

By Senator Smith

312-321D-02

1 A bill to be entitled
2 An act relating to performance-based
3 permitting; creating s. 403.08761, F.S.;
4 creating the "Florida Performance-Based
5 Permitting Act"; creating s. 403.08762, F.S.;
6 providing legislative findings and public
7 purposes; creating s. 403.08763, F.S.;
8 establishing the performance-based permit
9 program; defining terms; requiring the
10 Department of Environmental Protection to
11 consider the compliance history of permit
12 applicants; providing for categories of
13 violations and factors to be considered;
14 providing for possible actions the department
15 may take relating to permits; providing for the
16 creation of forms and for submission of
17 specified information; providing for compliance
18 incentives for applicants who meet certain
19 criteria; authorizing the adoption of rules;
20 amending s. 373.413, F.S.; providing for the
21 application of s. 403.08763, F.S., to that
22 section; amending s. 403.087, F.S.; providing
23 for the department to consider the compliance
24 history of applicants for permits; amending s.
25 161.041, F.S.; providing for the application of
26 the performance based permitting program to ch.
27 161, F.S.; providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 403.08761, Florida Statutes, is
2 created to read:

3 403.08761 Short Title.--Sections 403.08761-403.08763
4 may be cited as the "Florida Performance-Based Permitting
5 Act."

6 Section 2. Section 403.08762, Florida Statutes, is
7 created to read:

8 403.08762 Legislative findings; public purpose.--

9 (1) The Legislature finds and declares that:

10 (a) Permit applicants with a history of compliance
11 with the environmental laws should be eligible for longer
12 permits, short-form permit renewals, and other incentives to
13 reward and encourage such applicants.

14 (b) Permit applicants with a history of noncompliance
15 with the environmental laws should be subject to more
16 stringent requirements, and in some cases such applicants
17 should be denied permits for an appropriate period of time.

18 (c) Permit decision-making that considers past
19 compliance history and customizes the permit in recognition of
20 that history:

21 1. Increases protection for the environment because it
22 encourages compliance;

23 2. Increases protection for the environment by
24 allowing the department to focus financial and personnel
25 resources on those few in the regulated community with a
26 record of poor compliance; and

27 3. Increases protection for the environment because it
28 allows permit applicants with a satisfactory record to better
29 focus their resources.

30 (d) In order to maximize the benefit of a permit
31 decision-making process that recognizes an applicant's

1 compliance history, the evaluation of that history should be
2 done in a more clear, consistent, and predictable manner.

3 (2) It is therefore declared to be the purpose of this
4 act to:

5 (a) Enhance the protection of the state's natural
6 resources by establishing and making available to the
7 regulated community incentives to encourage compliance and to
8 reward those who meet or exceed compliance requirements;

9 (b) Provide the department with clear and specific
10 authority to consider the compliance history of permit
11 applicants and those who control the applicants when
12 evaluating reasonable assurance and when designing and
13 implementing its permitting programs;

14 (c) Clearly define the extent to which the department
15 may consider compliance history in its permitting
16 decision-making; and

17 (d) Promote objectivity and consistency in the
18 evaluation process throughout the state by establishing
19 criteria for the review of compliance history and by defining
20 the potential permitting consequences of compliance and
21 noncompliance with the environmental laws.

22 Section 3. Section 403.08763, Florida Statutes, is
23 created to read:

24 403.08763 Performance-based permit program.--

25 (1) DEFINITIONS.--As used in this section, the term:

26 (a) "Applicant" means the proposed permittee, the
27 owner, and the operator of a regulated activity seeking an
28 agency permit. If the applicant has not held an agency permit
29 during at least 4 of the 5 years preceding submission of the
30 permit application, the term also includes any person who has
31 the legal or actual authority to control the owner, operator,

1 or permittee. The term also includes any person requesting
2 that a permit be transferred to that person, and, if the
3 transferee has not held an agency permit during at least 4 of
4 the 5 years preceding submission of the request to transfer
5 the permit, any person who has the legal or actual authority
6 to control the proposed transferee.

7 (b) "Agency" means the Department of Environmental
8 Protection, water management districts acting pursuant to part
9 IV of chapter 373, and local governments acting under a
10 delegation agreement with the department or a water management
11 district.

12 (c) "Agency statutes" means chapter 161, part IV of
13 chapter 373, chapter 376, and chapter 403.

14 (d) "Environmental statutes" means any state or
15 federal statute that regulates activities for the purpose of
16 protecting the environment, but does not include any statute
17 that regulates activities only for purposes of zoning, growth
18 management, or land-use.

19 (e) "Reasonable assurance" means that there is a
20 substantial likelihood, although not an absolute guarantee,
21 that the proposed activity and applicant will comply with
22 agency rules, statutes, orders, and permit conditions.

23 (f) "Regulated activity" means any activity, including
24 the construction or operation of a facility, installation,
25 system, or project, for which a permit or certification is
26 required under an agency statute.

27 (g) "Site" means a single parcel or multiple
28 contiguous or adjacent parcels of land on which the applicant
29 proposes to conduct, or has conducted, a regulated activity
30 and includes any other contiguous parcels of land owned or
31 controlled by the applicant. A site is a "new site" if the

1 applicant has not held an agency permit for a regulated
2 activity at that location for at least 4 of the 5 years
3 preceding submission of an application.

4 (2) PERIOD OF REVIEW.--One factor in determining
5 whether a permit applicant has provided reasonable assurance
6 of compliance with applicable statutes and agency rules is the
7 compliance history of the applicant. The agency shall consider
8 the compliance history of the applicant during the 5 years
9 preceding submission of a complete application to the agency.

10 (3) CATEGORIES OF VIOLATIONS.--Violations of agency
11 rules and statutes and offenses under applicable criminal
12 statutes are categorized as follows:

13 (a) Category A.--

14 1. Felony criminal violations.

15 a. The applicant has been convicted of, entered a plea
16 of guilty or nolo contendere to, or had adjudication withheld
17 for a felony criminal violation of any environmental statute
18 in the United States.

19 b. For purposes of this subparagraph, if the applicant
20 is a business entity, violations include violations committed
21 by those officers, directors, trustees, partners, or employees
22 of the applicant who have legal or actual operational control
23 over the regulated activity for which a permit is being
24 sought.

25 2. Harm to humans. The applicant is responsible for a
26 violation of an agency statute, rule, consent order, final
27 order, final judgment, or agreement that resulted in
28 significant physical harm or injury to one or more human
29 beings.

30 (b) Category B.--

31 1. Other criminal violations.

1 a. The applicant has been convicted of, entered a plea
2 of guilty or nolo contendere to, or had adjudication withheld
3 for a misdemeanor criminal violation of any environmental
4 statute in this state; or

5 b. The applicant has been convicted of, entered a plea
6 of guilty or nolo contendere to, or had adjudication withheld
7 for a crime of dishonesty in this state which involves or is
8 related to the operation of a facility or activity requiring
9 an agency permit. Such crimes may include theft, larceny,
10 dealing in stolen property, receiving stolen property,
11 burglary, embezzlement, obtaining property by false pretenses,
12 possession of altered property, or any fraudulent or dishonest
13 dealing.

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15 For purposes of this subparagraph, if the applicant is a
16 business entity, violations include violations committed by
17 those officers, directors, trustees, partners, or managerial
18 employees of the applicant who have legal or actual
19 operational control over the regulated activity for which a
20 permit is being sought.

21 2. Circumvention or falsification.

22 a. The applicant is responsible for a violation
23 involving the knowing circumvention of pollution-control
24 equipment required by agency rules, statutes, orders, or
25 permit conditions;

26 b. The applicant is responsible for a violation
27 involving the knowing failure to install, maintain, or operate
28 any monitoring device or method required to be maintained by
29 agency rules, statutes, orders, or permit conditions;

30 c. The applicant is responsible for a violation
31 involving the knowing submittal of any false statement,

1 representation, or certification in any application, record,
2 report, plan, or other document filed or required to be
3 maintained by agency rules, statutes, orders, or permit
4 conditions; or

5 d. The applicant is responsible for a violation
6 involving falsifying, tampering with, or knowingly rendering
7 inaccurate any monitoring device or method required to be
8 maintained by agency rules, statutes, orders, or permit
9 conditions.

10 3. Harm to the environment. Any violation of an agency
11 statute, rule, consent order, final order, final judgment, or
12 agreement that resulted in significant harm or injury to the
13 environment.

14 (c) Category C.--

15 1. The applicant is responsible for a violation of an
16 agency statute, rule, consent order, final order, agreement,
17 or final judgment involving the agency which resulted in a
18 significant threat to human health or the environment.

19 2. The applicant is responsible for a violation of an
20 agency statute, rule, consent order, final order, agreement,
21 or final judgment involving the agency which is not addressed
22 in subparagraph 1., which has not been resolved, and which the
23 applicant has not in good faith participated in a process to
24 resolve through a consent order or other agreement with the
25 agency.

26 (d) Category D; Pattern of noncompliance.--Two or more
27 violations, on at least two separate occasions, of agency
28 statutes, rules, consent orders, final orders, agreements, or
29 final judgements involving the agency which establish a
30 pattern of noncompliance indicating that the applicant is

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1 unwilling or unable to comply with applicable agency standards
2 and criteria.

3 (4) RELEVANT COMPLIANCE HISTORY.--In evaluating an
4 applicant's compliance history, the agency shall consider only
5 those violations categorized in subsection (3), and only in
6 accordance with the following criteria:

7 (a) If the application is for the renewal of an agency
8 permit, or for a new permit at any site other than a new site,
9 the agency shall consider the applicant's violations at that
10 site, and shall also consider any of the applicant's Category
11 A crimes at any site in the country.

12 (b) If the application is for a new permit at a new
13 site, the agency shall consider the applicant's violations at
14 any site in this state.

15 (c) If the application is for an operation permit for
16 a regulated activity for which a construction permit was
17 issued during the 5 years preceding the application, and if
18 the agency evaluated the compliance history of the applicant
19 during the review of the construction permit, the agency shall
20 not reevaluate that compliance history, unless the entities
21 whose histories were originally reviewed were responsible for
22 additional violations occurring after the agency completed the
23 construction permit review.

24 (d) This section does not apply to general permits
25 issued in accordance with ss. 373.414 and 403.814, and only
26 subsections (12) through (15) apply to applications for
27 closure and post-closure permits. However, the agency may
28 continue to use its authority under s. 403.087 to consider the
29 compliance history of those seeking to use a general permit.

30 (5) PROVING-UP CIVIL VIOLATIONS.--The agency may
31 consider all civil violations that were committed during the

1 relevant review period and that resulted in the initiation of
2 a formal enforcement action by the agency. However, if a civil
3 violation has not been resolved or adjudicated before the time
4 the agency takes final action on the application, the civil
5 violation must be established by a preponderance of the
6 evidence in any subsequent proceeding challenging the agency's
7 proposed agency action. In all such proceedings:

8 (a) The permit applicant has the initial burden in any
9 proceeding challenging the proposed agency action of
10 establishing a prima facie case that it has provided
11 reasonable assurance and is entitled to the permit;

12 (b) The agency, or any party seeking to establish
13 violations under this subsection, then has the burden of
14 presenting by a preponderance of the evidence a prima facie
15 case supporting the violations it contends were the
16 responsibility of the applicant, as well as the pattern of
17 noncompliance if a Category D violation is alleged; and

18 (c) The permit applicant retains the ultimate burden
19 of persuasion that it has provided reasonable assurance with
20 respect to all issues.

21 (6) FACTORS TO CONSIDER.--If the agency determines
22 that the applicant is responsible for any Category A, B, or D
23 violations, the agency shall initiate a further review. If the
24 agency determines that the applicant is responsible for any
25 Category C violations, the agency may initiate a further
26 review. The following factors must be considered and weighed
27 in order to evaluate such violations in the context of the
28 applicant's overall compliance history, and to determine
29 whether the applicant has provided reasonable assurance of
30 future compliance with agency rules and statutes:

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1 (a) The number of violations or crimes and the
2 seriousness of such violations or crimes;

3 (b) The number of other similar facilities controlled
4 by the applicant;

5 (c) The number and complexity of permits held by the
6 applicant;

7 (d) Whether the violations or crimes involved
8 regulatory programs that are the same as, or similar to, the
9 regulatory program from which the permit is being requested;

10 (e) Whether the violations or crimes involved
11 activities that are the same as, similar to, or related to the
12 regulated activity for which a permit is being requested;

13 (f) Whether the applicant has resolved, or in good
14 faith participated in a process to resolve, all previous
15 violations by the applicant; and

16 (g) Whether the applicant has developed an
17 environmental management system that complies with the
18 requirements of subsection (10).

19 (7) POSSIBLE ACTIONS.--After considering the
20 applicant's compliance history, including any mitigating
21 factors, the agency may in its discretion take one or more of
22 the following actions:

23 (a) Issue a permit with special conditions designed to
24 minimize the likelihood of similar future violations.

25 (b) Issue a permit with an accompanying administrative
26 order. The administrative order may include a schedule for
27 coming into compliance with agency rules, statutes, orders, or
28 permit conditions; additional operating, training, or auditing
29 procedures necessary to assure compliance; specified penalties
30 for future noncompliance; and financial assurance in the form
31 of a cash deposit, bond, insurance policy, or letter of credit

1 sufficient to cover damages or cleanup costs that could
2 forseeably result from future violations.

3 (c) Require independent compliance audits or programs
4 at the regulated activity at the applicant's cost.

5 (d) Issue a permit with a duration of less than 5
6 years, if not prohibited by federal law.

7 (e) Issue a permit with more frequent reporting
8 requirements than are generally required by rule or practice.

9 (f) Issue a permit requiring financial assurance
10 designed to guarantee performance.

11 (8) PERMIT DENIAL.--The agency may deny a permit
12 application only if the agency determines that the provisions
13 of subsection (7) would not reasonably be expected to result
14 in future compliance, and then the agency may, in its
15 discretion, deny a permit application in accordance with the
16 following:

17 (a) If the applicant is responsible for a Category A
18 violation, the agency may deny the permit application, and the
19 applicant is not entitled to apply for a permit for that
20 regulated activity for a period of 1 year from the time a
21 final order denying the permit has been entered.

22 (b) If the applicant is responsible for two or more
23 Category B violations, the agency may deny the permit
24 application, and the applicant is not entitled to apply for a
25 permit for that regulated activity for a period of 6 months
26 from the time a final order denying the permit has been
27 entered.

28 (c) If the applicant is responsible for a Category D
29 violation, the agency may issue a permit, not to exceed 1 year
30 in duration, which may also include any of those actions
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1 provided for in subsection (7). The following criteria will
2 apply to any such permit:

3 1. The agency shall include a statement in its notice
4 of intended agency action explaining that the agency has
5 determined that the applicant has a pattern of noncompliance
6 and that this determination has formed the basis for taking
7 any of those actions provided for in subsection (7). The
8 agency shall also include a notification that an application
9 to renew the permit could be denied if the pattern of
10 noncompliance continues.

11 2. If, at the time for permit renewal, the agency
12 determines that the applicant has demonstrated a continuing
13 pattern of noncompliance, the agency shall deny the permit
14 application, and the applicant is not entitled to apply for a
15 permit for that regulated activity for a period of 6 months
16 from the time a final order denying the permit has been
17 entered.

18 (d) If the agency denies a permit application in
19 accordance with this subsection for a permit that includes
20 corrective-action requirements, the agency may deny that
21 portion of the permit authorizing operation, and may issue a
22 permit that contains only the corrective-action requirements
23 and conditions.

24 (9) MULTIPLE DENIALS.--If the applicant has twice been
25 denied a permit in accordance with subsection (8) during the 5
26 years preceding submission of a complete application to the
27 agency, the applicant may not apply for a permit for any
28 regulated activity in this state.

29 (10) ENVIRONMENTAL MANAGEMENT SYSTEMS.--An applicant
30 may propose an environmental management system as part of a
31 permit application or modification. For the purposes of

1 paragraph (6)(f) and (12)(b), such a program must be approved
2 by the department and be included as a specific permit
3 condition. An approved environmental management system must:
4 (a) Be designed to eliminate or reduce the likelihood
5 of reoccurrence of violations;
6 (b) Establish compliance standards and procedures to
7 be followed by the applicant's employees and agents which are
8 reasonably capable of reducing the prospect of violations;
9 (c) Provide that specific individuals who have
10 substantial control over the applicant or who have a
11 substantial role in applicant's policymaking have been
12 assigned overall responsibility to oversee compliance with
13 such standards and procedures;
14 (d) Provide that the applicant use due care not to
15 delegate substantial discretionary authority to individuals
16 whom the applicant knows, or should have known through the
17 exercise of due diligence, engaged in violations;
18 (e) Be communicated effectively to all employees and
19 independent contractors by requiring routine participation in
20 training programs and by disseminating written or electronic
21 information that explains program requirements in a practical
22 manner;
23 (f) Establish monitoring and auditing systems
24 reasonably designed to detect environmental violations by the
25 applicant's employees and independent contractors;
26 (g) Establish a readily available reporting system
27 whereby employees and independent contractors may report
28 environmental violations by others within the organization
29 without fear of retribution; and
30 (h) Be consistently enforced through appropriate
31 disciplinary and incentive mechanisms, including, as

1 appropriate, discipline of individuals responsible for the
2 failure to detect an environmental violation.

3 (11) FORM.--The agency shall establish a form, by
4 rule, to be used for the purpose of implementing this section.
5 Each permit application subject to this section that is
6 submitted to the agency must be accompanied by this completed
7 form in order to be considered complete. During the permit
8 review process, the form shall be updated by the applicant to
9 reflect any changes until the application is determined to be
10 complete. The form must include the following:

11 (a) A section requiring each applicant to report the
12 relevant criminal history of the applicant, including the
13 nature of the offense, the date of the offense, the court
14 having jurisdiction in the case, the date of conviction or
15 other disposition, and the disposition of the offense; and

16 (b) A section requiring each applicant who has not
17 held an agency permit during the 5 years preceding submission
18 of the permit application to identify those persons having
19 legal or actual authority to control the owner, operator, or
20 permittee. The form shall specify in detail what information
21 must be reported.

22 (12) COMPLIANCE INCENTIVES.--Any applicant who meets
23 the criteria set forth in this subsection is eligible for the
24 following incentives, unless otherwise prohibited by state or
25 federal statute, agency rule, or federal regulation, and
26 provided that the applicant meets all other applicable
27 criteria for the issuance of a permit. In order to obtain a
28 benefit, the applicant must affirmatively request it as part
29 of the permit application.

30 (a) Tier 1. An applicant is eligible for the following
31 incentives if the applicant conducted the regulated activity

1 for at least 4 of the past 5 years or, if it is a new
2 regulated activity, the applicant conducted a similar
3 regulated activity under an agency permit for at least 4 of
4 the past 5 years, and the applicant has not been responsible
5 for any Category A, B, C, or D violations.

6 1. Extended permit. A renewal of an operation or
7 closure permit, which may include expansions or modifications
8 involving construction, shall be issued for a period of 5
9 years, and shall be automatically renewed for an additional 5
10 years without agency action under the following conditions:

11 a. At least 180 days before the end of the first
12 5-year period, the applicant shall complete and submit the
13 prescribed form to the agency. The applicant shall
14 concurrently publish notice of the application in a newspaper
15 of general circulation in the county in which the regulated
16 activity is conducted, and inform the public that the agency
17 will accept comments on the compliance history of the
18 applicant for a period of 30 days after the notice is
19 published. Within 45 days after publication, the agency shall
20 conduct a review of the compliance history of the applicant,
21 including consideration of any timely public comments, and
22 shall determine whether the applicant continues to meet the
23 criteria set forth in paragraph (a).

24 b. If the applicant no longer meets the criteria set
25 forth in this paragraph, the agency shall so notify the
26 applicant, and shall require the applicant to submit a
27 permit-renewal application in accordance with applicable
28 agency statutes and rules. A renewal application submitted
29 within 60 days after such notification is considered a timely
30 application for renewal for purposes of s. 120.60.

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1 c. If the applicant meets the criteria set forth in
2 this paragraph, the agency may notify the applicant, but need
3 take no further agency action for the renewal to be effective.

4 d. If the applicant seeks to transfer the extended
5 permit to another entity, the transferee shall complete and
6 submit the prescribed form as part of the transfer
7 application. If the agency determines that the transferee has
8 met the criteria set forth in this paragraph over the previous
9 5 years, and if the transfer complies with all other
10 applicable criteria, the agency shall agree to the transfer of
11 the extended permit.

12 2. Short-form renewals. Renewal of permits not
13 involving substantial construction or expansion may be made
14 upon a shortened application form specifying only the changes
15 in the regulated activity or a certification by the permittee
16 that no changes in the regulated activity are proposed, if
17 that is the case. Applicants for short-form renewals shall
18 complete and submit the prescribed compliance form with the
19 application and will remain subject to the compliance history
20 review of this section. All other procedural requirements for
21 renewal applications remain unchanged. This subparagraph
22 supplements any expedited review processes found in agency
23 rules.

24 (b) Tier 2. An applicant is eligible for the following
25 incentives if the applicant meets the same requirements as for
26 Tier 1 described in paragraph (a) and has implemented an
27 environmental management system as provided in subsection (10)
28 which results in achieving performance objectives that exceed
29 the agency's minimum compliance standards:

30 1. Extended permits and short-form renewals as
31 described above. However, if the applicant has conducted a

1 regulated activity at a site for at least 5 years, the
2 applicant is eligible for a 10-year permit at that site.

3 2. Fewer routine inspections than other regulated
4 activities similarly situated.

5 3. Expedited review of requests for permit
6 modifications.

7 4. Other incentives as may be provided by the agency,
8 which may include recognition by the secretary or
9 program-specific incentives.

10 (13) RULEMAKING.--In addition to the rulemaking
11 necessary to adopt the form identified in subsection (10), the
12 agency may adopt rules to administer this section. Any such
13 rules adopted by the department apply to all agencies as
14 defined in this section, unless an agency has adopted its own
15 rule that is substantially identical to the agency's rule.

16 (14) NOTIFICATION.--The agency is encouraged to work
17 with permittees and permit applicants before taking any of the
18 actions authorized under this section, in order to encourage
19 compliance and avoid overly burdensome consequences of
20 noncompliance. In each case in which the agency initiates a
21 formal enforcement action, it shall clearly and specifically:

22 (a) Inform the alleged violator of the provisions of
23 this section;

24 (b) Put the alleged violator on notice of the
25 potential consequences of continuing noncompliance; and

26 (c) Inform the alleged violator if the agency has
27 determined that a Category A, B, or C violation has occurred.

28 (15) EXISTING AUTHORITY.--This section may not be
29 construed to limit the agency's existing authority to consider
30 factors other than an applicant's compliance history, such as
31 the technical merits of the proposed project or the

1 applicant's financial and human resources, when determining
2 whether the applicant has provided the reasonable assurance
3 necessary to receive the requested permit. Nor may anything in
4 this section be construed to limit the agency's existing
5 authority to impose special conditions in any permit, or to
6 revoke any permit.

7 (16) APPLICABILITY.--This section, except for
8 subsection (12), shall take effect July 1, 2002, although the
9 agency may continue to evaluate compliance history based upon
10 other provisions of law until July 1, 2005. After July 1,
11 2005, this section shall supersede all other provisions of law
12 authorizing the agency to consider the compliance history of
13 applicants for permits, other than general permits. Subsection
14 (12) takes effect July 1, 2005.

15 Section 4. Subsection (5) of section 403.087, Florida
16 Statutes, is amended to read:

17 403.087 Permits; general issuance; denial; revocation;
18 prohibition; penalty.--

19 (5) The department shall issue permits to construct,
20 operate, maintain, expand, or modify an installation which may
21 reasonably be expected to be a source of pollution only if the
22 applicant affirmatively provides the department with
23 reasonable assurance that the proposed activity and applicant
24 will comply with department rules, statutes, orders, and
25 permit conditions,~~when it determines that the installation is~~
26 ~~provided or equipped with pollution control facilities that~~
27 ~~will abate or prevent pollution to the degree that will comply~~
28 ~~with the standards or rules adopted by the department, except~~
29 ~~as provided in s. 403.088 or s. 403.0872. The compliance~~
30 history of the applicant shall be one factor in determining
31 whether the applicant has provided such reasonable assurance.

1 However, separate construction permits shall not be required
2 for installations permitted under s. 403.0885, except that the
3 department may require an owner or operator proposing to
4 construct, expand, or modify such an installation to submit
5 for department review, as part of application for permit or
6 permit modification, engineering plans, preliminary design
7 reports, or other information 90 days prior to commencing
8 construction. The department may also require the engineer of
9 record or another registered professional engineer, within 30
10 days after construction is complete, to certify that the
11 construction was completed in accordance with the plans
12 submitted to the department, noting minor deviations which
13 were necessary because of site-specific conditions.

14 Section 5. Subsection (6) is added to section 373.413,
15 Florida Statutes, to read:

16 373.413 Permits for construction or alteration.--

17 (6) The provisions of s. 403.08763, the
18 Performance-Based Permitting Program, applies to all permits
19 issued under this section other than general permits.

20 Section 6. Subsection (5) is added to section 161.041,
21 Florida Statutes, to read:

22 161.041 Permits required.--

23 (5) The provisions of s. 403.08763, the Performance
24 Based Permitting Program, shall apply to all permits issued
25 under this chapter.

26 Section 7. This act shall take effect July 1, 2002.
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SENATE SUMMARY

Creates the "Florida Performance-Based Permitting Act."
Provides legislative findings and public purpose.
Requires the Department of Environmental Protection to
consider and review the compliance history of applicants
seeking review or modification of a permit and applicants
seeking a permit for a regulated activity. Creates
categories of violations. Provides factors and criteria
to be considered in evaluating an applicant's compliance
program. Provides that applicants meeting certain
criteria are eligible for specified compliance
incentives. Authorizes adoption of rules.