

1                                   A bill to be entitled  
2           An act relating to pollution control; creating  
3           s. 403.7211, F.S.; restricting authority of the  
4           Department of Environmental Protection to issue  
5           permits for construction, modification, and  
6           initial operation of facilities for disposal,  
7           storage, or treatment of hazardous wastes  
8           generated off-site; restricting the locations  
9           of hazardous waste transfer facilities;  
10          providing application to pending permits and  
11          proposed transfer stations; providing an  
12          effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

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16           Section 1. Section 403.7211, Florida Statutes, is  
17          created to read:

18                   403.7211 Hazardous waste facilities managing hazardous  
19          wastes generated off-site; federal facilities managing  
20          hazardous waste.

21                   (1) This section applies to facilities managing  
22          hazardous waste generated off-site. This section does not  
23          apply to manufacturers, power generators, or other industrial  
24          operations that have received or apply for a permit or a  
25          modification to a permit from the department for the  
26          treatment, storage, or disposal of hazardous waste generated  
27          only on-site or from other sites owned or acquired by the  
28          permittee. Power generators are electric utilities as defined  
29          in s. 403.522 which own or operate facilities necessary for  
30          the generation, transmission, or distribution of electric  
31          energy, federally qualified facilities under the Public

1 Utility Regulatory Act of 1978 or exempt wholesale generators  
2 under the Energy Policy Act of 1992. Notwithstanding the  
3 foregoing, this section shall apply to all federal facilities  
4 that manage hazardous waste.

5 (2) The department shall not issue any permit under s.  
6 403.722 for the construction, initial operation, or  
7 substantial modification of a facility for the disposal,  
8 storage, or treatment of hazardous waste generated off-site  
9 which is proposed to be located in any of the following  
10 locations:

11 (a) Any area where life-threatening concentrations of  
12 hazardous substances could accumulate at any residence or  
13 residential subdivision as the result of a catastrophic event  
14 at the proposed facility, unless each such residence or  
15 residential subdivision is served by at least one arterial  
16 road or urban minor arterial road, as defined in s. 334.03,  
17 which provides safe and direct egress by land to an area where  
18 such life-threatening concentrations of hazardous substances  
19 could not accumulate in a catastrophic event. Egress by any  
20 road leading from any residence or residential subdivision to  
21 any point located within 1,000 yards of the proposed facility  
22 is unsafe for the purposes of this paragraph. In determining  
23 whether egress proposed by the applicant is safe and direct,  
24 the department shall also consider, at a minimum, the  
25 following factors:

26 1. natural barriers such as water bodies, and whether  
27 any road in the proposed evacuation route is impaired by a  
28 natural barrier such as a water body;

29 2. potential exposure during egress and potential  
30 increases in the duration of exposure;

31

1           3. whether any road in a proposed evacuation route  
2 passes in close proximity to the facility; and

3           4. whether any portion of the evacuation route is  
4 inherently directed toward the facility.

5           (b) Any location within 1,500 yards of any hospital,  
6 prison, school, nursing home facility, day care facility,  
7 stadium, place of assembled workshop, or any other similar  
8 site where individuals are routinely confined or assembled in  
9 such a manner that reasonable access to immediate evacuation  
10 is likely to be unavailable;

11           (c) Any location within 1,000 yards of any residence;  
12 or

13           (d) Any location which is inconsistent with rules  
14 adopted by the department under part IV.

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16 For the purposes of this subsection, all distances shall be  
17 measured from the outer limit of the active hazardous waste  
18 management area. "Substantial modification" includes: any  
19 physical change in, change in the operations of, or addition  
20 to a facility which could increase the potential off-site  
21 impact, or risk of impact, from a release at that facility;  
22 and any change in permit conditions which is reasonably  
23 expected to lead to greater potential impacts or risks of  
24 impacts, from a release at that facility. "Substantial  
25 modification" does not include a change in operations,  
26 structures or permit conditions which does not substantially  
27 increase either the potential impact from, or the risk of, a  
28 release. Physical or operational changes to a facility  
29 related solely to the management of non-hazardous waste at the  
30 facility shall not be considered a substantial  
31 modification. The department shall, by rule, adopt criteria

1 to determine whether a facility has been substantially  
2 modified. "Initial operation" means the initial commencement  
3 of operations at the facility.

4 (3) It shall be presumed, for the purposes of section  
5 2(a) only, that life-threatening concentrations of hazardous  
6 substances could accumulate in a catastrophic event in any  
7 area within a radius of 3 miles of a hazardous waste transfer,  
8 disposal, storage, or treatment facility. This presumption  
9 may be rebutted by a demonstration that such life-threatening  
10 concentrations could accumulate at a greater distance, or that  
11 such life-threatening concentrations could accumulate only at  
12 a lesser distance, in light of the composition, quantity, and  
13 concentration of hazardous waste proposed to be disposed of,  
14 treated, or stored at the proposed facility. This  
15 demonstration may be made, at the election of the facility, in  
16 the form of the submissions required under Program 3 of the  
17 Accidental Release Prevention Program of s. 112(r)(7) of the  
18 Clean Air Act.

19 (4) For the purposes of this section, a concentration  
20 of hazardous substances shall be deemed to be life-threatening  
21 when the concentration could cause susceptible or sensitive  
22 individuals, excluding hypersensitive or hypersusceptible  
23 individuals, to experience irreversible or other serious,  
24 long-lasting effects or impaired ability to escape.

25 (5) No person shall construct or operate a transfer  
26 facility for the management of hazardous waste unless the  
27 facility meets the siting requirements of subsection (2).

28 (6) This section shall not prohibit the operation of  
29 existing transfer facilities that have commenced operation as  
30 of the effective date of this section, if the transfer  
31 facility is not relocated or if there is no substantial

1 modification in the structure or operation of the facility  
2 after the effective date of this section.

3       Section 2. Section 403.7211, Florida Statutes, as  
4 created by this act, shall apply to any permit applications  
5 for the construction, initial operation, or substantial  
6 modification of a facility pending on the effective date of  
7 this act for which the Department of Environmental Protection  
8 has not issued a final order and to any proposed transfer  
9 facility which has not commenced operation as of the effective  
10 date of this act.

11       Section 3. This act shall take effect upon becoming a  
12 law.