

(c) RSM generated from solid waste which has been excavated from areas that can be conclusively shown to be filled solely with construction and demolition debris must, at a minimum, be analyzed for the laboratory parameters listed in Section 62-701.730(4)(b)4, F.A.C.

(d) RSM generated from solid waste which has been excavated from areas filled with solid waste other than construction and demolition debris, or from areas that do not otherwise meet the criteria outlined in Section 1-7.203(7)(c), must be analyzed for the parameters listed in Section 62-701.510(8)(d), F.A.C.

(e) The minimum sampling frequencies at which both discrete and composite RSM samples will be obtained shall be in accordance with Section 62-713.510(4)(b), F.A.C. Each composite sample shall be comprised of four randomly selected sub-samples in accordance with Section 62-713.510(6)(a)2, F.A.C.

(f) The onsite reuse of RSM exhibiting hazardous waste characteristics is prohibited.

(g) RSM found not to exceed leachability based Soil Cleanup Target Levels, as established in Chapter 62-777, F.A.C., Table II, may be reused onsite in accordance with the following:

1. RSM shall be placed no less than six inches above the seasonal high water ground water elevation.

2. Direct human exposure of RSM shall be prevented through the design and implementation of approved site specific engineering controls.

3. Reuse of RSM found to exceed Residential use based Soil Cleanup Target Levels, as established in Chapter 62-777, F.A.C., Table II, shall require the recording of an institutional control in the form

of a restrictive covenant in the public property record(s).

(h) The onsite reuse of RSM found to exceed leachability based Soil Cleanup Target Levels, as established in Chapter 62-777, F.A.C., Table II, is prohibited unless the requirements of Sections 1-7.203(7)(g)1, 1-7.203(7)(g)2 and 1-7.203(7)(g)3 are met and the reuse proposal is in accordance with a Remedial Action Plan approved by the Commission. Remedial Actions Plans may also require approval by the Department.

(i) The locations, dimensions, configurations and elevations of all RSM reuse areas must be documented on as-built site plans or site diagrams.

(j) Unprocessed/un-separated, non-hazardous solid waste excavated from solid waste disposal areas and non-hazardous RSM requiring disposal shall be disposed at a Class I solid waste disposal facility permitted by the Department. Disposal of excavated solid waste at a Department permitted Class III disposal facility may be approved by the Commission with appropriate analytical testing, as determined by the Commission, and on a case specific basis.

(k) Excavated solid waste which has been processed/separated shall be disposed at an appropriately permitted solid waste disposal facility or permitted hazardous waste disposal facility.

1-7.204 Landfills.

(1) Landfills in Hillsborough County shall comply with the standards and criteria contained in Section 62-701.340, F.A.C.

(2) Landfills shall at a minimum comply with the standards and criteria contained in Sections 62-701.400, 62-701.410, and 62-701.430, F.A.C.

(3) Operational standards and requirements shall be in compliance with Section 62-701.500, F.A.C., and monitoring requirements shall be consistent with Section 62-701.510, F.A.C.

(4) Landfill operators shall be appropriately trained in accordance with Section 62-701.320(15), F.A.C., or as otherwise required by law.

(5) Special waste handling at landfills shall conform to the standards and criteria contained in Section 62-701.520, F.A.C.

(6) Landfills shall be subject to the closure and long term care procedures, criteria and standards contained in Sections 62-701.600, 62-701.610, and 62-701.620, F.A.C.

1-7.205 Recovered Materials Processing Facilities and Waste Processing Facilities.

(1) Any person proposing to operate, maintain, construct, expand or modify a recovered materials processing facility or solid waste management facility not specifically requiring permitting pursuant to Department rule shall submit to the Director an application for said operation pursuant to Section 1-7.202(1)(d) prior to implementation.

(2) Solid waste management facilities which are waste

processing facilities shall comply with the criteria and standards contained in Section 62-701.710, F.A.C.

1-7.206 Clean Debris and Construction and Demolition Debris.

(1) Clean debris may be used as fill in accordance with Section 62-701.730(15), F.A.C. The use of clean debris as fill is hereby granted a Director's Authorization provided its placement does not constitute violations of other Commission rules or Hillsborough County land development ordinances.

(2) Construction and demolition debris may only be disposed at an appropriate disposal facility permitted in accordance with the criteria and requirements of Section 62-701.730, F.A.C.

1-7.207 Solid Waste Combuster Ash.

The management of solid waste combuster ash residue shall comply with the criteria and requirements of Chapter 62-702, F.A.C.

1-7.208 Composting Facilities and Yard Trash Processing Facilities.

(1) Solid waste management facilities which use composting technology to process solid wastes other than yard trash and clean wood shall comply with the provisions, prohibitions and standards of Chapter 62-709, F.A.C.

(2) Solid waste management facilities which process yard trash and/or clean wood into other usable materials, such as compost, mulch, soil amendment(s) or top soil are considered yard trash processing facilities and are regulated pursuant to Section 1-7.205(1). Yard trash processing facilities shall, at a minimum, comply with the provisions, prohibitions, and standards of Sections 62-709.320 and .330, F.A.C.

1-7.209 Waste Tires.

The collection, transport, processing and disposal of waste tires shall comply with the criteria, prohibitions, procedures and standards contained in Chapter 62-711, F.A.C.

Part III Hazardous Waste Management (Small Quantity Generators)

1-7.301 References, Variances and Case-By-Case Regulations.

The Commission adopts by reference Section 62-730.021(4), F.A.C.

1-7.302 Identification of Hazardous Waste.

The Commission adopts the criteria and standards referenced by Section 62-730.030 F.A.C. for identifying hazardous waste and conditionally exempt small quantity generator requirements.

1-7.303 Prohibitions.

(1) No person shall discharge, cause or permit the

discharge, of hazardous waste to the soils, air, surface water, or ground water in Hillsborough County, unless the discharge is in compliance with federal, state, and local regulations.

(2) No person shall discharge, cause or permit the discharge, of hazardous waste to a septic tank, oil/water separator, or other system of waste management which is designed to discharge into soils, air, surface water, or ground water, unless the discharge is in compliance with federal, state, and local regulations.

(3) No person shall manage hazardous waste in violation of any federal, state, or local regulations.

(4) No person subject to inspection pursuant to Section 403.7234 F.S. shall fail to pay the small quantity generator notification/verification fee required pursuant to Section 1-6.03(6) of the Commission's rules upon written notification that they are classified as a potential small quantity generator of hazardous wastes.

1-7.304 Generators of Hazardous Waste.

All generators of hazardous waste in Hillsborough County shall comply with the standards and criteria required by Sections 62-730.160(1), (3), (4), (6) and (7), F.A.C.

1-7.305 Transfer Facilities.

All transfer facilities in Hillsborough County shall comply with the standards and requirements contained in Section 62-730.171, F.A.C. except for subsection (1), and a copy of each record, report and plan required therein shall be submitted to the Commission within the time frames provided.

1-7.306 Hazardous Waste Treatment, Storage and Disposal Facilities.

Owners and operators of hazardous waste treatment, storage and disposal facilities in Hillsborough County shall comply with subsection 62-730.180(2), F.A.C.

1-7.307 Specific Hazardous Wastes and Types of Hazardous Waste Management Facilities.

The application of recycled materials to land, the recovery of precious metals, reclamation of lead acid batteries, the burning of hazardous wastes in furnaces, and the posting of warning signs at suspected or confirmed contaminated sites shall comply with the standards in Section 62-730.181, F.A.C.

1-7.308 Land Disposal Restrictions for Hazardous Waste.

All land disposal of hazardous waste shall comply with the restrictions and record keeping requirements of Section 62-730.183, F.A.C.

1-7.309 Standards for Universal Waste Management.

The management of universal wastes shall comply with the criteria and requirements of Section 62-730.185, F.A.C.

Part IV Site Rehabilitation.

1-7.400 Brownfields.

As pertains to proposals for Brownfields Site Rehabilitation, Chapter 62-785, F.A.C., is hereby adopted by reference except for Section 62-785.650.

1-7.401 Petroleum Cleanup.

As pertains to petroleum contaminated sites, Chapter 62-770, F.A.C., is hereby adopted by reference except for Section 62-770.650 and Section 62-770.890.

1-7.402 Cleanup Standards.

As pertains to the standards and criteria for contaminated site cleanup, Chapter 62-777, F.A.C., is hereby adopted by reference in its entirety.

Adopted 8/10/78

Amended 12/21/95

Amended 10/17/02

Amended xx/xx/12

RULES OF THE
ENVIRONMENTAL PROTECTION
COMMISSION OF HILLSBOROUGH
COUNTY

CHAPTER 1-8
MOBILE SOURCE
(REPEALED)

- ~~1-8.01 Statement of Intent~~
- ~~1-8.02 Declaration of Legislative Findings~~
- ~~1-8.03 Definitions~~
- ~~1-8.04 Applicability~~
- ~~1-8.05 Prohibitions~~
- ~~1-8.06 Exceptions to Sections 1-8.05(3), (8) and (9)~~
- ~~1-8.07 Gasoline Transfer and Transit Requirements~~
- ~~1-8.08 Notices and Record Keeping~~
- ~~1-8.09 Standards and Testing Procedures~~
- ~~1-8.10 Inspections~~
- ~~1-8.11 Correction~~
- ~~1-8.12 Enforcement~~

~~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, 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, or any other air contaminants released by the improper operation or servicing of motor vehicles. The Commission recognizes that the Federal Motor Vehicle Control Program, Title 40 CFR, Part 86, as amended, requires that new motor vehicles meet specified emission standards and intends that this rule further the public interest by requiring that those emission standards be maintained. The Commission intends that staff work with all appropriate State and Federal agencies in the area of Mobile source control. Further, it is the Commission's intent that its staff work in conjunction with the Sheriff, as~~

~~necessary, to periodically effect random stops of motor vehicles within the parameters of law to verify their compliance with this rule.~~

~~1-8.02 DECLARATION OF LEGISLATIVE FINDINGS:~~

~~The Commission hereby finds and declares that the operation of motor vehicles with inoperable emission control systems causes and may reasonably be expected to cause air pollution and that the reasonable control and regulation of motor vehicle operation in Hillsborough County is necessary for the protection and preservation of the public health, safety, and welfare. Further, the Commission recognizes the current attainment status of Hillsborough County for ozone and maintains adherence to the emission control strategies as set forth by the State of Florida and the United States Environmental Protection Agency to assist in the County's maintenance of this attainment status.~~

~~1-8.03 DEFINITIONS:~~

~~1. Definitions contained in the Act apply to this rule.~~

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

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

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

~~c. "Inoperable emission control system" means any emission control system or component thereof whose operation or efficiency has been~~

circumvented, defeated, or deleteriously affected by improper maintenance, improper up keep, wear and tear, misfueling, or tampering.

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

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

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

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

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

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

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

1-8.04 APPLICABILITY:

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

a. Motor vehicles which are designated as model year 1974 or older.

b. Motor vehicles which have net vehicle weights greater than 5,000 pounds or gross vehicle weights greater than 10,000 pounds.

c. Motoreycles, mopeds, scooters, and golf carts, as defined in Section 320.01 F.S.

d. Farm vehicles, as defined in Section 320.51 F.S.

e. Imported nonconforming motor vehicles which are documented to be exempt from federal emission control requirements by the USEPA under 40 CFR 85 Subpart P.

f. Street rods as defined by Section 320.0863 F.S.

g. Ancient motor vehicles as defined by Section 320.086 F.S.

h. Motor vehicles used exclusively in competitive motor sports events.

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

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

b. Sales of motor vehicles for salvage purposes only.

c. Sales, reassignments, and trades to licensed motor vehicle dealers, where the dealer elects not to request the certification from the seller or person reassigning title.

d. Sales, reassignments, and trades involving motor vehicles exempted in Section 1-8.04(1).

1-8.05 PROHIBITIONS:

1. No person shall tamper, cause, or allow the tampering of the emission control system of any motor vehicle.

2. No person shall replace, cause, or allow the replacement of an engine equipped with an emission control system with another engine without an emission control system having at least equivalent emission control efficiency.

3. No person shall drive, or allow another to drive, a motor vehicle under their care, custody, or control with an inoperable emission control system, except as may be otherwise allowed by this Rule.

4. No person shall rent or lease or otherwise provide for hire a motor vehicle that is not in compliance with the applicable emission standards or that has an inoperable emission control system.

5. a. Except as permitted by Section 1-8.04(2), no person or motor vehicle dealer shall offer a tampered motor vehicle for private or retail sale, or effect the transfer of title of any tampered motor vehicle.

b. No person or motor vehicle dealer shall sell at retail any motor vehicle, or effect the transfer of title of any motor vehicle, which has not received a valid inspection certificate as defined by Section 325.202(6) F.S. within the preceding one hundred eighty (180) days. In

addition, dealer certificates (F29X) with an extra \$1 fee paid at first inspection are valid for one year for the first retail sale.

6. No person shall manufacture, install, sell or advertise for sale, devices to defeat or render inoperable any component of a motor vehicle's emission control system; nor shall any person sell a device or fuel additive intended to circumvent an accurate emissions test.

7. No motor vehicle shall be driven in Hillsborough County which fails to meet the emission standards contained in Section 1-8.10(2), unless otherwise exempted herein.

8. No person shall cause, let, permit, or allow a gasoline powered motor vehicle under his care, custody or control upon public roadways to emit visible smoke from the exhaust pipe for a continuous period of 5 seconds or more.

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

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

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

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

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

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

~~1-8.06 EXCEPTIONS TO SECTIONS 1-8.05(3), (8), and (9):~~

1. A motor vehicle with an inoperable

emission control system or which fails to meet the emission standards of this Rule may be driven directly to a repair facility for the purpose of having the emission control system repaired or corrected.

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

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

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

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

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

3. All retail gasoline dispensing facilities exempt from Chapter 62-252 F.A.C. requirements shall implement a proper vapor balance system within one year of the effective date of this rule.

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

~~1-8.08 NOTICE AND RECORD KEEPING:~~

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

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

readily available for inspection upon request.

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

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

~~OR~~

~~"As a motor vehicle dealer licensed to conduct business in the state of Florida, I hereby certify that the emission control system of this vehicle has not been tampered with by me or with my permission. I also hereby certify that I or persons under my supervision have inspected this motor vehicle and, based on said inspection, have determined that the following components of the emission control system, as applicable to this model and year vehicle, are in place and appear properly connected and undamaged: catalytic~~

~~converter, fuel inlet restrictor, unvented fuel cap, positive crankcase ventilation system, exhaust gas recirculation system, thermostatic air cleaner, air pump and/or air injection system, oxygen sensor, fuel evaporative emission control, and all vacuum lines, electrical lines, and sensors or switches associated with these devices."~~

~~AND~~

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

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

~~1-8.09 STANDARDS AND TESTING PROCEDURES:~~

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

~~2. Testing standards which must be met for a motor vehicle to be in compliance are as established in Table 1:~~

THIS SECTION LEFT INTENTIONALLY BLANK

Table 1

	<i>Light Duty Vehicles, Passenger Cars with Net Weight of 5000 Pounds or Less</i>		<i>Light Duty Trucks GVWR of 6000 Pounds or less</i>		<i>Light Duty Trucks GVWR of 6001 to 10,000 Pounds</i>	
	CO(%)	HC(PPM)	CO(%)	HC(PPM)	CO(%)	HC(PPM)
1978-1979	4.0	400	5.0	450	5.5	600
1980	3.0	300	3.0	300	4.5	400

**Vehicle Age
(years-old)**

Vehicle Age (years-old)	Light Duty Vehicles, Passenger Cars with Net Weight of 5000 Pounds or Less		Light Duty Trucks GVWR of 6000 Pounds or less		Light Duty Trucks GVWR of 6001 to 10,000 Pounds	
	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 1-8.9(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.

1-8.10 INSPECTIONS:

1. The Director shall periodically inspect all service stations, repair facilities, gasoline dispensing facilities, automotive parts vendors, government and private facilities, 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, 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 Vehicles, shall periodically inspect facilities conducting activities within Hillsborough County pertaining to motor vehicle inspections pursuant to Sections 325.212 and 325.213, Florida Statutes. Said inspections shall be to determine compliance with the prohibitions and standards of this Rule, and with the Rules of the Department of Highway Safety and Motor Vehicles, and the Department of Environmental Protection created under the authority of Chapter 325, F.S.

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

1-8.11 CORRECTION:

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

2. Correction for violation of the advertising prohibitions shall be to publish

corrective notices of similar and equal size and distribution.

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

1-8.12 ENFORCEMENT:

1. Violation of the provisions of this rule is a violation of the Act, is a misdemeanor within the meaning of Section 775.08 Florida Statutes, and is subject to all the remedies provided therein.

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

3. Standard settlement minimum penalties shall be:

	Private	Commercial
(a) tampering [1-8.05(1)].....	\$ 500	\$1500
(b) installation of replacement engine not equipped with emission control system [1-8.05(2)].....	\$ 500	\$1500
(c) knowingly driving or otherwise allowing the operation of motor vehicle with inoperable emission control system [1-8.05(3)].....	\$ 500	\$1500
(d) sale of a tampered motor vehicle.....		
(e) sale of parts to defeat or by pass or render inoperable emission control systems [1-8.05(6)].....	n/a	\$1000
(f) failure to meet emission standards [1-8.05(6)(7)].....	\$ 500	\$2500

(g) failure to provide notice of prohibitions [1-8.08(1),(2),(3)].....	n/a	\$ 500
(h) failure to maintain proper records [1-8.08(4),(5)].....	n/a	\$ 500
(i) transferring, causing, permitting or allowing the transfer of gasoline into a stationary storage tank not equipped for vapor recovery [1-8.07(1)].....	n/a	\$1500
(j) release of air contaminants [1-8.05(11)].....	\$ 500	\$1500
(k) intentional venting of MVAC refrigerants.....	\$ 250	\$ 500
(l) failure to use approved refrigerant recycling equipment	\$ 250	\$ 500
(m) failure to properly train and certify technicians	n/a	\$ 500
(n) any other violations of this rule.....	\$ 250	\$ 500

Adopted 9/29/87
 Amended 4/24/91
 Amended 3/19/98
 Repealed xx/xx/2012

**RULES OF THE
ENVIRONMENTAL PROTECTION
COMMISSION
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-10
NOISE POLLUTION**

- 1-10.00 Intent
- 1-10.01 Definitions
- 1-10.02 (Repealed)
- 1-10.03 Sound Level Limits
- 1-10.04 Exemptions
- 1-10.05 Competitive Motor Vehicle Events
- 1-10.06 Waiver or Variance
- 1-10.07 Shooting Ranges (Repealed)
- 1-10.08 Methodology

1-10.00 INTENT

Chapter 1-10 is intended to regulate noise pollution originating from stationary sources and traveling outdoors to other receiving properties. It is not the intent of this rule to regulate noises under all circumstances.

Section History - new September 18, 2008
Effective September 18, 2008

1-10.01 DEFINITIONS

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

(2) The following specific definitions shall apply to this rule:

(a) **A-Weighted Sound Level** - The sound pressure level decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dBA.

(b) **Background Sound Pressure Level** - The equivalent sound pressure level of all encompassing noise present in the environment in the absence of sound from the source in question.

(c) **Commercial Property** - All property which is used primarily for the sale of merchandise or goods, or for the performances of a service, or for office or clerical work.

(d) **Decibel (dB)** - A unit of measurement of sound pressure equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the

sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

(e) **East Bay Raceway** - A one-third (1/3) mile dirt track located at 6311 Burts Road in Hillsborough County.

(f) **Emergency** - Any occurrence or set of circumstances involving actual or imminent physical trauma, natural resource damage, or property damage which demands immediate action.

(g) **Emergency Response** - Any action performed for the purpose of preventing or alleviating an emergency, including training exercises related to emergency response.

(h) **Industrial Property** - Any property which is used primarily for manufacturing, processing, or distribution.

(i) **Leq** - Abbreviation for the equivalent sound pressure level which means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying sound.

(j) **Octave Band** - All of the components in a sound spectrum whose frequencies are between two sine wave components separated by an octave.

(k) **Public Right-Of-Way** - Any street, avenue, boulevard, highway, sidewalk, or alley or similar place normally accessible to the public which is owned or controlled by a government entity.

(l) **Real Property Line** - An imaginary line along the ground surface, and its vertical plane extension, which separates the real property owned, rented or leased by one person from that owned, rented or leased by another person, excluding intrabuilding real property divisions.

(m) **Residential Property** - All property designed for people to live and sleep, and which is not commercial or industrial as defined in this rule, including but not limited to homes, dwellings, individual plots within a mobile home park, hospitals, shelters designed for human habitation, schools, nursing homes, and parks that have sleeping accommodations. Residential property must be located (sited) in conformance with applicable county or municipal zoning and

land use provisions. For purposes of this rule, a legal non-conforming residential use is considered in conformance, and therefore residential property.

(n) **RMS (Root Mean Square) Sound Pressure** - The square root of the time averaged square of the sound pressure.

(o) **Sound** - An oscillation or alteration in pressure, stress, particle displacement, particle velocity, or other physical parameter, in an elastic medium; or, an auditory sensation evoked by the alterations described above. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

(p) **Sound Level** - The weighted sound pressure level obtained by the use of a metering characteristic and weighting scale as specified in American National Standards Institute specifications for sound level meters ANSI S1.4-1983 (R2006) or in successor publications or amendments, including but not limited to ANSI S1.4A-1985 (R2006). If the weighting employed is not indicated, the A-weighting shall apply.

(q) **Sound Level Meter** - A device used to measure sound pressure level, or weighted sound pressure level, or octave band sound pressure level, and this device is of Type 2 or better, as specified in the American National Standards Institute Publication S1.4-1983 (R2006) or its successor publication or amendments, including but not limited to ANSI S1.4A-1985 (R2006).

(r) **Sound Pressure** - The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of energy, which accompanies the passage of a sound wave.

(s) **Sound Pressure Level** - Twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals. The sound pressure level is denoted SPL and is expressed in decibels.

(t) **Shooting Range** - An area designated and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar type of sport, law enforcement, or military shooting.

(u) **Stationary Source** - Any facility or

activity that has the potential to emit sound and exists at or is designed to be operated as a unit at a fixed location, although parts of the source may move while the source is in operation. This includes but is not limited to all commercial and industrial facilities, e.g., remote control vehicle facilities and relocatable rock crushing operations.

(v) **Unamplified Sound** - Sound that is not amplified by any mechanical or electronic means.

Section History - amended September 18, 2008

Amendment Effective September 18, 2008

1-10.03 SOUND LEVEL LIMITS

(1) Sound levels limits pursuant to this rule shall be measured with a sound level meter as an Leq for a 10-minute period of time. Sound levels which exceed the limits set forth in this rule for the receiving land when measured at or within the property line of the receiving land, or as measured at the locations described in 1-10.03(1) or 1-10.03(4), are a violation of this rule. The point of sound level compliance for receiving residences or other sleeping accommodations on agricultural and park land shall be measured at a distance no greater than 150 feet from the receiving residence or sleeping accommodation.

(2) **Sound Level Limits.** Unless otherwise specified in this rule, the below limits in this sub-section and sub-section 1-10.03(4) shall be measured using the A-Weighted Sound Level (dBA).

Receiving Land Use Category	Time	Sound Level Limit, dBA
Residential	7 a.m.-10 p.m.	60
	10 p.m.- 7 a.m.	55
Commercial	At all times	65
Industrial	At All Times	70

(3) **Octave Band Residential Sound Level Limit.** In addition to the sound level limits of 1-10.03(2), for any source of sound which impacts on residential property, the maximum allowable

sound level limit for the individual octave bands whose centers are 63, 125, and 250 Hertz (Hz) shall not exceed the below listed decibel levels, measured as an Leq for a 10-minute period of time:

Octave Band	Time	Sound Level Limit - dB
63 Hz	7 a.m.-11 p.m.	70
63 Hz	11 p.m.- 7 a.m.	65
125 Hz	7 a.m.-11 p.m.	64
125 Hz	11 p.m.- 7 a.m.	59
250 Hz	7 a.m.-11 p.m.	57
250 Hz	11 p.m.- 7 a.m.	53

(4) **Air Conditioning and Air Handling Equipment, Pumps and Compressors Sound Level Limit.** No person shall operate or cause to be operated any air conditioning or air-handling equipment, or any pumps and compressors, in such a manner as to exceed 55 dBA as an Leq for a 10-minute period of time, measured from a distance of 40 feet or more from the source across a residential real property line at any time of the day or night.

(5) The Florida State Fairgrounds is subject to the sound level limits in this section and to all other provisions of this rule.

(6) No person shall generate, cause, let, permit, allow, or allow to continue any violation of this rule. If the same type of violation continues after the property owner is notified by the Environmental Protection Commission (EPC) or a law enforcement officer, then the property owner, even if he or she did not generate sound, will be deemed to have allowed the violation to continue.

Section History – amended September 18, 2008
Amendment Effective September 18, 2008

1-10.04 EXEMPTIONS

Any of the following exempt activities or sources listed in this section remain subject to any other laws, regulations, codes or ordinances. The following activities or sources are exempt from

the requirements of this rule and the EPC's noise nuisance laws:

(1) The emission of sound from a person or any mechanical device, apparatus, or equipment for the purpose of alerting persons to the existence of an emergency, or sounds generated in the performance of emergency response duties, including training.

(2) The unamplified sound of the human voice.

(3) The unamplified sounds of animals.

(4) Except as conditioned below, reasonable operation of equipment or conduct of activities related to residential or agricultural communities, including but not limited to, lawn care and refuse collection. Commercial operation of motorized lawn, garden, or other outdoor maintenance equipment is exempt between the hours of 7 a.m. and 10 p.m.

(5) Sounds occurring at places of religious worship and related to those religious activities.

(6) Except where regulated elsewhere in this rule, events directly related to Gasparilla, New Year's Eve, Guavaween, the Super Bowl, the Strawberry Festival, the Hillsborough County Fair, all federal holidays, parades, competitive sporting events, and the two week Florida State Fair but for any concerts at the Amphitheatre during that same two weeks.

(7) Mobile sources, including but not limited to:

(a) motor vehicles, including recreational motorized vehicles, and their associated stereos or other sound generating devices attached to the vehicles. This does not include racing vehicles and racing venues addressed elsewhere in this rule, nor does it include slamming of dump truck tailgates or unloading of vehicles; and

(b) the operation of trains, ships, personal watercraft, and aircraft.

(8) Common carrier stations, including but not limited to bus stations, transit malls, train stations, ships' wharves and docks, and airports.

(9) Shooting ranges, pursuant to section 823.16, F.S., discharge of firearms, except as provided in Section 1-10.07, and the shooting sounds associated with paintball facilities.

(10) Noise pollution generated by the Florida

Department of Transportation arising from activities at existing or future transportation facilities, or appurtenances thereto, on the State Highway System, pursuant to Section 335.02 (4), F.S.

(11) Construction activities occurring between the hours of 7 a.m. and 6 p.m. Monday through Friday, 8 a.m. and 6 p.m. Saturday, and 10 a.m. and 6 p.m. Sunday are exempt if reasonable precautions are taken to abate the noise pollution generated from those activities. Reasonable precautions shall include but not be limited to noise pollution abatement measures such as enclosure of the noise pollution source, use of acoustical blankets, and change in work practice. Construction activities occurring at all other times shall be subject to this Rule.

(12) Noise pollution originating from within a residential structure and its appurtenances.

(13) Noise pollution originating from entertainment or musical events in the Central Business District, the Ybor City Historic District, and the Channel District, as delineated in the City of Tampa Code of Ordinances.

(14) Athletic, musical, other school events, or practice for them, conducted under the auspices of public or private schools, but not limited to activities on school grounds.

Section History – amended September 18, 2008
Amendment Effective September 18, 2008

1-10.05 COMPETITIVE MOTOR VEHICLE EVENTS

(1) Sound Level Limits -

(a) Sound levels from facilities holding competitive motor vehicle events shall be subject to the sound level limits of subsections 1-10.03(2) and (3), except for East Bay Raceway.

(c) In the event East Bay Raceway adds a new racing event at its existing track, builds a new facility, or expands or relocates its existing racetrack then that new racing event and/or new, relocated, or expanded facility is subject to the sound level limits in subsections 1-10.03(2) and (3).

(2) Authorization Required -

(a) Compliance with all applicable

requirements of section 1-10.05 shall be demonstrated by completing a Competitive Motor Vehicle Events form provided by EPC staff and submitting it to the EPC Executive Director:

(1) prior to construction, alteration, or expansion of any competitive motor vehicle racing facility; and

(2) annually, by November 1 of each year for all racing activities planned for the following calendar year.

The Competitive Motor Vehicle Events form is maintained by the Air Management Division.

(b) Any racing facility submitting a complete Competitive Motor Vehicle Events form, including all requirements of this section, shall be eligible to operate unless the Executive Director makes a written decision of ineligibility within 45 days of receipt of the complete form, except new or modified race tracks will require a modeling demonstration as described in subsection 1-10.05(3)(a) be affirmatively approved by the Executive Director prior to operation or construction. Any incomplete form shall be returned to the applicant for further information, and the 45-day EPC review will restart upon Executive Director's receipt of the amended form. Any person aggrieved by the decision of the EPC Executive Director may challenge the decision pursuant to Section 9 of the EPC Act and Section 1-2.30, Rules of the EPC.

(3) General Requirements for All Motor Vehicle Racing Facilities.

(a) In addition to the form required above, no person shall begin construction or begin operation of a new racing facility, or begin alteration or expansion of a racing facility existing as of the date of this rule without first submitting a written demonstration of ability to comply with the sound level limits in Section 1-10.05(1)(a). The demonstration shall include but not be limited to modeling by an acoustical expert to demonstrate compliance. The demonstration will be reviewed by EPC staff, and construction, alteration or expansion can not commence prior to approval by the Executive Director. The Competitive Motor Vehicle

Events form shall be submitted in conjunction with the demonstration.

(b) All motor vehicles participating in racing events shall be inspected by designated raceway personnel prior to each race to ensure that appropriate sound-attenuating mufflers are being used during the racing event and all preliminary race activities. A written record of the following information shall be maintained: the date, time and place of inspection; the person performing the inspection; description of vehicle inspected; and results of the inspection.

(c) The Competitive Motor Vehicle Events form will include the following information for all races scheduled for the next calendar year:

(1) Name, address, and telephone number of the person, firm, corporation, or other entity responsible for the racing events.

(2) Name and telephone number of a responsible party who may be reached during all racing events.

(3) Location, dates and times of all racing events for that calendar year, including the beginning and ending times of the races, and the number and types of vehicles in the races.

(4) Descriptions of all measures, methods, and work practices used to reduce the volume of noise pollution generated by the racing events.

(5) Provisions for employee training, including familiarization with the requirements of this rule.

(6) Provisions for trackside and boundary noise pollution monitoring.

(d) All records of operations, inspections and noise pollution monitoring shall be retained on site for a minimum of two years and made available to EPC staff upon request.

(e) All racing facilities shall allow EPC personnel access to the premises at reasonable times to copy records, inspect or monitor the operations to determine compliance with EPC rules.

(f) Any deviation from the hours of operation or dates of operation shall be reported to EPC staff within 24 hours of the occurrence.

(4) **Specific Requirements for East Bay**

Raceway.

(a) During East Bay Raceway's current annual race event, which is not to exceed six consecutive weeks, the races shall end by 10:30 p.m. with a one-hour extension for delays.

(b) East Bay Raceway's regular season races on Friday and Saturday nights shall end by 11:30 p.m. with a thirty-minute extension for delays. Regular season Sunday races are for emergency make-up only and are allowed from 5 p.m. to 10:30 p.m.

(c) East Bay Raceway shall keep records of race stop times for each race day, and the number and types of vehicles participating in each event.

Section History – amended September 18, 2008
Amendment Effective September 18, 2008

1-10.06 WAIVER OR VARIANCE

Persons may apply for a waiver or variance to all or a portion of this rule by filing an application pursuant to section 1-2.50, Rules of the EPC.

Section History – amended September 18, 2008
Amendment Effective September 18, 2008

1-10.07 SHOOTING RANGES

~~(1) The EPC recognizes that the field of shooting ranges is primarily regulated by the State, but for the exceptions provided for in Section 823.16, F.S. and as further detailed in section 1-10.07(2).~~

~~(2) Compliance Demonstration Required~~

~~(a) Any sport shooting range constructed or in initial operation after December 19, 2000 shall submit to the Executive Director for review and approval, a sound study, performed by a member of the National Council of Acoustical Consultants, or the National Institute of Noise Control Engineers, demonstrating compliance with the A scale sound level limits in Section 1-10.03. The sound study shall be submitted within 30 days of completion of construction or initial operation.~~

~~(b) The sound study shall consist of sound readings taken 500 feet from the real property line of the sport shooting range, or the real property line of the nearest residential property, whichever is closer, on the north, south, east and west sides of the sport shooting range.~~

~~Readings shall be taken when the range is operating at maximum capacity. One set of readings shall be taken between the hours of 7 a.m. to 10 p. m., and a second set between the hours of 10 p.m. and 7 a.m. Sound levels shall be measured on the A scale only, using a sound level meter as defined by this rule. Meteorological conditions during each test must be submitted as part of the study.~~

~~(c) Any sport shooting range that is constructed or in initial operation after December 19, 2000, and either fails to submit a sound study or the study fails to demonstrate compliance with the standards in this rule shall be subject to and must comply with the EPC Act and the A scale sound level limits in Section 1-10.03.~~

~~Section History—amended September 18, 2008~~

~~Amendment Effective September 18, 2008~~

1-10.08 METHODOLOGY

EPC staff maintains standard operating procedures for measuring sound levels and analyzing them in accordance with the provisions of this rule. These procedures are not adopted by this rule and may be revised as necessary to address updated standards applicable to the measurement and analysis of sound levels.

Section History – new September 18, 2008

Effective September 18, 2008

Adopted 6/10/76

Amended 4/13/78

Amended 9/1/82

Amended 11/15/84

Amended 11/11/88

Amended 10/05/89

Amended 05/23/90

Amended 05/22/91

Amended 06/20/95

Amended 01/17/96

Amended 12/19/00

Amended 08/19/04

Amended via Circuit Court Ruling 02/25/05

Amended 09/18/08 and Effective 09/18/08

Amended [insert date] and Effective [insert date]

**ENVIRONMENTAL PROTECTION
COMMISSION
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-12
STORAGE TANK RULE**

1-12-1-12.10.00	Intent
1-12-1-12.20.00	Interpretation
1-12-1-12.61.20	Definitions
1-12-1-12.61.30	Applicability
1-12-1-12.61.40	Registration and Financial Responsibility
1-12-1-12.61.45	Notification and Reporting
1-12-1-12.61.48	EPC Installation or Upgrade Plan Review Fee
1-12-1-12.61.50	Performance Standards for Storage Tank Systems
1-12-1-12.61.60	Release Detection Standards
1-12-1-12.61.70	Repairs, Operation, and Maintenance
1-12-1-12.61.71	Recordkeeping
1-12-1-12.61.80	Out-Of-Service and Closure Requirements
1-12-1-12.61.82	Incident and Discharge Response

1-12-1-12.10.00 INTENT

(1) Pursuant to the Florida Legislature's determination in Section 376.30 F.S. that the storage, transportation and disposal of pollutants is a hazardous undertaking, that their discharge poses a great threat to the environment, and that the state interest in regulating their storage, transportation and disposal outweighs the burden imposed on such facilities, the Florida Department of Environmental Protection (DEP or Department) adopted Chapters 62-761 and 62-762, F.A.C. The Environmental

Protection Commission of Hillsborough County (Commission or EPC) intends to facilitate the delegation of ~~DEP~~Department's program regulating stationary tanks by adopting a rule incorporating appropriate sections of the Department's rules so as to establish a mechanism by which the Commission can effectively implement and enforce ~~DEP~~Department's regulations under its own authority, as well as by any delegated authority.

(2) It is the Commission's intent to assist in the ~~state's~~State's effort to assure protection of surface and groundwater's in Hillsborough County by implementing the standards for construction, installation, maintenance, registration, removal and disposal of storage tank systems. It is not the Commission's intent at this time to implement regulations more stringent than those of ~~DEP~~Department.

(3) By incorporating by reference provisions of ~~DEP~~Department's rules, the Commission intends that any provision requiring notice, submissions, or demonstration to the Department be read to also require notice, copies of submissions or demonstration directly to the Commission's Executive Director and that any provision requiring approval or authorizing action of the Department shall be read to also require approval or authorize action of the Commission's Executive Director, unless otherwise specifically provided herein.

Section History – amended November 15, 2007
Effective November 16, 2007

**1-12-1-12.20.00
INTERPRETATION**

The Commission will apply the Department's interpretations of its regulations here adopted by reference where possible; however, any action or position taken by the Commission or its Executive Director in conflict with a Department interpretation or policy applying

such regulations will not be invalidated unless the interpretation or policy was formally issued by the Department in writing prior to the Commission's or Executive Director's action.

Section History – amended October 15, 1998
Effective October 15, 1998

1-12-1-12.61.20 DEFINITIONS

The Commission adopts for purposes of this rule the definitions contained in Sections 62-761.200 and 62-762.201, F.A.C. The definitions adopted by the Legislature in Section 376.301 F.S. also apply, as well as the definitions contained in Chapter 84-446, Laws of Florida, as amended or recodified.

Section History – amended November 15, 2007
Effective November 16, 2007

1-12-1-12.61.30 APPLICABILITY

The provisions and standards of this rule apply only to the owners and operators of facilities identified by Sections 62-761.300 and 62-762.301, F.A.C. as subject to Chapter 62-761 and Chapter 62-762, F.A.C.

Section History – amended November 15, 2007
Effective November 16, 2007

1-12-1-12.61.40 REGISTRATION AND FINANCIAL RESPONSIBILITY

The owners of facilities identified by Sections 62-761.400 and 62-762.401, F.A.C. are required to register with the Department as provided in that section. Where the registrant is not the property owner, the name of the property owner shall also be given to the Commission.

Section History – amended November 15, 2007
Effective November 16, 2007

1-12-1-12.61.45 NOTIFICATION AND

REPORTING

(1) The provisions of Sections 62-761.450 and 62-762.451, F.A.C. are adopted by reference.

(2) A copy of any building plans which include the installation or upgrade of storage tank systems shall be submitted to the Commission for review prior ~~concurrent~~ to submitting an application for a County or municipal building permit. An Application for the Installation or Upgrade of Pollutant Storage Tank Systems must be submitted to the Commission for review and approval prior to installation or upgrade. The copy of the building plans must be submitted with the application.

Section History – amended November 15, 2007
Effective November 16, 2007

1-12-1-12.61.48 EPC INSTALLATION OR

UPGRADE PLAN REVIEW FEE

Applicable application fees for an installation or upgrade plan review required under this rule shall be provided in Chapter 1-6, Rules of the Commission.

Section History – amended October 15, 1998
Effective October 15, 1998

1-12-1-12.61.50 PERFORMANCE STANDARDS FOR STORAGE TANK SYSTEMS

The provisions of Sections 62-761.500, 62-761.510, 62-762.501 and 62-762.511, F.A.C. are adopted by reference.

Section History – amended November 15, 2007
Effective November 16, 2007

1-12-1-12.61.60 RELEASE DETECTION STANDARDS

The provisions of Sections 62-761.600, 62-761.610, 62-761.640, 62-762.601, 62-762.611 and 62-762.641, F.A.C. are adopted

by reference.

Section History – amended November 15, 2007
Effective November 16, 2007

Department, and shall review and comment to the Department, the decision whether to approve or deny will be the Department's.

Section History – amended November 15, 2007
Effective November 16, 2007

**1-12-1-12.61.70 REPAIRS,
OPERATION,**

AND MAINTENANCE

The provisions of Sections 62-761.700 and 62-762.701, F.A.C. are adopted by reference.

Section History – amended November 15, 2007
Effective November 16, 2007

Adopted 4/04/91

Amended 6/16/92

Amended 10/15/98

Amended 11/15/07, Effective 11/16/07

Amended xx/xx/12, Effective xx/xx/12

1-12-1-12.61.71

RECORDKEEPING

The provisions of Sections 62-761.710 and 62-762.711, F.A.C. are adopted by reference.

Section History – amended November 15, 2007
Effective November 16, 2007

**1-12-1-12.61.80 OUT-OF-SERVICE
AND**

CLOSURE REQUIREMENTS

The provisions of Sections 62-761.800 and 62-762.801, F.A.C. are adopted by reference.

Section History – amended November 15, 2007
Effective November 16, 2007

**1-12-1-12.61.82 INCIDENT AND
DISCHARGE RESPONSE**

The provisions of Sections 62-761.820 and 62-762.821, F.A.C. are adopted by reference.

Section History – amended November 15, 2007
Effective November 16, 2007

**1-12-1-12.61.85 ALTERNATIVE
REQUIREMENTS AND
EQUIPMENT APPROVALS**

The provisions of Sections 62-761.850 and 62-762.851, F.A.C. are adopted by reference, and although the Commission shall be given copies of any request when submitted to the

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 9, 2012

Subject: Discussion on EPC Rule 1-15 required study on “the effectiveness of fertilizer regulations” and citizen comments on this topic.

Consent Agenda _____ **Regular Agenda** X **Public Hearing** _____

Division: Water Management

Recommendation: Informational Response to Citizen Comments on Fertilizer Rule Study

Brief Summary: At the June 28, 2012 EPC meeting, a citizen spoke during public comments and expressed his opinions regarding the scope of work and the scientific team that is performing the study that has been mandated by Chapter 1-15, Rules of Florida (Fertilizer Use and Landscape Management Rule). At the request of the Commission, staff will provide additional information to address the issues raised by the citizen’s comments.

Financial Impact: No Financial Impact

Background: Chapter 1-15, Rules of the EPC was adopted July 20, 2010. The rule implements fertilizer and landscape management regulations approved by the Commission in order to protect regional water quality. Rule section 1-15.14 requires the EPC staff to conduct a study within three years of passage of the rule. Additionally, when the Commission passed the rule, they instructed staff to acquire funding to conduct a scientific study of the effectiveness of local rules on meeting water quality objectives.

The independent study being conducted by Applied Ecology, Inc., the University of Florida, and the University of Central Florida is expected to contribute significantly to the scientific knowledge of the fate of urban fertilizers, their contribution to stormwater nutrient loading, and real-world fertilizer application practices on a neighborhood scale.

At the June 28, 2012 EPC meeting, a citizen spoke during public comments and expressed his opinions regarding the scope of work and the scientific team that is performing the study. In addition, the citizen expressed opinions regarding the Tampa Bay Estuary Program “Be Floridian” educational campaign. At the request of the Commission, staff will provide additional information to address the issues raised by the citizen’s comments.

List of Attachments: No Attachments

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 9, 2012

Subject: Lakes Initiative Report

Consent Agenda _____ **Regular Agenda** X **Public Hearing** _____

Division: Wetlands

Recommendation: Informational Report

Brief Summary: Report #5 of the Series. Provides advanced information on important and potentially controversial issues related to lakes, wetlands, rivers, springs, estuarine systems to allow the Board to better assist citizens. This month contrasts the situations in Northwest Hillsborough County to conditions in Southeastern Hillsborough County.

Financial Impact: No Financial Impact

Background:

This Agenda Item, named the Lakes Initiative Report, is a semi-regular part of the Board Agenda items. This report is designed to provide the Board with advanced information pertaining to potential issues of concern to multiple citizens of Hillsborough County relating to the following items: lakes, rivers, springs, and estuaries.

Citizens who live on the shores of lakes, rivers, springs, and estuaries often do so because they value the aesthetic and recreational aspects of waterfront living. In many instances, these citizens pay property taxes that exceed similar sized parcels of land that do not have water access or water views. Citizens are justifiably concerned with, and protective of, the hydrology, ecology, and water quality conditions of their local water body. Multiple projects (both public and private) involve water bodies, and can, potentially, have negative effects on these.

This, the fifth installment (August, 2012) of this series of reports provides the Board with water level and possible future flooding related information from locations in the Northwest part of the County as well as information on other parts of the County.

As a part of the report on each water body, EPC will provide the name and contact information of the person at EPC most knowledgeable of the particular issue. EPC will also provide to the Board members offices: (1) detailed maps of the locations of each water body; and (2) a matrix that contains essential information on each water body.

List of Attachments: Power point sent separately.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 9, 2012

Subject: Advanced Leadership Development Program (ALDP) project presentation

Agenda Section: Regular Agenda

Division: Wetlands Management Division

Recommendation: Informational Report

Brief Summary: The Advanced Leadership Development Program was created as part of EPC's vision of pursuing performance and environmental excellence in a changing world through process improvements that support the Agency's Mission. Member Chris Cooley will present his ALDP project contributing to process improvements at EPC. Mr. Cooley's project focuses on analyzing key Wetlands Division processes and creating detailed process maps which can be used to identify efficiencies and implement process improvements.

Financial Impact: No Financial Impact

Background: The ALDP was created as part of EPC's vision of pursuing performance and environmental excellence in a changing world through process improvements that support the Agency's Mission. The ALDP is a structured self study program at EPC designed to be completed within a 1 year time frame. Key elements of the program consist of completing all of the following items: performing a pre and post self evaluation test, taking six mandatory core courses, two elective courses, Toastmaster's Competent Leadership (10 projects) and Competent Communication (10 speeches) certificates, 4 mentoring sessions with each Division Director and a final project that will contribute to process improvement(s) at EPC. There are a total of 6 candidates in ALDP Group # 1. One member, Chris Cooley will be presenting his project at today's meeting. As part of EPC's sustainability initiative four new candidates have been selected for ALDP Group # 2 and they will officially begin their program next month in July. Group #3 contenders have also been selected; however, they will not begin their program until January 2013.

List of Attachments: [Double-click to list any attachments or put "None."]

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Supplemental EPC Agenda Item Cover Sheet for Item IV.

Date of EPC Meeting: August 9, 2012

Subject: Agency-wide Rule Revision Public Hearing

Agenda Section: Regular Agenda

Division: Legal and Administrative Services Division

Recommendation: Conduct a Public Hearing to approve amendments to multiple rules.

Brief Summary: This is a supplement to the original agenda item that is on file regarding the proposed rule amendments scheduled for public hearing on August 9, 2012. Several rules provided in the original Agenda item backup have been modified based on additional public comment. EPC proposed rule Chapters 1-1, 1-3 and 1-8 have been modified and are attached to this supplemental agenda item. The other proposed rule amendments previously provided in the backup have no additional modifications and remain for consideration at the public hearing.

Financial Impact: No Financial Impact.

Background: The EPC Act, Section 5, provides that the EPC Board has the power to adopt, revise, and amend rules reasonably necessary for the implementation and effective enforcement, administration, and interpretation of the EPC Act to provide for the effective control of pollution. The EPC staff had proposed revisions to at least seven rules and the repeal of one air rule. The rule Chapters proposed to be revised include Chp. 1-1 (General Rules), Chp. 1-2 (Administrative Procedures), Chp. 1-3 (Stationary Air Pollution Sources and Ambient Air Quality Standards), Chp. 1-5 (Water Quality Standards), Chp. 1-7 (Waste Management), Chp. 1-10 (Noise Pollution), and Chp. 1-12 (Storage Tank Rule). Staff also proposed to repeal in its entirety an obsolete air pollution rule, Chp. 1-8 (Mobile Source). The rule changes do not add any new environmental regulations. The majority of the changes delete or revise rule sections that are obsolete, such as references to old agencies or outdated laws. The EPC staff continued to take public comment after the initial agenda item was submitted; subsequently the EPC staff accepted some of the proposed changes. Chapter 1-1 was revised to address notification for abnormal events; Chapter 1-3 was revised to address molten sulfur opacity standards and mercury monitor performance specifications at Municipal waste combustors; and Chapter 1-8 was revised to maintain some existing prohibitions rather than an entire repeal of all the language. None of these changes substantively change any existing rules and continue to reflect the original intent of these rule amendments to not increase any regulations. The public hearing was properly noticed in the newspaper on July 27, 2012.

List of Attachments: Proposed Revisions to Chps. 1-1, 1-3, 1-8, Rules of the EPC

**RULES OF THE
ENVIRONMENTAL PROTECTION
COMMISSION
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-1
GENERAL RULES**

- 1-1.01 Declaration of Intent
- 1-1.02 Definitions
- 1-1.03 Approval Required
(Repealed)
- 1-1.04 Operating Records,
Sampling and Testing
- 1-1.05 Abnormal Events To Be
Reported
- 1-1.06 Pollution Control
Equipment To Be Kept In
Service and In Good Repair
- 1-1.07 General Restrictions

1-1.01 DECLARATION OF INTENT

It is the intent of the Commission to provide for the protection or enhancement of the environment of Hillsborough County. The policy inherent in the following Rules shall be to protect air, soil, and water quality, and noise levels, existing at the time of adoption of these Rules or to upgrade or enhance the air, soil, and water quality and noise levels within the county.

1-1.02 DEFINITIONS

~~“Regulatory Agency” shall mean the Hillsborough County Environmental Protection Commission.~~

(a) *Commission* means the Environmental Protection Commission of Hillsborough County.

(b) *Executive Director* means the appointed Environmental Director of the Environmental Protection Commission of Hillsborough County or authorized staff.

~~1-1.03 APPROVAL REQUIRED~~

~~1. No building permit shall be issued by Hillsborough County or any municipality for any industrial, commercial,~~

~~or governmental facility, equipment or operation which may reasonably be expected to be a source of air, soil, water or noise pollution as herein defined or for the alteration, enlargement or addition to any such existing facility, equipment or operation until such application has been forwarded by the County or municipality to the Environmental Executive Director.~~

~~2. It shall be the duty of the Executive Director to review the application and approve or disapprove same comment within fourteen days from receipt thereof unless the Executive Director shall request additional time for review.~~

~~3. If the application is not returned or disapproved by the Executive Director within the time so specified said application shall be considered approved.~~

**1-1.04 OPERATING RECORDS,
SAMPLING AND TESTING**

1. A person responsible for the operation of any facility that may be a source of air, soil, water or noise pollution shall conduct such tests and maintain such records as shall have been required by the Executive Director or law as necessary to show compliance with the Special Act Chapter 84-446, Laws of Florida as Amended by Chapter 87-495, known as the “Hillsborough County Environmental Protection Act” (EPC Act) or the Rules promulgated thereunder and Regulations. Such test data and operating records shall be available at all times for inspection by the Executive Director ~~or his designated agent~~.

2. All persons shall, upon request of the Commission or Executive Director, provide periodic or continuous automatic monitoring, testing and records of pollutants being emitted or discharged from any facility that may be a source of air, soil, water or noise pollution.

3. When the Commission or Executive Director, upon making investigations, has good reason to believe that the provisions of these Rules concerning the emission or discharge of air, soil, water, or noise

pollutants are being violated, it may require the persons responsible for the source of such pollutants to conduct tests which will identify the nature and quantity of the pollutant emission or discharge from the source and to provide the results of such tests to the Commission or Executive Director. These tests shall be carried out under the supervision of the Commission or Executive Director, and at the expense of the person responsible for the source of pollutants.

4. All analyses and tests shall be conducted in a manner approved by the Commission or Executive Director. Results of analyses and tests shall be calculated and reported in a manner specified by the Commission or Executive Director.

5. Analyses and tests for compliance may be performed by the Commission or Executive Director at the expense of the person responsible for the emission or discharge of air, soil, water or noise pollutants.

1-1.05 ABNORMAL EVENTS TO BE REPORTED

In case of breakdown or lack of proper functioning of any facility or equipment or operation causing or which could reasonably be expected to cause air, soil, water or noise pollution and has the potential to cause significant harm to the environment or represents an immediate threat to public health, it shall be the duty of the person responsible to promptly notify the Executive Director or his designated agent within 24 hours and to permit ~~him or his~~ any designated agent immediate access to the premises for the purpose of investigating the problem.

1-1.06 POLLUTION CONTROL EQUIPMENT TO BE KEPT IN SERVICE AND IN GOOD REPAIR

1. The person responsible for the operation of any pollution control equipment or facilities shall keep in service all equipment and facilities required or

approved to control, treat, sample, test and/or measure pollution and shall maintain such equipment or facilities in good repair to perform adequately the function for which it was intended.

2. In cases where such equipment or facility is removed ~~from~~from the service for which it is intended the person responsible shall have the duty to promptly notify the Executive Director within 24 hours, unless a different reporting period is specified in State law or any applicable Commission or Department of Environmental Protection permit.

1-1.07 GENERAL RESTRICTIONS

1. Nondegradation - If those portions of the County which have on the effective date of these Rules better ambient air or water quality or noise levels than as herein specified as minimum standards, no person shall cause, let, permit, suffer or allow the emission into the air or the discharge into the water or soil pollutants, or cause noise, which degrade or tend to degrade the air, soil, or waters of the County or noise levels in the County, nor commit any act which degrades or tends to degrade said air, soil, or water quality or noise levels.

2. Latest Technology - If the latest available technology as may be applied to air, soil, water, and noise pollution sources results in or is expected to result in lower or improved emissions, then the latest available technology as determined by the Commission and consistent with the ~~State Department of Pollution Control~~ Department of Environmental Protection shall apply.

3. Operation Rates - No plant, process, or source shall operate at capacities which exceed the limits of operation of a control device permitted or regulated under Chapter 17-4 Rules of the State of Florida Department of Pollution Control Florida Statute, the Florida Administrative Code, the EPC Act or Commission Rules or exceed the capability of the plant or control

device to maintain the discharge or emission within the standard limitations imposed by the Hillsborough County Environmental Protection Act or the Commission Rules and Regulations.

4. Concealment - No person shall build, erect, install or use any article, machine, equipment or other contrivance, the use of which will conceal the emission or discharge which would otherwise constitute a violation of any of the provisions of the EPC Act or the Commission Rules and Regulations.

5. Circumvention - No person shall cause, let, permit, suffer or allow the circumvention of any air, water, soil, or noise pollution control device or equipment or allow the emission or discharge of said pollutants without the applicable pollution control device(s) operating properly.

Amended 7/25/68

Amended 6/17/69

Amended _____

**RULES OF THE
ENVIRONMENTAL PROTECTION
COMMISSION
OF HILLSBOROUGH COUNTY**

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

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PART 1

1-3.10 STATEMENT OF INTENT

1. The Environmental Protection Commission of Hillsborough County (~~Commission~~ or EPC) 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~~EPC recognizes that the Florida Department of Environmental Protection (Department) has environmental regulatory and enforcement authority pursuant to Chapter 403, Florida Statutes, and that the remedies of the Department under that chapter are available to the ~~Commission~~EPC as an approved local program pursuant to Chapter 403.182, F.S. It is the intent of the ~~Commission~~EPC 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. When ~~Commission~~EPC rules are more stringent or

restrictive than Department rules, the ~~Commission~~EPC rules shall apply.

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. Other documented representations of Department policy may be used in support of a policy interpretation, but shall not themselves be official policy.

Section History - New and effective 02/26/86; amended and effective 09/14/88; amended and effective 06/25/98; readopted and effective 08/19/99; amended 09/19/02 and effective 10/15/02; amended 02/15/07 and effective 02/16/07.

1-3.11 DECLARATION OF LEGISLATIVE FINDINGS

The ~~Commission~~EPC 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~~EPC also finds that emissions, while in compliance with source specific emission limiting standards, may at times constitute nuisances as defined by Section 3(8) and prohibited by Section 16 of the Act.

Section History - New and effective 02/26/86; amended and effective 09/14/88; readopted and effective 06/25/98; readopted and effective 08/19/99.

1-3.12 DEFINITIONS

1. Definitions contained in the Act, apply to this rule.

2. With the exception of the definitions for "Air Pollution," and "Particulate Matter," definitions contained in Section 62-210.200, Florida Administrative Code (F.A.C.), shall, to the extent applicable apply to this rule.

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

(a) "Director" shall mean the Executive Director of the ~~Commission~~EPC or his authorized agent.

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

(c) "Stationary source" shall mean any building, structure, equipment, facility, or installation which emits or may emit an air pollutant and exists at or is designed to be operated as a unit at a fixed location, although parts of the source may move while the source is in operation.

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

Section History - New and effective 02/26/86; amended and effective 09/14/88; amended and effective 06/25/98; readopted and effective 08/19/99; amended 09/19/02 and effective 10/15/02.

PART 2

1-3.20 CIRCUMVENTION PROHIBITED

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

Section History - New and effective 02/26/86; readopted and effective 06/25/98; readopted and effective 08/19/99.

1-3.21 PERMITS REQUIRED

1. No air pollution source may be constructed, modified or operated in Hillsborough County without a valid permit as may be required by the Department pursuant to Chapters 62-210, 212, 213 and 214, F.A.C.,

Chapter 62-4, F.A.C., or as may be otherwise required by this rule.

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

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

Section History - New and effective 02/26/86; amended and effective 06/25/98; amended and effective 08/19/99; amended 09/19/02 and effective 10/15/02.

1-3.22 PROHIBITIONS

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

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

3. No person shall cause, let, permit, suffer or allow the discharge into the atmosphere of any pollutant from any source or activity that

causes or tends to cause or to contribute to an objectionable odor.

Section History - New and effective 02/26/86; amended and effective 06/25/98; readopted and effective 08/19/99.

1-3.23 NECESSARY PRECAUTIONS

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

Section History - New and effective 02/26/86; readopted and effective 06/25/98; readopted and effective 08/19/99.

1-3.24 PUBLIC NOTIFICATION

1. Construction and Operating Permits.

(a) Pursuant to Chapter 62-110.106 F.A.C., a Notice of Application and Notice of Proposed Agency Action for any air pollution permit may require public notice in a newspaper of general circulation by the applicant at the applicant's expense. In such instance, the notice must be published in a newspaper that meets the requirements of 50.011 and 50.031, F.S. Any Notice of Application shall be in addition to any public notice required under Chapter 62-110.106(7), F.A.C.

(b) Applicants shall give written notice to each Neighborhood Organization registered with the EPC which lies within one mile of any proposed activity under consideration for an initial construction permit. At the Director's discretion, applicants may be directed to provide the same written notice to Neighborhood Organizations further than one mile from the proposed activity for activities to be covered by an initial construction permit. Applicants shall, at the Director's discretion, give written notice to each Neighborhood Organization registered with the EPC, which lies within one mile of any proposed activity under consideration for an operation permit or modification of an existing facility. Also, at the Director's discretion, applicants may be directed to provide the same written notice to Neighborhood Organizations further than one mile from the proposed activity

for activities to be covered by an operation permit or modification of an existing facility. The EPC will provide the applicant with the affected Neighborhood Organization list, and within 10 days of receipt of this list, the applicant will provide the EPC written evidence that the Neighborhood Organizations were notified. The notice to the Neighborhood Organizations shall include a description of the air emission source, the nature of the air emissions, the proposed startup date and the name of a contact person at the EPC for further information.

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

2. General and Relocatable Permits. Applicants who intend to use an air general permit in Hillsborough County, or move a facility classified as a relocatable facility to a location in Hillsborough County for the first time at that location, shall post a sign at the facility. The EPC will provide the facility with a sign. It must be posted conspicuously on the property so as to be readily viewable from the busiest adjacent public roadway. The facility must pick up and post the sign within 5 days of submitting notification to EPC, and the sign must remain posted for 30 days, or for the duration of the operation if it is less than 30 days.

Section History - New and effective 06/25/98; amended and effective 08/19/99; amended 09/19/02 and effective 10/15/02.

1-3.25 EXCESS EMISSIONS

1. Excess emissions specifically allowed by Chapter 62-210, F.A.C., shall not be violations of this rule unless they are determined to be nuisances. The Director may request written verification that any such emissions fall within the designated conditions.

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

Section History - New and effective 02/26/86; amended and effective 06/25/98; readopted and effective 08/19/99.

1-3.26 DEPARTMENT REGULATIONS

The ~~Commission~~EPC acknowledges and reaffirms all existing rule adoptions, incorporations, and references in Chapter 1-3. In conformance with an operating agreement with the Department, which generally allows the ~~Commission~~EPC to act on behalf of the Department for certain air pollution permitting and enforcement matters, the ~~Commission~~EPC herein adopts and incorporates the following State regulations: Chapters 62-204, 62-210, 62-212, 62-213, 62-214, 62-257, 62-296, and 62-297, Florida Administrative Code~~F.A.C.~~

Section History - New 02/15/07 and effective 02/16/07; re-adopted 12/13/07 and effective 12/14/07.

PART 3

1-3.30 AMBIENT AIR QUALITY STANDARDS

1. Standards established in Chapter 62-204, F.A.C., are adopted and hereby incorporated by reference.

2. Sampling and analysis of contaminants in this section shall be performed in accordance with the latest version of quality assurance project plans for ambient air quality monitoring submitted to EPA Region 4 by the State of Florida ~~Department of Environmental Protection~~ "State Wide Quality Assurance Plan, January 1985".

Section History - New and effective 02/26/86; amended and effective 06/25/98; amended and effective 08/19/99.

1-3.31 DESIGNATION OF AIR POLLUTION STATUS OF AREA

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

Section History - New and effective 06/25/98; amended 09/19/02 and effective 10/15/02.

PART 4

1-3.40 NEW SOURCE REVIEW

Provisions contained in Chapter 62-212, F.A.C., pertinent to Hillsborough County, are adopted and hereby incorporated by reference.

Section History - New and effective 02/26/86; amended 09/19/02 and effective 10/15/02.

PART 5

1-3.50 EMISSION LIMITING AND PERFORMANCE STANDARDS

Provisions contained in Chapters 62-204 and 62-296, F.A.C., pertinent to Hillsborough County, are adopted and hereby incorporated by reference, except for Sections 62-296.320(4)(b) 2. and 62-296.513(1)(c), F.A.C., and except as may be modified herein.

Section History - New and effective 02/26/86; amended and effective 06/25/98; readopted and effective 08/19/99; amended 09/19/02 and effective 10/15/02.

1-3.51 PARTICULATE EMISSIONS

The particulate emission limits under RACT in Sections 62-296.700 through 62-296.712, F.A.C., shall apply to all new and existing emission units. In situations where the particulate emission limits under RACT, pursuant to Section 62-296.700, F.A.C., are less restrictive than process weight limits pursuant to Section 62-296.320, F.A.C., process weight limits shall apply, except as provided in Section 62-296.700(3), F.A.C.

Section History - New and effective 02/26/86; amended 09/19/02 and effective 10/15/02.

1-3.52 VISIBLE EMISSIONS

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

2. A 5% opacity standard shall apply in Hillsborough County to the following types of stationary sources: loading or unloading of materials to or from containers such as railcars, trucks, ships, storage structures and stockpiles; permanent conveyor systems; storage of materials in structures such as silos or enclosed bins, which have a storage capacity of fifty cubic yards or more; crushing, grinding, sizing and screening operations; and static drop transfer points. The deadline for compliance with this standard shall be within 180 days of the effective date of this rule for existing sources, and on the effective date of the rule for new sources.

(a) Sources exempt from this standard are:

(1) Emissions of particulate matter from open stockpiles of materials, vehicular traffic and other emissions from roads and plant grounds;

(2) Construction and road maintenance activities;

(3) Molten Sulfur Storage and Handling Facilities shall not exceed 10 percent opacity except during ship unloading which shall not exceed 15% opacity~~Sulfur storage and handling facilities covered by Department Rule 62-296.411, F.A.C.;~~

(4) Sources with specific RACT emission limiting standards greater than 5% as set forth in Department Rule 62-296.711(2)(c), F.A.C.;

(5) When material is being discharged to the hold of a ship from a conveyor system, an opacity of 10% will be allowed when

the conveyor and/or hatch covering is moved; and

(6) Facilities for grinding and screening of vegetation and yard waste material.

3. Annual visible emissions tests, conducted in accordance with EPA Method 9, shall be required of the permitted sources subject to the standards in this section or subject to Rule 62-296.320(4)(b) 1., F.A.C.

Section History - New and effective 02/26/86; amended 09/19/02 and effective 10/15/02.

1-3.53 SOURCE-SPECIFIC REQUIREMENTS

1. Emissions for the following specific sources shall have the following limits in Hillsborough County regardless of provisions otherwise contained in this rule or in Chapters 62-204 through 62-297 F.A.C., unless the provisions of Chapters 62-204 through 62-297, F.A.C., are more stringent.

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

(b) Nitric acid plants producing weak nitric acid (50 to 70%) by pressure or atmospheric pressure process - no visible emissions (5% opacity).

~~(c) Existing fossil fuel steam generators - sulfur dioxide emissions from liquid fuel shall be limited to 1.1 pounds per million BTU heat input.~~

~~(d)~~ Fossil fuel steam generators - visible emissions are limited to 20% opacity except for either one six-minute period per hour during which opacity shall not exceed 27 percent, or one two minute period per hour during which opacity shall not exceed 40 percent. The option selected shall be specified in the emission unit's construction and operation permits.

~~(e)~~ Bulk gasoline terminals - loading of liquid product into gasoline tank trucks shall be limited to vapor-tight gasoline tank trucks.

~~(f)~~ Municipal Waste Incinerators - mercury and dioxin/furan emissions shall be controlled by combustion practices, operation and maintenance, and operation of a carbon injection system. An alternative would be to install a continuous emission monitor for the pollutant mercury and adjust the carbon feed rate accordingly. This continuous emission monitor shall be installed and operated in accordance with ~~a promulgated~~ USEPA Performance Specification 12A of 40 CFR 60, Appendix B if it is used to adjust the carbon feed rate. Otherwise, EPA Performance Specification 12B of 40 CFR 60, Appendix B may be used. Any such alternative must be approved by the Executive Director prior to implementation.

~~The need to retain this requirement shall be reviewed by EPC and affected facilities five years from the effective date of this rule.~~

~~(g)~~ Human and Animal Crematories - for all human and animal crematories the following requirements shall apply, in addition to any requirements of state, federal, or local law:

(1) Each crematory unit shall be operated and maintained in accordance with the manufacturer's operation and maintenance requirements. Each crematory unit operator shall be trained by the crematory manufacturer or similarly qualified training provider prior to operating the crematory unit. Records of maintenance and operator training shall be maintained and made available to EPC staff for inspection upon request.

(2) If a Any rain cap is used on the exhaust stack of a crematory unit it shall be designed so as not to obstruct the upward dispersion of emissions. ~~Rain caps are not mandatory, but all crematories utilizing rain caps on the effective date of this rule shall have six months from the effective date to comply with this requirement.~~

(3) Initial and annual visible emissions testing.

a. The testing for human crematories required pursuant to Rule 62-296.401(5)(h)(1), F.A.C., shall be conducted

with the unit operating at a capacity of one (1) adult-sized cadaver. The size of the load, any containers used and the order of charge shall also be considered when determining representative conditions during visible emissions testing.

b. The testing for animal crematories required pursuant to Rule 62-296.401(6)(h)(1), F.A.C., shall be conducted with the unit operating at a capacity that is representative of normal operations and is not greater than the manufacturer's recommended capacity. The operating capacity shall be a batch load, in pounds, for a batch animal crematory unit and a charging rate, in pounds per hour, for a ram-charged animal crematory unit. The size of the load, any containers used and the order of charge shall also be considered when determining representative conditions during visible emissions testing.

(4) Thermocouple location.

a. For crematory units constructed after August 30, 1989, the thermocouple, which measures secondary chamber temperature, shall be located at or beyond the point where the 1.0 second gas residence time at 1800 degrees Fahrenheit is calculated.

b. For crematory units constructed prior to August 30, 1989, the thermocouple shall be located at or beyond the point where the 1.0 second gas residence time at 1600 degrees Fahrenheit is calculated.

c. Proof of compliance with section (4)a. or (4)b. above, as applicable, shall be submitted in writing to the EPC in accordance with Rules 62-296.401(5)(c)(1) and 62-296.401(6)(c)(1), F.A.C.—~~All crematory units in operation on the effective date of this rule shall have one year from the effective date to comply with this requirement.~~ New crematory units shall be in compliance with this requirement upon start-up.

Section History - New and effective 02/26/86; amended 09/19/02 and effective 10/15/02; 12/13/07 and effective 12/14/07.

PART 6

1-3.60 SOURCE SAMPLING AND MONITORING

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

Section History - New and effective 02/26/86; amended 09/19/02 and effective 10/15/02.

Rule History:

Adopted and Effective 07/25/68
Amended 06/17/69 and Effective 07/07/69
Amended 08/29/72 and Effective 09/25/72
Amended 09/25/72 and Effective 09/25/72
Amended 06/02/75 and Effective 07/01/75
Amended 09/11/75 and Effective 09/12/75
Amended and Effective 02/26/86
Amended and Effective 08/07/86
Amended and Effective 09/14/88
Amended and Effective 06/25/98
Amended and Effective 08/19/99
Amended and Effective 10/19/00
Amended 09/19/02 and Effective 10/15/02
Amended 02/15/07 and Effective 02/16/07
Amended 12/13/07 and Effective 12/14/07
Amended xx/xx/12 and Effective xx/xx/12

**RULES OF THE
ENVIRONMENTAL PROTECTION
COMMISSION OF HILLSBOROUGH
COUNTY**

**CHAPTER 1-8
MOBILE SOURCE**

- 1-8.01 Statement of Intent
- 1-8.02 ~~Declaration of Legislative Findings~~
Reserved
- 1-8.03 Definitions
- 1-8.04 Applicability
- 1-8.05 Prohibitions
- 1-8.06 ~~Exceptions to Sections 1-8.05(3), (8) and (9)~~
- 1-8.07 ~~Gasoline Transfer and Transit Requirements~~
- 1-8.08 ~~Notices and Record Keeping~~
- 1-8.09 ~~Standards and Testing Procedures~~
- 1-8.10 ~~Inspections~~
- 1-8.11 ~~Correction~~
- 1-8.12 ~~Enforcement~~

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, 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, or any other air contaminants released by the improper operation or servicing of motor vehicles. The Commission recognizes that the Federal Motor Vehicle Control Program, Title 40 CFR, Part 86, as amended, requires that new motor vehicles meet specified emission standards and intends that this rule further the public interest by requiring that those emission standards be maintained. The Commission intends that staff work with all

appropriate State and Federal agencies in the area of Mobile source control. ~~Further, it is the Commission's intent that its staff work in conjunction with the Sheriff, as necessary, to periodically effect random stops of motor vehicles within the parameters of law to verify their compliance with this rule.~~

1-8.02 Reserved DECLARATION OF LEGISLATIVE FINDINGS:

The Commission hereby finds and declares that the operation of motor vehicles with inoperable emission control systems causes and may reasonably be expected to cause air pollution and that the reasonable control and regulation of motor vehicle operation in Hillsborough County is necessary for the protection and preservation of the public health, safety, and welfare. ~~Further, the Commission recognizes the current attainment status of Hillsborough County for ozone and maintains adherence to the emission control strategies as set forth by the State of Florida and the United States Environmental Protection Agency to assist in the County's maintenance of this attainment status.~~

1-8.03 DEFINITIONS:

1. Definitions contained in the Act apply to this rule.

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

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

b. "Emission control system" means the devices and mechanisms installed as original equipment at the time of manufacture or those equivalent devices and mechanisms later installed during repair or replacement of original equipment, or during vehicle modification or retrofit as required by law, for the purpose of reducing or aiding in the control of emissions including, but not limited to, the following components: catalytic converter, fuel inlet restrictor, unvented fuel cap, positive crankcase ventilation system, exhaust gas recirculation system, thermostatic air cleaner, air pump and/or air injection system, oxygen sensor, fuel

evaporative emission control, and all vacuum lines, electrical lines, and sensors or switches associated with these devices.

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

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

e. ~~Reserved~~ "Model year" means the year of the vehicle as stated on the title, registration, or the USEPA certification label.

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

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

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

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

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

1-8.04 APPLICABILITY:

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

a. Motor vehicles which are designated as model year 1974 or older.

b. Motor vehicles which have net vehicle weights greater than 5,000 pounds or gross vehicle weights greater than 10,000 pounds.

c. Motorcycles, mopeds, scooters, and golf

carts, as defined in Section 320.01 F.S.

d. Farm vehicles, as defined in Section 320.51 F.S.

e. Imported nonconforming motor vehicles which are documented to be exempt from federal emission control requirements by the USEPA under 40 CFR 85 Subpart P.

f. Street rods as defined by Section 320.0863 F.S.

g. Ancient motor vehicles as defined by Section 320.086 F.S.

h. Motor vehicles used exclusively in competitive motor sports events.

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

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

b. Sales of motor vehicles for salvage purposes only.

c. Sales, reassignments, and trades to licensed motor vehicle dealers, where the dealer elects not to request the certification from the seller or person reassigning title.

d. Sales, reassignments, and trades involving motor vehicles exempted in Section 1-8.04(1).

1-8.05 PROHIBITIONS:

1. No person shall tamper, cause, or allow the tampering of the emission control system of any motor vehicle.

2. ~~Reserved~~ No person shall replace, cause, or allow the replacement of an engine equipped with an emission control system with another engine without an emission control system having at least equivalent emission control efficiency.

3. ~~Reserved~~ No person shall drive, or allow another to drive, a motor vehicle under their care, custody, or control with an inoperable emission control system, except as may be otherwise allowed by this Rule.

4. ~~Reserved~~ No person shall rent or lease or otherwise provide for hire a motor vehicle that is not in compliance with the applicable emission standards or that has an inoperable emission

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

control system.

5. ~~a.~~ Except as permitted by Section 1-8.04(2), no person or motor vehicle dealer shall offer a tampered motor vehicle for private or retail sale, or effect the transfer of title of any tampered motor vehicle.

~~b.~~ No person or motor vehicle dealer shall sell at retail any motor vehicle, or effect the transfer of title of any motor vehicle, which has not received a valid inspection certificate as defined by Section 325.202(6) F.S. within the preceding one hundred eighty (180) days. In addition, dealer certificates (F29X) with an extra \$1 fee paid at first inspection are valid for one year for the first retail sale.

6. No person shall manufacture, install, sell or advertise for sale, devices to defeat or render inoperable any component of a motor vehicle's emission control system; nor shall any person sell a device or fuel additive intended to circumvent an accurate emissions test.

7. Reserved No motor vehicle shall be driven in Hillsborough County which fails to meet the emission standards contained in Section 1-8.10(2), unless otherwise exempted herein.

8. No person shall cause, let, permit, or allow a gasoline powered motor vehicle under his care, custody or control upon public roadways to emit visible smoke from the exhaust pipe for a continuous period of 5 seconds or more.

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

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

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

~~equipment.~~

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

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

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

~~1-8.06 EXCEPTIONS TO SECTIONS 1-8.05(3), (8), and (9):~~

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

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

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

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

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

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

~~3. All retail gasoline dispensing facilities exempt from Chapter 62-252 F.A.C. requirements shall implement a proper vapor balance system within one year of the effective date of this rule.~~

~~4. Fees as provided by Commission Rules, may be required for inspections to insure~~

compliance with Section 1-8.07(1).

~~1-8.08 NOTICE AND RECORD KEEPING:~~

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

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

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

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

~~OR~~

~~"As a motor vehicle dealer licensed to conduct business in the state of Florida, I hereby certify that the emission control system of this vehicle has not been tampered with by me or with my permission. I also hereby certify that I or persons under my supervision have inspected this motor vehicle and, based on said inspection, have~~

determined that the following components of the emission control system, as applicable to this model and year vehicle, are in place and appear properly connected and undamaged: catalytic

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~~converter, fuel inlet restrictor, unvented fuel cap, positive crankcase ventilation system, exhaust gas recirculation system, thermostatic air cleaner, air pump and/or air injection system, oxygen sensor, fuel evaporative emission control, and all vacuum lines, electrical lines, and sensors or switches associated with these devices."~~

~~AND~~

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

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

~~1-8.09 STANDARDS AND TESTING PROCEDURES:~~

- ~~1. Emission standards for new motor vehicles inclusive of the most recent 5 model years shall be consistent with the emission standards and manufacturers' warranty requirements as established in the Federal Motor Vehicle Control Program in Title 40 CFR, Part 86, as amended.~~
- ~~2. Testing standards which must be met for a motor vehicle to be in compliance are as established in Table 1:~~

~~THIS SECTION LEFT INTENTIONALLY BLANK~~

Table 1

	<i>Light Duty Vehicles, Passenger Cars with Net Weight of 5000 Pounds or Less</i>		<i>Light Duty Trucks GVWR of 6000 Pounds or less</i>		<i>Light Duty Trucks GVWR of 6001 to 10,000 Pounds</i>	
	CO(%)	HC(PPM)	CO(%)	HC(PPM)	CO(%)	HC(PPM)
1978-1979	4.0	400	5.0	450	5.5	600
1980	3.0	300	3.0	300	4.5	400

**Vehicle Age
(years old)**

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

3. Testing procedures for the standards of Section 1-8.9(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.

1-8.10 INSPECTIONS:

1. The Director shall periodically inspect all service stations, repair facilities, gasoline dispensing facilities, automotive parts vendors, government and private facilities, 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, 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 Vehicles, shall periodically inspect facilities conducting activities within Hillsborough County pertaining to motor vehicle inspections pursuant to Sections 325.212 and 325.213, Florida Statutes. Said inspections shall be to determine compliance with the prohibitions and standards of this Rule, and with the Rules of the Department of Highway Safety and Motor Vehicles, and the Department of Environmental Protection created under the authority of Chapter 325, F.S.

4. Fees, as provided by Commission Rules, may be required for the inspections required by

Section 1 8.10(1) and 1 8.10(3).

1 8.11 CORRECTION:

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

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

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

1 8.12 ENFORCEMENT:

1. Violation of the provisions of this rule is a violation of the Act, is a misdemeanor within the meaning of Section 775.08 Florida Statutes, and is subject to all the remedies provided therein.

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

3. Standard settlement minimum penalties shall be:

	Private	
Commercial		
(a) tampering [1 8.05(1)].....	\$ 500	\$1500
(b) installation of replacement engine not equipped with emission control system [1 8.05(2)].....	\$ 500	\$1500
(c) knowingly driving or otherwise allowing the operation of motor vehicle with inoperable emission control system [1 8.05(3)].....	\$ 500	\$1500

(d) sale of a tampered motor vehicle.....		
(e) sale of parts to defeat or by pass or render inoperable emission control systems [1 8.05(6)].....	n/a	\$1000
(f) failure to meet emission standards [1 8.05(6)(7)].....	\$ 500	\$2500
(g) failure to provide notice of prohibitions [1 8.08(1),(2),(3)].....	n/a	\$ 500
(h) failure to maintain proper records [1 8.08(4),(5)].....	n/a	\$ 500
(i) transferring, causing, permitting or allowing the transfer of gasoline into a stationary storage tank not equipped for vapor recovery [1 8.07(1)].....	n/a	\$1500
(j) release of air contaminants [1 8.05(11)].....	\$ 500	\$1500
(k) intentional venting of MVAC refrigerants.....	\$ 250	\$ 500
(l) failure to use approved refrigerant recycling equipment	\$ 250	\$ 500
(m) failure to properly train and certify technicians	n/a	\$ 500
(n) any other violations of this rule.....	\$ 250	\$ 500

Adopted 9/29/87
Amended 4/24/91
Amended 3/19/98
Amended 8/9/12

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