

1 A bill to be entitled
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6 impliedly repealed or superseded; amending s.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; repealing s.
15 376.185, F.S.; relating to budget approval for
16 funding enforcement of the Pollutant Discharge
17 Prevention and Control Act; amending s. 376.11,
18 F.S.; removing a cross reference, to conform;
19 repealing s. 376.303(1)(e), F.S., relating to
20 the Department of Environmental Protection
21 establishing a technical advisory committee to
22 recommend certain legislation; amending s.
23 376.30714, F.S.; revising a cross reference, to
24 conform; amending s. 376.3071, F.S., and
25 repealing paragraph (6)(c), relating to a loan
26 from the Florida Coastal Protection Trust Fund
27 to provide funding to the Inland Protection
28 Trust Fund; updating provisions relating to
29 reimbursement for cleanup expenses from the
30 Inland Protection Trust Fund; repealing s.
31 377.02, F.S., relating to the form of the

1 interstate compact to conserve oil and gas;
2 amending s. 378.208, F.S., and repealing
3 subsection (3), relating to financial assurance
4 requirements for phosphate land operators;
5 revising a cross reference, to conform;
6 amending s. 403.085, F.S.; deleting obsolete
7 deadlines and references in provisions
8 requiring certain sanitary sewage disposal
9 treatment plants and industrial plants or
10 facilities to provide for secondary and any
11 ordered advanced waste treatment; amending s.
12 403.086, F.S.; deleting obsolete deadlines and
13 references in provisions requiring certain
14 sanitary sewage disposal facilities to provide
15 for secondary and any ordered advanced waste
16 treatment; amending s. 403.0872, F.S.; deleting
17 an obsolete deadline relating to the audit of
18 the major stationary source air-operation
19 permit program; repealing s. 403.08851, F.S.,
20 relating to implementation of the state
21 National Pollutant Discharge Elimination System
22 (NPDES) Program; repealing s. 403.1826(6)(b),
23 F.S., relating to a temporary waiver from
24 accumulation requirements of the Florida Water
25 Pollution Control and Sewage Treatment Plant
26 Grant Act; repealing s. 403.221, F.S., relating
27 to proceedings pending at the time of adoption
28 of the Florida Air and Water Pollution Control
29 Act; amending s. 403.7046, F.S.; deleting
30 obsolete dates relating to regulation of
31 recovered materials; amending s. 403.703, F.S.;

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

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

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

15 Section 1. Section 161.163, Florida Statutes, is
16 amended to read:

17 161.163 Coastal areas used by sea turtles;
18 rules.--~~Within 2 years of July 1, 1986,~~The department shall
19 adopt by rule a designation of coastal areas which are
20 utilized, or are likely to be utilized, by sea turtles for
21 nesting. The department shall also adopt by rule guidelines
22 for local government regulations that control beachfront
23 lighting to protect hatching sea turtles.

24 Section 2. Subsection (2) of section 161.56, Florida
25 Statutes, is amended to read:

26 161.56 Establishment of local enforcement.--

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

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

4 Section 3. Section 376.185, Florida Statutes, is
5 repealed.

6 Section 4. Paragraph (a) of subsection (4) of section
7 376.11, Florida Statutes, is amended to read:

8 376.11 Florida Coastal Protection Trust Fund.--

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

12 (a) Administrative expenses, personnel expenses, and
13 equipment costs of the department and the Fish and Wildlife
14 Conservation Commission related to the enforcement of ss.
15 376.011-376.21 ~~subject to s. 376.185.~~

16 Section 5. Paragraph (e) of subsection (1) of section
17 376.303, Florida Statutes, is repealed.

18 Section 6. Subsection (12) of section 376.30714,
19 Florida Statutes, is amended to read:

20 376.30714 Site rehabilitation agreements.--

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

27 Section 7. Paragraph (c) of subsection (6) of section
28 376.3071, Florida Statutes, is repealed, and paragraph (k) of
29 subsection (12) of said section is amended to read:

30 376.3071 Inland Protection Trust Fund; creation;
31 purposes; funding.--

1 (12) REIMBURSEMENT FOR CLEANUP EXPENSES.--Except as
2 provided in s. 2(3), chapter 95-2, Laws of Florida, this
3 subsection shall not apply to any site rehabilitation program
4 task initiated after March 29, 1995. Effective August 1, 1996,
5 no further site rehabilitation work on sites eligible for
6 state-funded cleanup from the Inland Protection Trust Fund
7 shall be eligible for reimbursement pursuant to this
8 subsection. The person responsible for conducting site
9 rehabilitation may seek reimbursement for site rehabilitation
10 program task work conducted after March 28, 1995, in
11 accordance with s. 2(2) and (3), chapter 95-2, Laws of
12 Florida, regardless of whether the site rehabilitation program
13 task is completed. A site rehabilitation program task shall
14 be considered to be initiated when actual onsite work or
15 engineering design, pursuant to chapter 62-770, Florida
16 Administrative Code, which is integral to performing a site
17 rehabilitation program task has begun and shall not include
18 contract negotiation and execution, site research, or project
19 planning. All reimbursement applications pursuant to this
20 subsection must be submitted to the department by January 3,
21 1997. The department shall not accept any applications for
22 reimbursement or pay any claims on applications for
23 reimbursement received after that date; provided, however if
24 an application filed on or prior to January 3, 1997, was
25 returned by the department on the grounds of untimely filing,
26 it shall be refiled within 30 days after the effective date of
27 this act in order to be processed.

28 (k) Audits.--

29 1. The department is authorized to perform financial
30 and technical audits in order to certify site restoration
31 costs and ensure compliance with this chapter. The department

1 shall seek recovery of any overpayments based on the findings
2 of these audits. The department must commence any audit within
3 5 years after the date of reimbursement, except in cases where
4 the department alleges specific facts indicating fraud.

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

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

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

27 5. Financial and technical audits frequently are
28 conducted under this section many years after the site
29 rehabilitation activities were performed and the costs
30 examined in the course of the audit were incurred by the
31 person responsible for site rehabilitation. During the

1 intervening span of years, the department's rule requirements
2 and its related guidance and other nonrule policy directives
3 may have changed significantly. The Legislature finds that it
4 may be appropriate for the department to provide relief to
5 persons subject to such requirements in financial and
6 technical audits conducted pursuant to this section.

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

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

29 (I) The requirement from which a variance or waiver is
30 requested.

31 (II) The type of action requested.

1 (III) The specific facts which would justify a waiver
2 or variance.

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

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

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

30 Section 8. Section 377.02, Florida Statutes, is
31 repealed.

1 Section 9. Subsection (3) of section 378.208, Florida
2 Statutes, is repealed, and paragraph (a) of subsection (2) of
3 said section is amended to read:

4 378.208 Financial responsibility.--

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

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

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

22 Section 10. Subsections (2) and (4) of section
23 403.085, Florida Statutes, are amended to read:

24 403.085 Sanitary sewage disposal units; advanced and
25 secondary waste treatment; industrial waste, ocean outfall,
26 inland outfall, or disposal well waste treatment.--

27 (2) Sanitary sewage disposal treatment plants which
28 discharge effluent through ocean outfalls or disposal wells ~~on~~
29 ~~July 1, 1970,~~ shall provide for secondary waste treatment and,
30 in addition thereto, advanced waste treatment as deemed
31 necessary and ordered by the former Department of

1 Environmental Regulation ~~by January 3, 1974~~. Failure to
2 conform ~~by said date~~ shall be punishable by a fine of \$500 for
3 each 24-hour day or fraction thereof that such failure is
4 allowed to continue thereafter.

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

12 Section 11. Subsection (2) of section 403.086, Florida
13 Statutes, is amended to read:

14 403.086 Sewage disposal facilities; advanced and
15 secondary waste treatment.--

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

26 Section 12. Paragraph (c) of subsection (11) of
27 section 403.0872, Florida Statutes, is amended to read:

28 403.0872 Operation permits for major sources of air
29 pollution; annual operation license fee.--Provided that
30 program approval pursuant to 42 U.S.C. s. 7661a has been
31 received from the United States Environmental Protection

1 Agency, beginning January 2, 1995, each major source of air
2 pollution, including electrical power plants certified under
3 s. 403.511, must obtain from the department an operation
4 permit for a major source of air pollution under this section,
5 which is the only department operation permit for a major
6 source of air pollution required for such source. Operation
7 permits for major sources of air pollution, except general
8 permits issued pursuant to s. 403.814, must be issued in
9 accordance with the following procedures and in accordance
10 with chapter 120; however, to the extent that chapter 120 is
11 inconsistent with the provisions of this section, the
12 procedures contained in this section prevail:

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

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

1 Section 13. Section 403.08851, Florida Statutes, is
2 repealed.

3 Section 14. Paragraph (b) of subsection (6) of section
4 403.1826, Florida Statutes, is repealed.

5 Section 15. Section 403.221, Florida Statutes, is
6 repealed.

7 Section 16. Subsection (1) of section 403.7046,
8 Florida Statutes, is amended to read:

9 403.7046 Regulation of recovered materials.--

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

1 person with whom such disposal was arranged, of any solid
2 waste generated by such facility. Such rules may provide for
3 the department to conduct periodic inspections. The
4 department may charge a fee of up to \$50 for each
5 registration, which shall be deposited into the Solid Waste
6 Management Trust Fund for implementation of the program.

7 Section 17. Subsection (10) of section 403.703,
8 Florida Statutes, is amended to read:

9 403.703 Definitions.--As used in this act, unless the
10 context clearly indicates otherwise, the term:

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

20 Section 18. Subsection (1) and paragraph (a) of
21 subsection (2) of section 403.7049, Florida Statutes, are
22 amended to read:

23 403.7049 Determination of full cost for solid waste
24 management; local solid waste management fees.--

25 ~~(1) Within 1 year of October 1, 1988, or within 1 year~~
26 ~~after rules are established by the department, whichever~~
27 ~~occurs later, Each county and each municipality shall~~
28 determine each year the full cost for solid waste management
29 within the service area of the county or municipality ~~for the~~
30 ~~1-year period beginning on October 1, 1988, and shall update~~
31 ~~the full cost every year thereafter.~~ The department shall

1 establish by rule the method for local governments to use in
2 calculating full cost. ~~Rulemaking shall be initiated and at~~
3 ~~least one public hearing shall be held by March 1, 1989.~~ In
4 developing the rule, the department shall examine the
5 feasibility of the use of an enterprise fund process by local
6 governments in operating their solid waste management systems.

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

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

24 403.706 Local government solid waste
25 responsibilities.--

26 (4)(a) A county's solid waste management and recycling
27 programs shall be designed to provide for sufficient reduction
28 of the amount of solid waste generated within the county and
29 the municipalities within its boundaries in order to meet
30 goals for the reduction of municipal solid waste prior to the
31 final disposal or the incineration of such waste at a solid

1 waste disposal facility. The goals shall provide, at a
2 minimum, that the amount of municipal solid waste that would
3 be disposed of within the county and the municipalities within
4 its boundaries is reduced by at least 30 percent ~~by the end of~~
5 ~~1994~~. In determining whether the municipal solid waste
6 reduction goal established by this subsection has been
7 achieved, no more than one-half of the goal may be met with
8 yard trash, white goods, construction and demolition debris,
9 and tires that are removed from the total amount of municipal
10 solid waste. However, if a county that is a special district
11 created by chapter 67-764, Laws of Florida, demonstrates that
12 yard trash, construction and demolition debris, white goods,
13 and waste tires comprise more than 50 percent of the municipal
14 solid waste generated in the county and municipalities within
15 its boundaries, the county may meet the reduction goal
16 established by this subsection by reducing the Class I
17 municipal solid waste generated in the county and
18 municipalities within its boundaries at a rate equal to the
19 average rate Class I municipal solid waste is reduced in the
20 20 most populous counties, as determined by the department for
21 the previous reporting period. As used in this subsection,
22 "Class I municipal solid waste" means municipal solid waste
23 other than yard trash, construction and demolition debris,
24 white goods, and waste tires.

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

1 Section 20. Subsection (1) of section 403.707, Florida
2 Statutes, is amended to read:

3 403.707 Permits.--

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

18 Section 21. Subsections (2) and (9) of section
19 403.708, Florida Statutes, are amended to read:

20 403.708 Prohibition; penalty.--

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

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

1 Section 22. Subsection (3) of section 403.716, Florida
2 Statutes, is amended to read:

3 403.716 Training of operators of solid waste
4 management and other facilities.--

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

24 Section 23. Subsections (2), (3), and (4) of section
25 403.7186, Florida Statutes, are amended to read:

26 403.7186 Environmentally sound management of
27 mercury-containing devices and lamps.--

28 (2) PROHIBITION ON INCINERATION OR DISPOSAL OF
29 MERCURY-CONTAINING DEVICES.--Mercury-containing devices may
30 not be disposed of or incinerated in any manner prohibited by
31 this section or by the rules of the department promulgated

1 under this section. ~~After July 1, 1994,~~If the secretary of
 2 the department determines that sufficient recycling capacity
 3 exists to recycle mercury-containing devices generated in the
 4 state, the secretary may, by rule, designate regions of the
 5 state in which a person shall not place such a device that was
 6 purchased for use or used by a government agency or an
 7 industrial or commercial facility in a mixed solid waste
 8 stream. ~~After January 1, 1996,~~A mercury-containing device
 9 shall not knowingly be incinerated or disposed of in a
 10 landfill.

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

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

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

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

1 permitted reclamation facilities; provided, however, that
2 before such rule is adopted, the secretary of the department
3 first determines that appropriately permitted reclamation
4 facilities are reasonably available and afford sufficient
5 recycling capacity.

6 Section 24. Subsection (3) of section 403.7191,
7 Florida Statutes, is amended to read:

8 403.7191 Toxics in packaging.--

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

17 Section 25. Section 403.7192, Florida Statutes, is
18 amended to read:

19 403.7192 Batteries; requirements for consumer,
20 manufacturers, and sellers; penalties.--

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

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

28 (b) "Cell manufacturer" means an entity which
29 manufactures cells in the United States; or imports into the
30 United States cells or units for which no unit management
31

1 program has been put into effect by the actual manufacturer of
2 the cell or unit.

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

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

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

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

17 (2)(a) ~~After July 1, 1993,~~A person may not
18 distribute, sell, or offer for sale in this state an
19 alkaline-manganese or zinc-carbon battery that contains more
20 than 0.025 percent mercury by weight. ~~After January 1, 1996,~~
21 A person may not distribute, sell, or offer for sale in this
22 state an alkaline-manganese or zinc-carbon battery that
23 contains any intentionally introduced mercury and more than
24 0.0004 percent mercury by weight.

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

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

1 (d) The secretary of the department may exempt a
2 specific type of battery from this subsection if there is not
3 a battery that meets those requirements and that reasonably
4 can be substituted for the battery for which the exemption is
5 sought.

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

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

23 (c) Each government, industrial, commercial,
24 communications, or medical facility shall collect and
25 segregate its batteries to which the prohibitions in
26 paragraphs (a) and (b) apply and send each segregated
27 collection of batteries back to a collection site designated
28 by the manufacturer or distributor in the case of mercuric
29 oxide batteries, to a collection site designated by a marketer
30 or cell manufacturer of rechargeable batteries, or the
31

1 products powered by nonremovable batteries, or to a facility
2 permitted to dispose of those batteries.

3 (4) A cell manufacturer or marketer shall not sell or
4 offer for sale in this state any consumer product or
5 nonconsumer product that is ~~manufactured on or after October~~
6 ~~1, 1993, and that is~~ powered by a rechargeable battery unless:

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

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

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

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

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

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

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

1 (6) ~~By October 1, 1993,~~Manufacturers and distributors
2 of mercuric oxide batteries and products containing these
3 batteries~~and, 6 months after the report required in~~
4 ~~paragraph (7)(b) is due to be presented to the department,~~
5 marketers of rechargeable batteries or the products powered by
6 such batteries, excluding those used solely for memory, whose
7 batteries and products are sold and distributed in this state
8 and that are subject to the requirements of subsection (3),
9 must:

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

28 (b) Clearly inform each purchaser of the prohibition
29 on the disposal in the solid waste stream of these batteries
30 and products powered by nonremovable batteries and of the
31 system for return available to the purchaser for their proper

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

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

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

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

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

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

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

14 ~~(8) The effective date of subsections (1) and (2),~~
15 ~~paragraph (3)(a), and subsections (4), (5), and (6) for~~
16 ~~mercuric oxide batteries, and subsections (8), (10), and (11),~~
17 ~~shall be July 1, 1993. The effective date of paragraphs~~
18 ~~(3)(b) and (c) and subsection (6) for rechargeable batteries,~~
19 ~~and subsections (7) and (9), shall be upon final adoption by~~
20 ~~the United States Environmental Protection Agency of 40 C.F.R.~~
21 ~~part 273 as proposed in Federal Register, Volume 58, Number~~
22 ~~27, pp. 8101 et seq., February 11, 1993, and adoption by the~~
23 ~~department.~~

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

1 representative organization of manufacturers, or by
2 contracting with private or government parties. Any such
3 contractual arrangements may include appointment of agents,
4 allocation of costs and duties, and such indemnifications as
5 the parties deem appropriate.

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

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

16 Section 26. Section 403.7199, Florida Statutes, is
17 repealed.

18 Section 27. Subsection (5) of section 403.724, Florida
19 Statutes, is amended to read:

20 403.724 Financial responsibility.--

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

26 Section 28. Subsection (2) of section 403.7265,
27 Florida Statutes, is amended to read:

28 403.7265 Local hazardous waste collection program.--

29 (2) ~~By March 1, 1991,~~ The department shall develop a
30 statewide local hazardous waste management plan which will
31 ensure comprehensive collection and proper management of

1 hazardous waste from small quantity generators and household
2 hazardous waste in Florida. The plan shall address, at a
3 minimum, a network of local collection centers, transfer
4 stations, and expanded hazardous waste collection route
5 services. The plan shall assess the need for additional
6 compliance verification inspections, enforcement, and
7 penalties. The plan shall include a strategy, timetable, and
8 budget for implementation.

9 Section 29. Subsection (1) of section 403.767, Florida
10 Statutes, is amended to read:

11 403.767 Certification of used oil transporters.--

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

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

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

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

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

3 403.769 Permits for used oil processing and rerefining
4 facilities.--

5 (2) ~~By January 1, 1990,~~The department shall develop a
6 permitting system for used oil processing facilities after
7 reviewing and considering the applicability of the permit
8 system for hazardous waste treatment, storage, or disposal
9 facilities.

10 Section 31. Sections 533.01, 533.02, 533.03, 533.04,
11 533.05, and 533.06, Florida Statutes, are repealed.

12 Section 32. This act shall take effect July 1, 2000.

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