

1  
2 An act relating to the Florida Statutes;  
3 repealing various statutory provisions that  
4 have become obsolete, have had their effect,  
5 have served their purpose, or have been  
6 impliedly repealed or superseded; amending s.  
7 161.163, F.S.; deleting an obsolete deadline  
8 for designation of coastal areas to be used by  
9 sea turtles for nesting; amending s. 161.56,  
10 F.S.; deleting an obsolete deadline for  
11 submission to the Administration Commission of  
12 lists of local governments having coastal zones  
13 which have not provided evidence of adoption of  
14 the required building code; amending s. 212.08,  
15 F.S.; conforming a cross-reference; repealing  
16 s. 376.185, F.S., relating to budget approval  
17 for funding enforcement of the Pollutant  
18 Discharge Prevention and Control Act; amending  
19 s. 376.11, F.S.; removing a cross-reference, to  
20 conform; repealing s. 376.303(1)(e), F.S.,  
21 relating to the Department of Environmental  
22 Protection establishing a technical advisory  
23 committee to recommend certain legislation;  
24 amending s. 376.30714, F.S.; conforming a  
25 cross-reference; amending s. 376.3071, F.S.,  
26 and repealing paragraph (6)(c), relating to a  
27 loan from the Florida Coastal Protection Trust  
28 Fund to provide funding to the Inland  
29 Protection Trust Fund; updating provisions  
30 relating to reimbursement for cleanup expenses  
31 from the Inland Protection Trust Fund;

1           repealing s. 377.02, F.S., relating to the form  
2           of the interstate compact to conserve oil and  
3           gas; amending s. 378.208, F.S., and repealing  
4           subsection (3), relating to financial assurance  
5           requirements for phosphate land operators;  
6           conforming a cross-reference; amending s.  
7           403.085, F.S.; deleting obsolete deadlines and  
8           references in provisions requiring certain  
9           sanitary sewage disposal treatment plants and  
10          industrial plants or facilities to provide for  
11          secondary and any ordered advanced waste  
12          treatment; amending s. 403.086, F.S.; deleting  
13          obsolete deadlines and references in provisions  
14          requiring certain sanitary sewage disposal  
15          facilities to provide for secondary and any  
16          ordered advanced waste treatment; amending s.  
17          403.0872, F.S.; deleting an obsolete deadline  
18          relating to the audit of the major stationary  
19          source air-operation permit program; repealing  
20          s. 403.08851, F.S., relating to implementation  
21          of the state National Pollutant Discharge  
22          Elimination System (NPDES) Program; repealing  
23          s. 403.1826(6)(b), F.S., relating to a  
24          temporary waiver from accumulation requirements  
25          of the Florida Water Pollution Control and  
26          Sewage Treatment Plant Grant Act; repealing s.  
27          403.221, F.S., relating to proceedings pending  
28          at the time of adoption of the Florida Air and  
29          Water Pollution Control Act; amending s.  
30          403.7046, F.S.; deleting obsolete dates  
31          relating to regulation of recovered materials;

1 amending s. 403.703, F.S.; correcting a  
2 cross-reference; amending s. 403.7049, F.S.;  
3 deleting obsolete dates relating to local  
4 government determination and notification of  
5 the full cost for solid waste management;  
6 amending s. 403.706, F.S.; deleting obsolete  
7 dates relating to the reduction and weighing of  
8 solid waste received by a solid waste  
9 management facility; amending s. 403.707, F.S.;  
10 deleting an obsolete date relating to solid  
11 waste management facility permits; amending s.  
12 403.708, F.S.; deleting obsolete dates relating  
13 to beverage container and packaging  
14 requirements; amending s. 403.716, F.S.;  
15 deleting obsolete dates relating to training of  
16 operators of landfills, waste-to-energy  
17 facilities, biomedical waste incinerators, or  
18 mobile soil thermal treatment units or  
19 facilities; amending s. 403.7186, F.S.;  
20 deleting obsolete dates relating to  
21 environmentally sound management of  
22 mercury-containing devices and lamps; amending  
23 s. 403.7191, F.S.; deleting an obsolete date  
24 relating to reduction of toxics in packaging;  
25 amending s. 403.7192, F.S.; deleting obsolete  
26 provisions relating to requirements for  
27 manufacturers, sellers, and consumers with  
28 respect to batteries; repealing s. 403.7199,  
29 F.S., relating to the Florida Packaging  
30 Council; amending s. 403.724, F.S.; deleting an  
31 obsolete deadline for hazardous waste

1 facilities to comply with financial  
2 responsibility requirements; amending s.  
3 403.7265, F.S.; deleting an obsolete deadline  
4 for development of the local hazardous waste  
5 collection program; amending s. 403.767, F.S.;  
6 deleting an obsolete date relating to  
7 certification of used oil transporters;  
8 amending s. 403.769, F.S.; deleting an obsolete  
9 date relating to development of the permitting  
10 system for used oil processing facilities;  
11 repealing ch. 533, F.S., relating to mining  
12 wastes; providing an effective date.

13

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

15

16 Section 1. Section 161.163, Florida Statutes, is  
17 amended to read:18 161.163 Coastal areas used by sea turtles;  
19 rules.--~~Within 2 years of July 1, 1986,~~The department shall  
20 adopt by rule a designation of coastal areas which are  
21 utilized, or are likely to be utilized, by sea turtles for  
22 nesting. The department shall also adopt by rule guidelines  
23 for local government regulations that control beachfront  
24 lighting to protect hatching sea turtles.25 Section 2. Subsection (2) of section 161.56, Florida  
26 Statutes, is amended to read:

27 161.56 Establishment of local enforcement.--

28 (2) Each local government shall provide evidence to  
29 the state land planning agency that it has adopted a building  
30 code pursuant to this section. ~~Within 90 days after January~~  
31 ~~1, 1987,~~The state land planning agency shall submit to the

1 Administration Commission a list of those local governments  
2 which have not submitted such evidence of adoption. The sole  
3 issue before the Administration Commission shall be whether or  
4 not to impose sanctions pursuant to s. 163.3184(11)~~(8)~~.

5 Section 3. Subsection (13) of section 212.08, Florida  
6 Statutes, is amended to read:

7 212.08 Sales, rental, use, consumption, distribution,  
8 and storage tax; specified exemptions.--The sale at retail,  
9 the rental, the use, the consumption, the distribution, and  
10 the storage to be used or consumed in this state of the  
11 following are hereby specifically exempt from the tax imposed  
12 by this chapter.

13 (13) No transactions shall be exempt from the tax  
14 imposed by this chapter except those expressly exempted  
15 herein. All laws granting tax exemptions, to the extent they  
16 may be inconsistent or in conflict with this chapter,  
17 including, but not limited to, the following designated laws,  
18 shall yield to and be superseded by the provisions of this  
19 subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31,  
20 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, ~~258.14,~~  
21 315.11, 348.65, 348.762, 349.13, 403.1834, 616.07, and 623.09,  
22 and the following Laws of Florida, acts of the year indicated:  
23 s. 31, chapter 30843, 1955; s. 19, chapter 30845, 1955; s. 12,  
24 chapter 30927, 1955; s. 8, chapter 31179, 1955; s. 15, chapter  
25 31263, 1955; s. 13, chapter 31343, 1955; s. 16, chapter  
26 59-1653; s. 13, chapter 59-1356; s. 12, chapter 61-2261; s.  
27 19, chapter 61-2754; s. 10, chapter 61-2686; s. 11, chapter  
28 63-1643; s. 11, chapter 65-1274; s. 16, chapter 67-1446; and  
29 s. 10, chapter 67-1681.

30 Section 4. Section 376.185, Florida Statutes, is  
31 repealed.

1           Section 5. Paragraph (a) of subsection (4) of section  
2 376.11, Florida Statutes, is amended to read:

3           376.11 Florida Coastal Protection Trust Fund.--

4           (4) Moneys in the Florida Coastal Protection Trust  
5 Fund shall be disbursed for the following purposes and no  
6 others:

7           (a) Administrative expenses, personnel expenses, and  
8 equipment costs of the department and the Fish and Wildlife  
9 Conservation Commission related to the enforcement of ss.  
10 376.011-376.21 ~~subject to s. 376.185.~~

11           Section 6. Paragraph (e) of subsection (1) of section  
12 376.303, Florida Statutes, is repealed.

13           Section 7. Subsection (12) of section 376.30714,  
14 Florida Statutes, is amended to read:

15           376.30714 Site rehabilitation agreements.--

16           (12) Nothing in this section shall be construed to  
17 preclude the department from pursuing penalties in accordance  
18 with ss. 376.303(1)(j)(~~k~~) and 376.311 for violations of any  
19 law or any rule, order, permit, registration, or certification  
20 adopted or issued by the department pursuant to its lawful  
21 authority.

22           Section 8. Paragraph (c) of subsection (6) of section  
23 376.3071, Florida Statutes, is repealed, and paragraph (k) of  
24 subsection (12) of that section is amended to read:

25           376.3071 Inland Protection Trust Fund; creation;  
26 purposes; funding.--

27           (12) REIMBURSEMENT FOR CLEANUP EXPENSES.--Except as  
28 provided in s. 2(3), chapter 95-2, Laws of Florida, this  
29 subsection shall not apply to any site rehabilitation program  
30 task initiated after March 29, 1995. Effective August 1, 1996,  
31 no further site rehabilitation work on sites eligible for

1 state-funded cleanup from the Inland Protection Trust Fund  
2 shall be eligible for reimbursement pursuant to this  
3 subsection. The person responsible for conducting site  
4 rehabilitation may seek reimbursement for site rehabilitation  
5 program task work conducted after March 28, 1995, in  
6 accordance with s. 2(2) and (3), chapter 95-2, Laws of  
7 Florida, regardless of whether the site rehabilitation program  
8 task is completed. A site rehabilitation program task shall  
9 be considered to be initiated when actual onsite work or  
10 engineering design, pursuant to chapter 62-770, Florida  
11 Administrative Code, which is integral to performing a site  
12 rehabilitation program task has begun and shall not include  
13 contract negotiation and execution, site research, or project  
14 planning. All reimbursement applications pursuant to this  
15 subsection must be submitted to the department by January 3,  
16 1997. The department shall not accept any applications for  
17 reimbursement or pay any claims on applications for  
18 reimbursement received after that date; provided, however if  
19 an application filed on or prior to January 3, 1997, was  
20 returned by the department on the grounds of untimely filing,  
21 it shall be refiled within 30 days after the effective date of  
22 this act in order to be processed.

23 (k) Audits.--

24 1. The department is authorized to perform financial  
25 and technical audits in order to certify site restoration  
26 costs and ensure compliance with this chapter. The department  
27 shall seek recovery of any overpayments based on the findings  
28 of these audits. The department must commence any audit within  
29 5 years after the date of reimbursement, except in cases where  
30 the department alleges specific facts indicating fraud.

31

1           2. Upon determination by the department that any  
2 portion of costs which have been reimbursed are disallowed,  
3 the department shall give written notice to the applicant  
4 setting forth with specificity the allegations of fact which  
5 justify the department's proposed action and ordering  
6 repayment of disallowed costs within 60 days of notification  
7 of the applicant.

8           3. In the event the applicant does not make payment to  
9 the department within 60 days of receipt of such notice, the  
10 department shall seek recovery in a court of competent  
11 jurisdiction to recover reimbursement overpayments made to the  
12 person responsible for conducting site rehabilitation, unless  
13 the department finds the amount involved too small or the  
14 likelihood of recovery too uncertain.

15           4. In addition to the amount of any overpayment, the  
16 applicant shall be liable to the department for interest of 1  
17 percent per month or the prime rate, whichever is less, on the  
18 amount of overpayment, from the date of overpayment by the  
19 department until the applicant satisfies the department's  
20 request for repayment pursuant to this paragraph. The  
21 calculation of interest shall be tolled during the pendency of  
22 any litigation.

23           5. Financial and technical audits frequently are  
24 conducted under this section many years after the site  
25 rehabilitation activities were performed and the costs  
26 examined in the course of the audit were incurred by the  
27 person responsible for site rehabilitation. During the  
28 intervening span of years, the department's rule requirements  
29 and its related guidance and other nonrule policy directives  
30 may have changed significantly. The Legislature finds that it  
31 may be appropriate for the department to provide relief to



1 persons subject to such requirements in financial and  
2 technical audits conducted pursuant to this section.

3       a. The department is authorized to grant variances and  
4 waivers from the documentation requirements of subparagraph  
5 (e)2. and from the requirements of rules applicable in  
6 technical and financial audits conducted under this section.  
7 Variances and waivers shall be granted when the person  
8 responsible for site rehabilitation demonstrates to the  
9 department that application of a financial or technical  
10 auditing requirement would create a substantial hardship or  
11 would violate principles of fairness. For purposes of this  
12 subsection, "substantial hardship" means a demonstrated  
13 economic, technological, legal, or other type of hardship to  
14 the person requesting the variance or waiver. For purposes of  
15 this subsection, "principles of fairness" are violated when  
16 the application of a requirement affects a particular person  
17 in a manner significantly different from the way it affects  
18 other similarly situated persons who are affected by the  
19 requirement or when the requirement is being applied  
20 retroactively without due notice to the affected parties.

21       b. A person whose reimbursed costs are subject to a  
22 financial and technical audit under this section may file a  
23 written request to the department for grant of a variance or  
24 waiver. The request shall specify:

25           (I) The requirement from which a variance or waiver is  
26 requested.

27           (II) The type of action requested.

28           (III) The specific facts which would justify a waiver  
29 or variance.

30           (IV) The reason or reasons why the requested variance  
31 or waiver would serve the purposes of this section.

1           c. Within 90 days after receipt of a written request  
2 for variance or waiver under this subsection, the department  
3 shall grant or deny the request. If the request is not granted  
4 or denied within 90 days of receipt, the request shall be  
5 deemed approved. An order granting or denying the request  
6 shall be in writing and shall contain a statement of the  
7 relevant facts and reasons supporting the department's action.  
8 The department's decision to grant or deny the petition shall  
9 be supported by competent substantial evidence and is subject  
10 to ss. 120.569 and 120.57. Once adopted, model rules  
11 promulgated by the Administration Commission under s. 120.542  
12 shall govern the processing of requests under this provision<sup>+</sup>  
13 ~~however, the department may process requests prior to the~~  
14 ~~adoption of those model rules.~~

15           6. The Comptroller may audit the records of persons  
16 who receive or who have received payments pursuant to this  
17 chapter in order to verify site restoration costs, ensure  
18 compliance with this chapter, and verify the accuracy and  
19 completeness of audits performed by the department pursuant to  
20 this paragraph. The Comptroller may contract with entities or  
21 persons to perform audits pursuant to this subparagraph. The  
22 Comptroller shall commence any audit within 1 year after the  
23 department's completion of an audit conducted pursuant to this  
24 paragraph, except in cases where the department or the  
25 Comptroller alleges specific facts indicating fraud.

26           Section 9. Section 377.02, Florida Statutes, is  
27 repealed.

28           Section 10. Subsection (3) of section 378.208, Florida  
29 Statutes, is repealed, and paragraph (a) of subsection (2) of  
30 that section is amended to read:

31           378.208 Financial responsibility.--

1           (2) Operators who are not in compliance with the rate  
2 of reclamation established in s. 378.209 must post one or more  
3 of the following forms of security:

4           (a) A lien in favor of the state on unmined lands or  
5 on reclaimed and released real property owned in fee simple  
6 absolute by the operator. No formal appraisal of the property  
7 shall be required; however, the unencumbered value of the  
8 property shall be comparable to the cost of reclamation  
9 established pursuant to subsection (3)~~(4)~~.

10

11 The form of security posted shall be at the option of the  
12 operator and shall cover the number of acres for which the  
13 operator is delinquent in reclaiming in the required time  
14 period as well as the number of acres that the operator must  
15 reclaim in the current 5-year period. The security, other  
16 than the donation of land, shall be released upon completion  
17 of reclamation of delinquent acres.

18           Section 11. Subsections (2) and (4) of section  
19 403.085, Florida Statutes, are amended to read:

20           403.085 Sanitary sewage disposal units; advanced and  
21 secondary waste treatment; industrial waste, ocean outfall,  
22 inland outfall, or disposal well waste treatment.--

23           (2) Sanitary sewage disposal treatment plants which  
24 discharge effluent through ocean outfalls or disposal wells ~~on~~  
25 ~~July 1, 1970,~~ shall provide for secondary waste treatment and,  
26 in addition thereto, advanced waste treatment as deemed  
27 necessary and ordered by the former Department of  
28 Environmental Regulation ~~by January 3, 1974~~. Failure to  
29 conform ~~by said date~~ shall be punishable by a fine of \$500 for  
30 each 24-hour day or fraction thereof that such failure is  
31 allowed to continue thereafter.

1           (4) Industrial plants or facilities which discharge  
2 industrial waste of any kind through ocean outfalls, inland  
3 outfalls, or disposal wells ~~on July 1, 1971,~~ shall provide for  
4 secondary waste treatment or such other waste treatment as  
5 deemed necessary and ordered ~~by January 1, 1973,~~ by the former  
6 Department of Environmental Regulation. Failure to conform ~~by~~  
7 ~~said date~~ shall be punishable as provided in s. 403.161(2).

8           Section 12. Subsection (2) of section 403.086, Florida  
9 Statutes, is amended to read:

10           403.086 Sewage disposal facilities; advanced and  
11 secondary waste treatment.--

12           (2) Any facilities for sanitary sewage disposal  
13 ~~existing on July 1, 1971,~~ shall provide for secondary waste  
14 treatment ~~by January 1, 1973,~~ and, in addition thereto,  
15 advanced waste treatment as deemed necessary and ordered by  
16 ~~the former Department of Pollution Control, its successor, the~~  
17 ~~former Department of Environmental Regulation, or its~~  
18 ~~successor,~~ the Department of Environmental Protection. Failure  
19 to conform ~~by said date~~ shall be punishable by a civil penalty  
20 of \$500 for each 24-hour day or fraction thereof that such  
21 failure is allowed to continue thereafter.

22           Section 13. Paragraph (c) of subsection (11) of  
23 section 403.0872, Florida Statutes, is amended to read:

24           403.0872 Operation permits for major sources of air  
25 pollution; annual operation license fee.--Provided that  
26 program approval pursuant to 42 U.S.C. s. 7661a has been  
27 received from the United States Environmental Protection  
28 Agency, beginning January 2, 1995, each major source of air  
29 pollution, including electrical power plants certified under  
30 s. 403.511, must obtain from the department an operation  
31 permit for a major source of air pollution under this section,

1 which is the only department operation permit for a major  
2 source of air pollution required for such source. Operation  
3 permits for major sources of air pollution, except general  
4 permits issued pursuant to s. 403.814, must be issued in  
5 accordance with the following procedures and in accordance  
6 with chapter 120; however, to the extent that chapter 120 is  
7 inconsistent with the provisions of this section, the  
8 procedures contained in this section prevail:

9 (11) Commencing in 1993, each major source of air  
10 pollution permitted to operate in this state must pay between  
11 January 15 and March 1 of each year, upon written notice from  
12 the department, an annual operation license fee in an amount  
13 determined by department rule. The annual operation license  
14 fee shall be terminated immediately in the event the United  
15 States Environmental Protection Agency imposes annual fees  
16 solely to implement and administer the major source  
17 air-operation permit program in Florida under 40 C.F.R. s.  
18 70.10(d).

19 (c) An audit of the major stationary source  
20 air-operation permit program must be conducted 2 years after  
21 the United States Environmental Protection Agency has given  
22 full approval of the program, ~~or by the end of 1996, whichever~~  
23 ~~comes later~~, to ascertain whether the annual operation license  
24 fees collected by the department are used solely to support  
25 any reasonable direct and indirect costs as listed in  
26 paragraph (b). A program audit must be performed biennially  
27 after the first audit.

28 Section 14. Section 403.08851, Florida Statutes, is  
29 repealed.

30 Section 15. Paragraph (b) of subsection (6) of section  
31 403.1826, Florida Statutes, is repealed.

1           Section 16. Section 403.221, Florida Statutes, is  
2 repealed.

3           Section 17. Subsection (1) of section 403.7046,  
4 Florida Statutes, is amended to read:

5           403.7046 Regulation of recovered materials.--

6           (1) ~~After January 1, 1994,~~Any person who handles,  
7 purchases, receives, recovers, sells, or is an end user of  
8 recovered materials shall annually certify to the department  
9 on forms provided by the department. The department may by  
10 rule exempt from this requirement generators of recovered  
11 materials, persons who handle or sell recovered materials as  
12 an activity which is incidental to the normal primary business  
13 activities of that person, or persons who handle, purchase,  
14 receive, recover, sell, or are end users of recovered  
15 materials in small quantities as defined by the department.  
16 The department shall adopt rules for the certification of and  
17 reporting by such persons and shall establish criteria for  
18 revocation of such certification. Prior to the adoption of  
19 such rules, the department shall appoint a technical advisory  
20 committee of no more than nine persons, including, at a  
21 minimum, representatives of the Florida Association of  
22 Counties, the Florida League of Cities, the Florida Recyclers  
23 Association, and the Florida Chapter of the National Solid  
24 Waste Management Association, to aid in the development of  
25 such rules. Such rules shall be designed to elicit, at a  
26 minimum, the amount and types of recovered materials handled  
27 by registrants, and the amount and disposal site, or name of  
28 person with whom such disposal was arranged, of any solid  
29 waste generated by such facility. Such rules may provide for  
30 the department to conduct periodic inspections. The  
31 department may charge a fee of up to \$50 for each

1 registration, which shall be deposited into the Solid Waste  
2 Management Trust Fund for implementation of the program.

3 Section 18. Subsection (10) of section 403.703,  
4 Florida Statutes, is amended to read:

5 403.703 Definitions.--As used in this act, unless the  
6 context clearly indicates otherwise, the term:

7 (10) "Solid waste management facility" means any solid  
8 waste disposal area, volume reduction plant, transfer station,  
9 materials recovery facility, or other facility, the purpose of  
10 which is resource recovery or the disposal, recycling,  
11 processing, or storage of solid waste. The term does not  
12 include recovered materials processing facilities which meet  
13 the requirements of s. 403.7046~~(4)~~, except the portion of such  
14 facilities, if any, that is used for the management of solid  
15 waste.

16 Section 19. Subsection (1) and paragraph (a) of  
17 subsection (2) of section 403.7049, Florida Statutes, are  
18 amended to read:

19 403.7049 Determination of full cost for solid waste  
20 management; local solid waste management fees.--

21 ~~(1) Within 1 year of October 1, 1988, or within 1 year~~  
22 ~~after rules are established by the department, whichever~~  
23 ~~occurs later, Each county and each municipality shall~~  
24 ~~determine each year the full cost for solid waste management~~  
25 ~~within the service area of the county or municipality for the~~  
26 ~~1-year period beginning on October 1, 1988, and shall update~~  
27 ~~the full cost every year thereafter. The department shall~~  
28 ~~establish by rule the method for local governments to use in~~  
29 ~~calculating full cost. Rulemaking shall be initiated and at~~  
30 ~~least one public hearing shall be held by March 1, 1989. In~~  
31 ~~developing the rule, the department shall examine the~~

1 feasibility of the use of an enterprise fund process by local  
2 governments in operating their solid waste management systems.

3           (2)(a) ~~Within 1 year from October 1, 1988,~~Each  
4 municipality shall establish a system to inform, no less than  
5 once a year, residential and nonresidential users of solid  
6 waste management services within the municipality's service  
7 area of the user's share, on an average or individual basis,  
8 of the full cost for solid waste management as determined  
9 pursuant to subsection (1). Counties shall provide the  
10 information required of municipalities only to residential and  
11 nonresidential users of solid waste management services within  
12 the county's service area that are not served by a  
13 municipality. Municipalities shall include costs charged to  
14 them or persons contracting with them for disposal of solid  
15 waste in the full cost information provided to residential and  
16 nonresidential users of solid waste management services.

17           Section 20. Paragraph (a) of subsection (4) and  
18 subsection (18) of section 403.706, Florida Statutes, are  
19 amended to read:

20           403.706 Local government solid waste  
21 responsibilities.--

22           (4)(a) A county's solid waste management and recycling  
23 programs shall be designed to provide for sufficient reduction  
24 of the amount of solid waste generated within the county and  
25 the municipalities within its boundaries in order to meet  
26 goals for the reduction of municipal solid waste prior to the  
27 final disposal or the incineration of such waste at a solid  
28 waste disposal facility. The goals shall provide, at a  
29 minimum, that the amount of municipal solid waste that would  
30 be disposed of within the county and the municipalities within  
31 its boundaries is reduced by at least 30 percent ~~by the end of~~



1 ~~1994~~. In determining whether the municipal solid waste  
2 reduction goal established by this subsection has been  
3 achieved, no more than one-half of the goal may be met with  
4 yard trash, white goods, construction and demolition debris,  
5 and tires that are removed from the total amount of municipal  
6 solid waste. However, if a county that is a special district  
7 created by chapter 67-764, Laws of Florida, demonstrates that  
8 yard trash, construction and demolition debris, white goods,  
9 and waste tires comprise more than 50 percent of the municipal  
10 solid waste generated in the county and municipalities within  
11 its boundaries, the county may meet the reduction goal  
12 established by this subsection by reducing the Class I  
13 municipal solid waste generated in the county and  
14 municipalities within its boundaries at a rate equal to the  
15 average rate Class I municipal solid waste is reduced in the  
16 20 most populous counties, as determined by the department for  
17 the previous reporting period. As used in this subsection,  
18 "Class I municipal solid waste" means municipal solid waste  
19 other than yard trash, construction and demolition debris,  
20 white goods, and waste tires.

21 (18) ~~On and after July 1, 1989,~~Each operator of a  
22 solid waste management facility owned or operated by or on  
23 behalf of a county or municipality, ~~except existing facilities~~  
24 ~~which will not be in use 1 year after October 1, 1988,~~shall  
25 weigh all solid waste when it is received. The scale used to  
26 measure the solid waste shall conform to the requirements of  
27 chapter 531 and any rules promulgated thereunder.

28 Section 21. Subsection (1) of section 403.707, Florida  
29 Statutes, is amended to read:

30 403.707 Permits.--

31

1           (1) No solid waste management facility may be  
2 operated, maintained, constructed, expanded, modified, or  
3 closed without an appropriate and currently valid permit  
4 issued by the department. ~~Effective October 1, 1989,~~ Solid  
5 waste construction permits issued under this section may  
6 include any permit conditions necessary to achieve compliance  
7 with the recycling requirements of this act. The department  
8 shall pursue reasonable timeframes for closure and  
9 construction requirements, considering pending federal  
10 requirements and implementation costs to the permittee. The  
11 department shall adopt a rule establishing performance  
12 standards for construction and closure of solid waste  
13 management facilities. The standards shall allow flexibility  
14 in design and consideration for site-specific characteristics.

15           Section 22. Subsections (2) and (9) of section  
16 403.708, Florida Statutes, are amended to read:

17           403.708 Prohibition; penalty.--

18           (2) ~~After January 1, 1989,~~ No beverage shall be sold  
19 or offered for sale within the state in a beverage container  
20 designed and constructed so that the container is opened by  
21 detaching a metal ring or tab.

22           (9) No person shall, ~~on or after October 1, 1990,~~  
23 distribute, sell, or expose for sale in this state any product  
24 packaged in a container or packing material manufactured with  
25 fully halogenated chlorofluorocarbons (CFC). Producers of  
26 containers or packing material manufactured with  
27 chlorofluorocarbons (CFC) are urged to introduce alternative  
28 packaging materials which are environmentally compatible.

29           Section 23. Subsection (3) of section 403.716, Florida  
30 Statutes, is amended to read:

31

1           403.716 Training of operators of solid waste  
2 management and other facilities.--

3           (3) A person may not perform the duties of an operator  
4 of a landfill ~~after July 1, 1991~~, or perform the duties of an  
5 operator of a waste-to-energy facility, biomedical waste  
6 incinerator, or mobile soil thermal treatment unit or facility  
7 ~~after July 1, 1994~~, unless she or he has completed an operator  
8 training course approved by the department or she or he has  
9 qualified as an interim operator in compliance with  
10 requirements established by the department by rule. An owner  
11 of a landfill, waste-to-energy facility, biomedical waste  
12 incinerator, or mobile soil thermal treatment unit or facility  
13 may not employ any person to perform the duties of an operator  
14 unless such person has completed an approved landfill,  
15 waste-to-energy facility, biomedical waste incinerator, or  
16 mobile soil thermal treatment unit or facility operator  
17 training course, as appropriate, or has qualified as an  
18 interim operator in compliance with requirements established  
19 by the department by rule. The department may establish by  
20 rule operator training requirements for other solid waste  
21 management facilities and facility operators.

22           Section 24. Subsections (2), (3), and (4) of section  
23 403.7186, Florida Statutes, are amended to read:

24           403.7186 Environmentally sound management of  
25 mercury-containing devices and lamps.--

26           (2) PROHIBITION ON INCINERATION OR DISPOSAL OF  
27 MERCURY-CONTAINING DEVICES.--Mercury-containing devices may  
28 not be disposed of or incinerated in any manner prohibited by  
29 this section or by the rules of the department promulgated  
30 under this section. ~~After July 1, 1994~~, If the secretary of  
31 the department determines that sufficient recycling capacity

1 exists to recycle mercury-containing devices generated in the  
2 state, the secretary may, by rule, designate regions of the  
3 state in which a person shall not place such a device that was  
4 purchased for use or used by a government agency or an  
5 industrial or commercial facility in a mixed solid waste  
6 stream. ~~After January 1, 1996,~~A mercury-containing device  
7 shall not knowingly be incinerated or disposed of in a  
8 landfill.

9 (3) PROHIBITION ON INCINERATION OF SPENT LAMPS.--~~After~~  
10 ~~July 1, 1994,~~Spent mercury-containing lamps shall not  
11 knowingly be incinerated in any municipal or other  
12 incinerator. This subsection shall not apply to incinerators  
13 that are permitted to operate under state or federal hazardous  
14 waste regulations.

15 (4) WASTE MANAGEMENT REQUIREMENT FOR SPENT LAMPS.--

16 (a) ~~Effective July 1, 1994,~~Any person owning or  
17 operating an industrial, institutional, or commercial facility  
18 in this state or providing outdoor lighting for public places  
19 in this state, including streets and highways, that disposes  
20 of more than 10 spent lamps per month shall arrange for  
21 disposal of such lamps in permitted lined landfills or at  
22 appropriately permitted reclamation facilities.

23 (b) ~~After July 1, 1994,~~The department may, by rule,  
24 designate regions of the state wherein any person owning or  
25 operating an industrial, institutional, or commercial facility  
26 in such a designated region, or providing lighting for public  
27 places in such designated region, including streets and  
28 highways, that disposes of more than 10 spent lamps per month  
29 shall arrange for disposal of such lamps at appropriately  
30 permitted reclamation facilities; provided, however, that  
31 before such rule is adopted, the secretary of the department

1 first determines that appropriately permitted reclamation  
2 facilities are reasonably available and afford sufficient  
3 recycling capacity.

4 Section 25. Subsection (3) of section 403.7191,  
5 Florida Statutes, is amended to read:

6 403.7191 Toxics in packaging.--

7 (3) PROHIBITIONS; SCHEDULE FOR REMOVAL OF INCIDENTAL  
8 AMOUNTS.--Except as provided in subsection (4), a manufacturer  
9 or distributor may not sell a package or packaging component,  
10 and a manufacturer or distributor of products shall not offer  
11 for sale or promotional purposes in this state, any package or  
12 any packaging component with a total concentration of lead,  
13 cadmium, mercury, and hexavalent chromium that exceeds ~~after~~  
14 ~~July 1, 1996,~~100 parts per million by weight (.01 percent).

15 Section 26. Section 403.7192, Florida Statutes, is  
16 amended to read:

17 403.7192 Batteries; requirements for consumer,  
18 manufacturers, and sellers; penalties.--

19 (1) As used in this section, the term:

20 (a) "Cell" means a galvanic or voltaic device weighing  
21 25 pounds or less consisting of an enclosed or sealed  
22 container containing a positive and negative electrode in  
23 which one or both electrodes consist primarily of cadmium or  
24 lead and which container contains a gel or liquid starved  
25 electrolyte.

26 (b) "Cell manufacturer" means an entity which  
27 manufactures cells in the United States; or imports into the  
28 United States cells or units for which no unit management  
29 program has been put into effect by the actual manufacturer of  
30 the cell or unit.

31

1 (c) "Marketer" means any person who manufactures,  
2 sells, distributes, assembles, or affixes a brand name or  
3 private label or licenses the use of a brand name on a unit or  
4 rechargeable product. Marketer does not include a person  
5 engaged in the retail sale of a unit or rechargeable product.

6 (d) "Rechargeable battery" means any small,  
7 nonvehicular, rechargeable nickel-cadmium or sealed lead-acid  
8 battery, or battery pack containing such a battery, weighing  
9 less than 25 pounds and not used for memory backup.

10 (e) "Unit" means a cell, a rechargeable battery, or a  
11 rechargeable product with nonremovable rechargeable batteries.

12 (f) "Unit management program" means a program or  
13 system for the collection, recycling, or disposal of units put  
14 in place by a marketer in accordance with this section.

15 (2)(a) ~~After July 1, 1993,~~A person may not  
16 distribute, sell, or offer for sale in this state an  
17 alkaline-manganese or zinc-carbon battery that contains more  
18 than 0.025 percent mercury by weight. ~~After January 1, 1996,~~  
19 A person may not distribute, sell, or offer for sale in this  
20 state an alkaline-manganese or zinc-carbon battery that  
21 contains any intentionally introduced mercury and more than  
22 0.0004 percent mercury by weight.

23 (b) For any alkaline-manganese battery resembling a  
24 button or coin in size and shape, the limitation shall be 25  
25 milligrams of mercury.

26 (c) ~~After October 1, 1993,~~A person may not  
27 distribute, sell, or offer for sale in this state a consumer  
28 button dry cell battery containing a mercuric oxide electrode  
29 or a product containing such a battery.

30 (d) The secretary of the department may exempt a  
31 specific type of battery from this subsection if there is not

1 a battery that meets those requirements and that reasonably  
2 can be substituted for the battery for which the exemption is  
3 sought.

4           (3)(a) ~~After January 1, 1994,~~A person may not  
5 knowingly place in a mixed solid waste stream a dry cell  
6 battery that uses a mercuric oxide electrode or a product  
7 containing such a battery, and that was purchased for use or  
8 used by a consumer or by a government, industrial,  
9 communications, or medical facility that is a conditionally  
10 exempt small quantity generator of hazardous waste under 40  
11 C.F.R. s. 261.5.

12           (b) ~~Eighteen months after the effective date of this~~  
13 ~~subsection, or October 1, 1995, whichever is later,~~A person  
14 may not knowingly place in a mixed solid waste stream a  
15 rechargeable battery, or a product containing such a  
16 rechargeable battery, which was purchased for use or used by a  
17 consumer or by a government, industrial, commercial,  
18 communications, or medical facility that is a conditionally  
19 exempt small quantity generator of hazardous waste under 40  
20 C.F.R. s. 261.5.

21           (c) Each government, industrial, commercial,  
22 communications, or medical facility shall collect and  
23 segregate its batteries to which the prohibitions in  
24 paragraphs (a) and (b) apply and send each segregated  
25 collection of batteries back to a collection site designated  
26 by the manufacturer or distributor in the case of mercuric  
27 oxide batteries, to a collection site designated by a marketer  
28 or cell manufacturer of rechargeable batteries, or the  
29 products powered by nonremovable batteries, or to a facility  
30 permitted to dispose of those batteries.

31

1 (4) A cell manufacturer or marketer shall not sell or  
2 offer for sale in this state any consumer product or  
3 nonconsumer product that is ~~manufactured on or after October~~  
4 ~~1, 1993, and that is~~ powered by a rechargeable battery unless:

5 (a) In the case of consumer products, the battery can  
6 be easily removed by the consumer, or the battery is contained  
7 in a battery pack that is separate from the product and can be  
8 easily removed from the product.

9 (b) In the case of nonconsumer products, the battery  
10 can be removed or is contained in a battery pack that is  
11 separate from the product.

12 (c) The product or the battery, or the package in the  
13 case of a consumer product, is labeled with a recycling symbol  
14 and includes, as an indication of the chemical composition of  
15 the battery, the term "Cd" for nickel-cadmium batteries or  
16 "Pb" for small sealed lead batteries.

17 (d) The instruction manual for the product or, in the  
18 case of a consumer product, the package containing the product  
19 states that the sealed lead or nickel-cadmium battery must be  
20 recycled or disposed of properly.

21 (5) The secretary of the department may authorize the  
22 sale of a consumer or nonconsumer product that does not comply  
23 with paragraphs (4)(a) and (b), if the secretary finds that:

24 ~~(a) The product was available for sale on or before~~  
25 ~~May 12, 1993, and the product cannot reasonably be redesigned~~  
26 ~~and manufactured by January 1, 1994; or,~~

27 ~~(b) the design of the product, to comply with the~~  
28 ~~requirements of this subsection, would result in significant~~  
29 ~~danger to public health and safety.~~

30 (6) ~~By October 1, 1993,~~Manufacturers and distributors  
31 of mercuric oxide batteries and products containing these



1 ~~batteries and, 6 months after the report required in~~  
2 ~~paragraph (7)(b) is due to be presented to the department,~~  
3 marketers of rechargeable batteries or the products powered by  
4 such batteries, excluding those used solely for memory, whose  
5 batteries and products are sold and distributed in this state  
6 and that are subject to the requirements of subsection (3),  
7 must:

8 (a) Implement a unit management program, other than a  
9 local government curbside program and other local government  
10 collection system, unless the local government agrees  
11 otherwise, through which the discarded batteries or products  
12 powered by nonremovable batteries may be returned to  
13 designated collection sites and submit this information to the  
14 department. The unit management program must be accessible for  
15 consumers or local governments collecting batteries or  
16 products from consumers, for returning the discarded batteries  
17 or products. In addition to other requirements which cell  
18 manufacturers have as marketers, cell manufacturers shall  
19 accept rechargeable batteries collected in this state. Cell  
20 manufacturers shall accept rechargeable batteries returned to  
21 them of the same general type, including differing brands, not  
22 to exceed the same annual rate as batteries manufactured by  
23 them are sold in this state. Cell manufacturers shall have  
24 the sole responsibility for reclamation and disposal of  
25 rechargeable batteries returned to them.

26 (b) Clearly inform each purchaser of the prohibition  
27 on the disposal in the solid waste stream of these batteries  
28 and products powered by nonremovable batteries and of the  
29 system for return available to the purchaser for their proper  
30 collection, transportation, recycling, or disposal. A  
31 telephone number must be provided to each final purchaser of

1 the batteries, or products powered by these batteries, so that  
2 the final purchasers can call to get information on returning  
3 the discarded batteries or products for recycling or proper  
4 disposal. The telephone number must also be provided to the  
5 department.

6 (c) Accept waste batteries or products containing  
7 these batteries returned to their designated collection sites  
8 as allowed by federal, state, and local laws and regulations.

9 (d) Ensure that each battery is clearly identifiable  
10 as to the type of electrode used in the battery.

11 ~~(7)(a) Twelve months after the effective date of this~~  
12 ~~subsection, cell manufacturers and marketers of rechargeable~~  
13 ~~batteries or products powered by rechargeable batteries which~~  
14 ~~are sold in the state shall implement pilot projects for the~~  
15 ~~collection and transportation of these batteries and products.~~  
16 ~~Pilot projects implemented in other jurisdictions and lasting~~  
17 ~~for at least 18 months may be used to satisfy the requirements~~  
18 ~~of this subsection. Marketers and cell manufacturers may~~  
19 ~~satisfy the requirements of this subsection individually or as~~  
20 ~~part of a representative organization of marketers and cell~~  
21 ~~manufacturers. Representative organizations of manufacturers~~  
22 ~~shall supply to the department a list of those organization~~  
23 ~~members for whom the association is conducting the pilot~~  
24 ~~program to satisfy the requirements of this subsection.~~

25 ~~(b)~~ On or before October 7, 1997, and annually  
26 thereafter, for a period of 3 years ~~Twenty-five months after~~  
27 ~~the effective date of this subsection, cell manufacturers and~~  
28 ~~marketers or their representative organization shall report to~~  
29 ~~the department the final results of the pilot projects and~~  
30 ~~plans for the implementation of the requirements under~~  
31 subsection (6). The reports shall include estimates of the

1 cadmium disposal reductions. Representative organizations of  
2 manufacturers shall supply to the department a list of those  
3 organization members for whom the association is conducting  
4 the unit management program achieved through the pilot  
5 ~~projects.~~ ~~Plans for implementation and the determination of~~  
6 ~~the reasonableness of those plans shall be based on the~~  
7 ~~results of the pilot programs.~~

8  
9 ~~Annually thereafter, for a period of 3 years, they shall~~  
10 ~~report on the results of their unit management programs as~~  
11 ~~described in this subsection.~~

12 ~~(8) The effective date of subsections (1) and (2),~~  
13 ~~paragraph (3)(a), and subsections (4), (5), and (6) for~~  
14 ~~mercuric oxide batteries, and subsections (8), (10), and (11),~~  
15 ~~shall be July 1, 1993. The effective date of paragraphs~~  
16 ~~(3)(b) and (c) and subsection (6) for rechargeable batteries,~~  
17 ~~and subsections (7) and (9), shall be upon final adoption by~~  
18 ~~the United States Environmental Protection Agency of 40 C.F.R.~~  
19 ~~part 273 as proposed in Federal Register, Volume 58, Number~~  
20 ~~27, pp. 8101 et seq., February 11, 1993, and adoption by the~~  
21 ~~department.~~

22 (8)(9) Manufacturers and importers of mercuric oxide  
23 batteries and cell manufacturers and marketers of rechargeable  
24 batteries or products powered by these batteries that do not  
25 comply with the requirements in subsection (6) and paragraph  
26 (7)(a) may not sell, distribute, or offer for sale in this  
27 state these batteries or products powered by these batteries.  
28 Manufacturers or marketers may satisfy the requirements of  
29 subsection (6) and paragraph (7)(a) individually, as part of a  
30 representative organization of manufacturers, or by  
31 contracting with private or government parties. Any such

1 contractual arrangements may include appointment of agents,  
2 allocation of costs and duties, and such indemnifications as  
3 the parties deem appropriate.

4 (9)~~(10)~~ Any person who violates any provision of this  
5 section commits a misdemeanor of the second degree, punishable  
6 as provided in s. 775.082 or s. 775.083. A manufacturer or  
7 distributor who violates such provision is subject to a  
8 minimum fine of \$100 per violation.

9 (10)~~(11)~~ In an enforcement action under this section  
10 in which the state prevails, the state may recover reasonable  
11 administrative expenses, court costs, and attorney's fees  
12 incurred to take the enforcement action, in an amount to be  
13 determined by the court.

14 Section 27. Section 403.7199, Florida Statutes, is  
15 repealed.

16 Section 28. Subsection (5) of section 403.724, Florida  
17 Statutes, is amended to read:

18 403.724 Financial responsibility.--

19 (5) Hazardous waste facilities ~~in operation on October~~  
20 ~~1, 1980,~~ shall, within 1 year after the effective date of  
21 rules regarding financial responsibility pursuant to this act,  
22 establish financial responsibility or have the requirement  
23 waived.

24 Section 29. Subsection (2) of section 403.7265,  
25 Florida Statutes, is amended to read:

26 403.7265 Local hazardous waste collection program.--

27 (2) ~~By March 1, 1991,~~ The department shall develop a  
28 statewide local hazardous waste management plan which will  
29 ensure comprehensive collection and proper management of  
30 hazardous waste from small quantity generators and household  
31 hazardous waste in Florida. The plan shall address, at a

1 minimum, a network of local collection centers, transfer  
2 stations, and expanded hazardous waste collection route  
3 services. The plan shall assess the need for additional  
4 compliance verification inspections, enforcement, and  
5 penalties. The plan shall include a strategy, timetable, and  
6 budget for implementation.

7 Section 30. Subsection (1) of section 403.767, Florida  
8 Statutes, is amended to read:

9 403.767 Certification of used oil transporters.--

10 (1) Any person who transports over public highways  
11 ~~after January 1, 1990,~~ more than 500 gallons annually of used  
12 oil must be a certified transporter. This subsection does not  
13 apply to:

14 (a) Local governments or private solid waste haulers  
15 under contract to a local government that transport used oil  
16 collected from households to a public used oil collection  
17 center.

18 (b) Persons who transport less than 55 gallons of used  
19 oil at one time that is stored in tightly closed containers  
20 which are secured in a totally enclosed section of the  
21 transport vehicle.

22 (c) Persons who transport their own used oil, which is  
23 generated at their own noncontiguous facilities, to their own  
24 central collection facility for storage, processing, or energy  
25 recovery. However, such persons shall provide the same proof  
26 of liability insurance or other means of financial  
27 responsibility for liability which may be incurred in the  
28 transport of used oil as provided by certified transporters  
29 under subsection (3).

30 Section 31. Subsection (2) of section 403.769, Florida  
31 Statutes, is amended to read:

1           403.769 Permits for used oil processing and rerefining  
2 facilities.--  
3           (2) ~~By January 1, 1990,~~The department shall develop a  
4 permitting system for used oil processing facilities after  
5 reviewing and considering the applicability of the permit  
6 system for hazardous waste treatment, storage, or disposal  
7 facilities.  
8           Section 32. Sections 533.01, 533.02, 533.03, 533.04,  
9 533.05, and 533.06, Florida Statutes, are repealed.  
10           Section 33. This act shall take effect July 1, 2000.  
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