

By Representative Wallace

1                                   A bill to be entitled  
2           An act relating to wastewater discharge  
3           permits; amending s. 403.087, F.S.; increasing  
4           the term for which certain permits may be  
5           issued by the Department of Environmental  
6           Protection; providing for renewal of operation  
7           permits for domestic wastewater treatment  
8           facilities for up to a specified term under  
9           certain circumstances at the same fee;  
10          providing an exception; requiring the  
11          department to keep certain records; amending  
12          ss. 403.0871 and 403.0872, F.S.; conforming  
13          cross references; providing an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17           Section 1. Subsections (1) and (2) of section 403.087,  
18 Florida Statutes, are amended, subsections (3) through (8) of  
19 said section are renumbered as subsections (4) through (9),  
20 respectively, and a new subsection (3) is added to said  
21 section, to read:

22           403.087 Permits; general issuance; denial; revocation;  
23 prohibition; penalty.--

24           (1) A ~~No~~ stationary installation that is ~~which will~~  
25 reasonably ~~be~~ expected to be a source of air or water  
26 pollution must not ~~shall~~ be operated, maintained, constructed,  
27 expanded, or modified without an appropriate and currently  
28 valid permit issued by the department, unless exempted by  
29 department rule. In no event shall a permit for a water  
30 pollution source be issued for a term of more than 10 5 years,  
31 ~~nor and in no event~~ may an operation permit issued after July

1 1, 1992, for a major source of air pollution have a fixed term  
2 of more than 5 years. However, upon expiration, a new permit  
3 may be issued by the department in accordance with this  
4 chapter act and the rules ~~and regulations~~ of the department.

5 (2) The department shall adopt, and may amend, or  
6 ~~repeal, rules, regulations, and standards~~ for the issuance,  
7 denial, modification, and revocation of permits under this  
8 section.

9 (3) A renewal of an operation permit for a domestic  
10 wastewater treatment facility other than a facility regulated  
11 under the NPDES program under s. 403.0885 must be issued upon  
12 request for a term of up to 10 years for the same fee as a  
13 5-year permit, in order to provide the owner or operator with  
14 a financial incentive, if:

15 (a) The waters from the treatment facility are not  
16 discharged to Class 1 municipal injection wells or the  
17 treatment facility is not required to comply with the federal  
18 standards under the Underground Injection Control program  
19 under chapter 62-528 of the Florida Administrative Code.

20 (b) The treatment facility is not operating under a  
21 temporary operating permit or a permit with an accompanying  
22 administrative order and does not have any enforcement action  
23 pending against it by the Environmental Protection Agency, the  
24 department, or a local program approved under s. 403.182.

25 (c) The treatment facility has operated under an  
26 operation permit for 5 years and, for at least the preceding 2  
27 years, has generally operated in conformance with the limits  
28 of permitted flows and other conditions specified in the  
29 permit.

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1       (d) The department has reviewed the discharge  
2 monitoring reports required under department rule and is  
3 satisfied that the reports are accurate.

4       (e) The treatment facility has generally met water  
5 quality standards in the preceding 2 years, except for  
6 violations attributable to events beyond the control of the  
7 treatment plant or its operator, such as destruction of  
8 equipment by fire, wind, or other abnormal events that could  
9 not reasonably be expected to occur.

10       (f) The department, or a local program approved under  
11 s. 403.182, has conducted during the preceding 12 months an  
12 inspection of the facility and has verified that the facility  
13 is not exceeding the permitted capacity and is in substantial  
14 compliance.

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16 The department shall keep records of the number of 10-year  
17 permits applied for and the number and duration of permits  
18 issued for longer than 5 years.

19       Section 2. Section 403.0871, Florida Statutes, 1996  
20 Supplement, is amended to read:

21       403.0871 Florida Permit Fee Trust Fund.--There is  
22 established within the department a nonlapsing trust fund to  
23 be known as the "Florida Permit Fee Trust Fund." All funds  
24 received from applicants for permits pursuant to ss. 161.041,  
25 161.053, 161.0535, 403.087(6)~~(5)~~, and 403.861(8) shall be  
26 deposited in the Florida Permit Fee Trust Fund and shall be  
27 used by the department with the advice and consent of the  
28 Legislature to supplement appropriations and other funds  
29 received by the department for the administration of its  
30 responsibilities under this chapter and chapter 161. In no  
31 case shall funds from the Florida Permit Fee Trust Fund be

1 used for salary increases without the approval of the  
2 Legislature.

3 Section 3. Paragraph (a) of subsection (11) of section  
4 403.0872, Florida Statutes, 1996 Supplement, is amended to  
5 read:

6 403.0872 Operation permits for major sources of air  
7 pollution; annual operation license fee.--Provided that  
8 program approval pursuant to 42 U.S.C. s. 7661a has been  
9 received from the United States Environmental Protection  
10 Agency, beginning January 2, 1995, each major source of air  
11 pollution, including electrical power plants certified under  
12 s. 403.511, must obtain from the department an operation  
13 permit for a major source of air pollution under this section,  
14 which is the only department operation permit for a major  
15 source of air pollution required for such source. Operation  
16 permits for major sources of air pollution, except general  
17 permits issued pursuant to s. 403.814, must be issued in  
18 accordance with the following procedures and in accordance  
19 with chapter 120; however, to the extent that chapter 120 is  
20 inconsistent with the provisions of this section, the  
21 procedures contained in this section prevail:

22 (11) Commencing in 1993, each major source of air  
23 pollution permitted to operate in this state must pay between  
24 January 15 and March 1 of each year, upon written notice from  
25 the department, an annual operation license fee in an amount  
26 determined by department rule. The annual operation license  
27 fee shall be terminated immediately in the event the United  
28 States Environmental Protection Agency imposes annual fees  
29 solely to implement and administer the major source  
30 air-operation permit program in Florida under 40 C.F.R. s.  
31 70.10(d).

1           (a) The annual fee must be assessed based upon the  
2 source's previous year's emissions and must be calculated by  
3 multiplying the applicable annual operation license fee factor  
4 times the tons of each regulated air pollutant (except carbon  
5 monoxide) allowed to be emitted per hour by specific condition  
6 of the source's most recent construction or operation permit,  
7 times the annual hours of operation allowed by permit  
8 condition; provided, however, that:

9           1. For 1993 and 1994, the license fee factor is \$10.  
10 For 1995, the license fee factor is \$25. In succeeding years,  
11 the license fee factor is \$25 or another amount determined by  
12 department rule which ensures that the revenue provided by  
13 each year's operation license fees is sufficient to cover all  
14 reasonable direct and indirect costs of the major stationary  
15 source air-operation permit program established by this  
16 section. The license fee factor may be increased beyond \$25  
17 only if the secretary of the department affirmatively finds  
18 that a shortage of revenue for support of the major stationary  
19 source air-operation permit program will occur in the absence  
20 of a fee factor adjustment. The annual license fee factor may  
21 never exceed \$35. The department shall retain a nationally  
22 recognized accounting firm to conduct a study to determine the  
23 reasonable revenue requirements necessary to support the  
24 development and administration of the major source  
25 air-operation permit program as prescribed in paragraph (b).  
26 The results of that determination must be considered in  
27 assessing whether a \$25-per-ton fee factor is sufficient to  
28 adequately fund the major source air-operation permit program.  
29 The results of the study must be presented to the Governor,  
30 the President of the Senate, the Speaker of the House of  
31 Representatives, and the Public Service Commission, including

1 the Public Counsel's Office, by no later than October 31,  
2 1994.

3           2. For any source that operates for fewer hours during  
4 the calendar year than allowed under its permit, the annual  
5 fee calculation must be based upon actual hours of operation  
6 rather than allowable hours if the owner or operator of the  
7 source documents the source's actual hours of operation for  
8 the calendar year. For any source that has an emissions limit  
9 that is dependent upon the type of fuel burned, the annual fee  
10 calculation must be based on the emissions limit applicable  
11 during actual hours of operation.

12           3. For any source whose allowable emission limitation  
13 is specified by permit per units of material input or heat  
14 input or product output, the applicable input or production  
15 amount may be used to calculate the allowable emissions if the  
16 owner or operator of the source documents the actual input or  
17 production amount. If the input or production amount is not  
18 documented, the maximum allowable input or production amount  
19 specified in the permit must be used to calculate the  
20 allowable emissions.

21           4. For any new source that does not receive its first  
22 operation permit until after the beginning of a calendar year,  
23 the annual fee for the year must be reduced pro rata to  
24 reflect the period during which the source was not allowed to  
25 operate.

26           5. For any source that emits less of any regulated air  
27 pollutant than allowed by permit condition, the annual fee  
28 calculation for such pollutant must be based upon actual  
29 emissions rather than allowable emissions if the owner or  
30 operator documents the source's actual emissions by means of  
31 data from a department-approved certified continuous emissions

1 monitor or from an emissions monitoring method which has been  
2 approved by the United States Environmental Protection Agency  
3 under the regulations implementing 42 U.S.C. ss. 7651 et seq.,  
4 or from a method approved by the department for purposes of  
5 this section.

6           6. The amount of each regulated air pollutant in  
7 excess of 4,000 tons per year allowed to be emitted by any  
8 source, or group of sources belonging to the same Major Group  
9 as described in the Standard Industrial Classification Manual,  
10 1987, may not be included in the calculation of the fee. Any  
11 source, or group of sources, which does not emit any regulated  
12 air pollutant in excess of 4,000 tons per year, is allowed a  
13 one-time credit not to exceed 25 percent of the first annual  
14 licensing fee for the prorated portion of existing  
15 air-operation permit application fees remaining upon  
16 commencement of the annual licensing fees.

17           7. If the department has not received the fee by  
18 February 15 of the calendar year, the permittee must be sent a  
19 written warning of the consequences for failing to pay the fee  
20 by March 1. If the department has not received the fee by  
21 March 1 of the calendar year, the department shall impose, in  
22 addition to the fee, a penalty of 50 percent of the amount of  
23 the fee, plus interest on such amount computed in accordance  
24 with s. 220.807. The department may not impose such penalty  
25 or interest on any amount underpaid, provided that the  
26 permittee has timely remitted payment of at least 90 percent  
27 of the amount determined to be due and remits full payment  
28 within 60 days after receipt of notice of the amount  
29 underpaid. The department may waive the collection of  
30 underpayment and shall not be required to refund overpayment  
31 of the fee, if the amount due is less than 1 percent of the

1 fee, up to \$50. The department may revoke any major air  
2 pollution source operation permit if it finds that the  
3 permitholder has failed to timely pay any required annual  
4 operation license fee, penalty, or interest.

5 8. During the years 1993 through 1999, inclusive, no  
6 fee shall be required to be paid under this section with  
7 respect to emissions from any unit which is an affected unit  
8 under 42 U.S.C. s. 7651c.

9 9. Notwithstanding the computational provisions of  
10 this subsection, the annual operation license fee for any  
11 source subject to this section shall not be less than \$250,  
12 except that the annual operation license fee for sources  
13 permitted solely through general permits issued under s.  
14 403.814 shall not exceed \$50 per year.

15 10. Notwithstanding the provisions of s.  
16 403.087(6)(~~5~~)(a)4.a., authorizing air pollution construction  
17 permit fees, the department may not require such fees for  
18 changes or additions to a major source of air pollution  
19 permitted pursuant to this section, unless the activity  
20 triggers permitting requirements under Title I, Part C or Part  
21 D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.  
22 Costs to issue and administer such permits shall be considered  
23 direct and indirect costs of the major stationary source  
24 air-operation permit program under s. 403.0873. The department  
25 shall, however, require fees pursuant to the provisions of s.  
26 403.087(6)(~~5~~)(a)4.a. for the construction of a new major  
27 source of air pollution that will be subject to the permitting  
28 requirements of this section once constructed and for  
29 activities triggering permitting requirements under Title I,  
30 Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss.  
31 7470-7514a.

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Section 4. This act shall take effect October 1, 1997.

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HOUSE SUMMARY

Increases from 5 years to 10 years the term of years for certain water pollution permits issued by the Department of Environmental Protection. Provides standards and an exception for renewal of wastewater treatment operation permits at the same fee.