



HB 1525

2003

1 A bill to be entitled

2 An act relating to establishment of a performance-based  
3 environmental permitting system; creating s. 403.0874,  
4 F.S.; providing an act name; providing legislative  
5 findings; providing purposes; providing definitions;  
6 providing compliance incentives for certain environmental  
7 permitting activities; providing requirements and  
8 limitations; requiring the Department of Environmental  
9 Protection to adopt certain rules; providing for  
10 consequences for certain noncompliance with certain  
11 permitting decisions; providing for agency consideration  
12 of an applicant's compliance history for certain purposes;  
13 providing limitations; providing for consideration of  
14 civil or criminal violations; providing for permit  
15 application denials under certain circumstances; providing  
16 for limited application approval under certain  
17 circumstances; providing for limited permit approvals;  
18 providing for reporting forms; providing form information  
19 and structure requirements; providing rulemaking authority  
20 for the department; requiring agency notification of  
21 formal enforcement actions; providing notice requirements;  
22 providing construction relating to existing agency  
23 authority; specifying nonapplication to certain general  
24 permits; amending ss. 403.087, 403.0872, 403.088, and  
25 403.707, F.S.; revising criteria for department permit  
26 issuance to conform; amending s. 403.703, F.S.; correcting  
27 a cross reference; amending ss. 373.413 and 161.041, F.S.;  
28 specifying application of Performance-based Permitting  
29 Program provisions; providing an effective date.

30



HB 1525

2003

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

32  
 33 Section 1. Section 403.0874, Florida Statutes, is  
 34 created to read:

35 403.0874 Performance-based Permitting Program.--

36 (1) SECTION NAME.--This section is named the "Florida  
 37 Performance-based Permitting Act."

38 (2) LEGISLATIVE FINDINGS; PUBLIC PURPOSE.--

39 (a) The Legislature finds and declares that a permit  
 40 applicant's history of compliance or noncompliance with  
 41 environmental laws and permit conditions is a factor that should  
 42 be considered by the department when the department determines  
 43 whether to issue or reissue a permit to an applicant.

44 (b) Permit applicants with a history of compliance with  
 45 the environmental laws and permit conditions should be eligible  
 46 for longer permits, expedited permit reviews, short-form permit  
 47 renewals, and other incentives to reward and encourage such  
 48 applicants.

49 (c) Permit applicants with a history of noncompliance with  
 50 the environmental laws and permit conditions should be subject  
 51 to more stringent requirements and, in some cases, such  
 52 applicants should be denied permits for a period of time until  
 53 their good standing can be reestablished.

54 (d) It is therefore declared to be the purpose of this act  
 55 to provide the department with clear and specific authority to  
 56 consider the compliance history of permit applicants and, in  
 57 some cases, those who control the applicants when evaluating  
 58 whether the applicant has provided reasonable assurance that the  
 59 applicant can and will comply with applicable laws, rules, and  
 60 permit conditions applicable to the regulated activity.



HB 1525

2003

61 (3) DEFINITIONS.--For purposes of this section:

62 (a) "Applicant" means the proposed permittee or  
63 transferee, owner, or operator of a regulated activity seeking  
64 an agency permit. If an applicant has not held an agency permit  
65 during at least 4 of the 5 years preceding submittal of the  
66 permit application, the term also includes any person who has  
67 the legal or actual authority to control the proposed permittee,  
68 transferee, owner, or operator.

69 (b) "Agency" means the Department of Environmental  
70 Protection.

71 (c) "Agency laws" means chapter 161, part IV of chapter  
72 373, and chapter 403.

73 (d) "Environmental laws" means any state or federal law  
74 that regulates activities for the purpose of protecting the  
75 environment, or for the purpose of protecting the public health  
76 from pollution or contaminants, but does not include any law  
77 that regulates activities only for the purpose of zoning, growth  
78 management, or land use.

79 (e) "Formal enforcement action" means that the agency  
80 fully and finally adjudicated a civil action. The term also  
81 includes criminal charges filed against the applicant, including  
82 those officers, directors, trustees, partners, or employees of  
83 the applicant who have legal or actual operational control over  
84 a department-regulated activity, for an environmental offense  
85 that the applicant has been convicted of or pled guilty or nolo  
86 contendere to, regardless of whether adjudication is withheld.

87 (f) "Knowing" means awareness of the nature of a person's  
88 acts, not awareness that such acts violate the law. The term  
89 does not include conduct that is the result of an act of God,  
90 mechanical failure, events beyond the control of the applicant,



HB 1525

2003

91 an accident or a mistake of fact. Knowing violations by an  
 92 applicant include, but are not limited to, violations knowingly  
 93 committed by those officers, directors, trustees, partners, or  
 94 employees of the applicant who have legal or actual operational  
 95 control over department-regulated activity.

96 (g) "Reasonable assurance" means the existence of a  
 97 substantial likelihood, although not an absolute guarantee, that  
 98 the proposed activity and applicant will comply with agency  
 99 rules, laws, orders, and permit conditions.

100 (h) "Regulated activity" means any activity, including,  
 101 but not limited to, the construction or operation of a facility,  
 102 installation, system, or project, for which a permit or  
 103 certification is required under an agency law.

104 (i) "Site" means a single parcel, or multiple contiguous  
 105 or adjacent parcels, of land on which the applicant proposes to  
 106 conduct, or has conducted, a regulated activity. A site is a new  
 107 site if the applicant has not held an agency permit for a  
 108 regulated activity at that location for at least 4 of the 5  
 109 years preceding submission of an application.

110 (4) COMPLIANCE INCENTIVES.--In order to obtain a  
 111 compliance incentive, the applicant must affirmatively request  
 112 it as part of the permit application. Unless otherwise  
 113 prohibited by state or federal law, agency rule, or federal  
 114 regulation, and provided the applicant meets all other  
 115 applicable criteria for the issuance of a permit, any applicant  
 116 who meets the criteria set forth in this subsection is entitled  
 117 to the following incentives:

118 (a) Tier 1.--

119 1. An applicant shall be entitled to incentives pursuant  
 120 to this paragraph at a site if the applicant conducted the



HB 1525

2003

121 regulated activity for at least 4 of the 5 years preceding  
122 submittal of the permit application or, if the activity is a new  
123 regulated activity, the applicant conducted a similar regulated  
124 activity under an agency permit for at least 4 of the 5 years at  
125 a different site in this state preceding submittal of the permit  
126 application. However, an applicant shall not be entitled to  
127 incentives under this paragraph if the applicant has a relevant  
128 compliance history at the subject site that includes any of the  
129 following violations that resulted in formal enforcement action:

- 130 a. A knowing violation of any agency law, rule, consent  
131 order, final order, or final judgment;  
132 b. An environmental crime; or  
133 c. Two or more knowing violations of the permit occurring  
134 on two or more separate occasions and resulting in two or more  
135 formal enforcement actions,

136  
137 in which the violation resulted in significant harm to human  
138 health or the environment.

139 2. Tier 1 incentives may include:

- 140 a. Automatic renewal of permit. A renewal of an operation  
141 or closure permit shall be issued for a period of 5 years and  
142 shall, after notice and an opportunity for public comment, be  
143 automatically renewed for one additional 5-year term without  
144 agency action unless the agency determines, based on information  
145 submitted by the applicant or resulting from the public comments  
146 or its own records, that the applicant has committed violations  
147 or crimes during the relevant review period that disqualify the  
148 applicant from receiving the requested extension.

- 149 b. Expedited permit review. The processing time following  
150 receipt of a completed application shall be 45 days for the



HB 1525

2003

151 issuance of the agency action.

152 c. Short-form renewals. Renewals of operation or closure  
153 permits not involving substantial construction or expansion may  
154 be made upon a shortened application form specifying only the  
155 changes in the regulated activity or a certification by the  
156 applicant that no changes in the regulated activity are proposed  
157 if that is the case. Applicants for short-form renewals shall  
158 complete and submit the prescribed compliance form with the  
159 application and shall remain subject to the compliance history  
160 review of this section. All other procedural requirements for  
161 renewal applications remain unchanged. This provision shall  
162 supplement any expedited review processes found in agency rules.

163 (b) Tier 2.--An applicant shall be entitled to incentives  
164 pursuant to this paragraph if the applicant meets the  
165 requirements for Tier 1 and the applicant takes other actions  
166 not otherwise required by law that significantly reduce threats  
167 or impacts to the environment or public health. Such actions may  
168 include reductions in actual or permitted discharges or  
169 emissions, reductions in the impacts of regulated activities on  
170 public lands or natural resources, waste reduction or reuse,  
171 implementation of a voluntary environmental management system,  
172 or other similar actions as determined by department rule. Tier  
173 2 incentives may include all Tier 1 incentives and may also  
174 include:

175 1. Ten-year permits, provided the applicant has conducted  
176 a regulated activity at the site for at least 5 years.

177 2. Fewer routine inspections than other regulated  
178 activities similarly situated.

179 3. Expedited review of requests for permit modifications.



HB 1525

2003

180 4. Agency recognition, program-specific incentives, or  
181 certifications in lieu of renewal permits.

182 5. No more than two requests for additional information.

183 (c) Within 6 months after the effective date of this act,  
184 the department shall initiate rulemaking to implement Tier 2  
185 incentives. The rule shall specify what incentives will be made  
186 available, how applicants may qualify for incentives, how  
187 extended permits may be transferred and the limitations on  
188 transfer, and how incentives may be removed or revoked if the  
189 applicant's compliance history changes. Until an implementing  
190 rule is adopted, Tier 2 incentives shall not be available to  
191 permit applicants under this act.

192 (5) CONSEQUENCES OF NONCOMPLIANCE ON AGENCY PERMITTING  
193 DECISIONS.--The agency shall consider the applicant's relevant  
194 compliance history, as described in this subsection, when  
195 determining whether a permit applicant has provided reasonable  
196 assurance of future compliance with applicable agency laws,  
197 rules, and conditions of the requested permit. Nothing in this  
198 subsection is intended to conflict with any requirement of any  
199 federally delegated or approved program.

200 (a) The applicant's relevant compliance history shall  
201 consist of the applicant's knowing civil and criminal violations  
202 of environmental laws, rules, consent orders, final orders, or  
203 final judgments, with the following limitations:

204 1. Each criminal violation must have occurred during the 5  
205 years preceding submission of the permit application to the  
206 agency.

207 2. Each knowing civil violation must have resulted in  
208 formal enforcement action during the 3 years preceding the  
209 submission of the permit application to the agency.



HB 1525

2003

210 3. If the application is for the renewal of an agency  
211 permit, except for a permit for a relocatable facility, source,  
212 or activity or a permit at any site other than a new site, the  
213 agency shall only consider the applicant's knowing violations at  
214 that site and the applicant's environmental felony offenses at  
215 any site in the country.

216 4. If the application is for a new permit at a new site or  
217 any permit for a relocatable facility or source, the agency  
218 shall consider the applicant's knowing violations at any site  
219 conducting the same activity regulated by the department in this  
220 state and the applicant's environmental felony offenses at any  
221 site in the country.

222 (b) The agency may consider any full and finally  
223 adjudicated civil violations as authorized in this subsection.

224 (c) If the applicant's relevant compliance history does  
225 include knowing civil or criminal violations as specified in  
226 paragraph (a), the agency shall consider and weigh the following  
227 factors in order to evaluate such violations in the context of  
228 the applicant's overall compliance history and to determine  
229 whether the applicant has provided, on balance, reasonable  
230 assurance of future compliance with agency laws, rules, and the  
231 proposed permit:

232 1. The number of knowing violations and the seriousness of  
233 such violations in relation to the industry norm and history for  
234 the activity regulated by the department.

235 2. The number of other similar facilities controlled by  
236 the applicant.

237 3. The number and complexity of any permits held by the  
238 applicant and the statistical potential for violations to occur.

239 4. Whether the knowing violations involved regulatory





HB 1525

2003

240 programs that are the same as, or similar to, the regulatory  
241 program from which the permit is being requested.

242 5. Whether the knowing violations involved activities that  
243 are the same as, similar to, or related to the regulated  
244 activity for which a permit is being requested.

245 6. Whether the knowing violations resulted in harm to  
246 human health or the environment and the extent of such harm.

247 7. Whether the applicant has implemented an approach or  
248 remedial measures that are effectively designed to prevent a  
249 recurrence of the knowing violations or crimes.

250 8. Whether the facility for which a permit is being  
251 requested provides or proposes to provide utility services to  
252 the public or serves a similar public purpose.

253 9. What effect denying a permit application would have on  
254 the applicant and the public at large.

255 (d) If the applicant's relevant compliance history  
256 includes one or more of the knowing violations or offenses  
257 described in this paragraph, the agency may determine, subject  
258 to the notification requirements in subsection (8), that the  
259 applicant has not provided reasonable assurance and may deny the  
260 permit application and the applicant shall not be entitled to  
261 apply for a permit for that regulated activity for a period of 1  
262 year from the time a final order denying the permit has been  
263 entered:

264 1. A felony criminal violation of any environmental law in  
265 the United States;

266 2. A knowing violation of an agency law, rule, consent  
267 order, final order, or final judgment that would constitute a  
268 felony if prosecuted as a crime;

269 3. A knowing violation of an agency law, rule, consent



HB 1525

2003

270 order, final order, or final judgment that would constitute a  
271 misdemeanor if prosecuted as a crime;

272 4. A violation involving the intentional circumvention of  
273 pollution control equipment required by agency rules, laws,  
274 orders, or permit conditions;

275 5. A violation involving the knowing failure to install,  
276 maintain, or operate any monitoring device or method required to  
277 be maintained by agency rules, laws, orders, or permit  
278 conditions;

279 6. A violation involving the knowing submittal of any  
280 false statement, representation, or certification in any  
281 application, record, report, plan, or other document filed or  
282 required to be maintained by agency rules, laws, orders, or  
283 permit conditions; or

284 7. A violation involving falsifying, tampering with, or  
285 knowingly rendering inaccurate any monitoring device or method  
286 required to be maintained by agency rules, laws, orders, or  
287 permit conditions.

288 (e) If the applicant's relevant compliance history  
289 demonstrates a pattern of noncompliance, the agency may, in its  
290 discretion, issue a permit, not to exceed 1 year in duration, if  
291 the applicant satisfies all other reasonable assurance  
292 requirements. A pattern of noncompliance exists when the  
293 applicant is responsible for two or more environmental crimes,  
294 knowing civil violations, or a combination thereof, occurring on  
295 two or more separate occasions and resulting in two or more  
296 formal enforcement actions in which the violation resulted in a  
297 significant harm to human health or the environment within a 5-  
298 year period. Any civil violation specifically identified in the  
299 Environmental Litigation Reform Act, as set forth in s. 403.121,



HB 1525

2003

300 shall not be considered, unless the violation was also a knowing  
301 violation.

302 1. The agency shall include a statement in the formal  
303 enforcement action that the agency has determined that the  
304 applicant has a pattern of noncompliance and that this  
305 determination has formed the basis for issuing subsequent  
306 permits for a period not to exceed 1 year. This probationary and  
307 limited duration permit shall cease and a standard duration  
308 permit issued upon a demonstration that the applicant has  
309 implemented an approach, program, or remedial measures that is  
310 effectively designed to prevent a recurrence of the non-  
311 compliance. The agency shall also include a notification in its  
312 notice of intended agency action following a determination of a  
313 pattern of noncompliance that the permit could be revoked or an  
314 application to renew the permit could be denied if the pattern  
315 of noncompliance continues.

316 2. If, at the time of permit renewal following notice of a  
317 determination of a pattern of noncompliance, the agency  
318 determines that the applicant committed one or more relevant  
319 violations enumerated in this paragraph resulting in a  
320 continuing pattern of noncompliance, the agency shall deny the  
321 permit application, and the applicant shall not be entitled to  
322 apply for a permit for that regulated activity for a period of 6  
323 months from the time a final order denying the permit has been  
324 entered. This probationary and limited duration permit shall  
325 cease and a standard duration permit issued upon a demonstration  
326 that the applicant has implemented an approach, program, or  
327 remedial measures that is effectively designed to prevent a  
328 recurrence of the noncompliance.

329 (f) If the agency denies a permit application in



HB 1525

2003

330 accordance with this subsection for a permit that includes  
331 closure, post-closure, or corrective action requirements, the  
332 agency may deny that portion of the permit authorizing operation  
333 and may issue a permit that contains only the closure, post-  
334 closure, or corrective action requirements and conditions.

335 (6) REPORTING FORM.--The department shall establish a  
336 form, by rule, to be used for the purpose of implementing this  
337 section. Every permit application subject to this section that  
338 is submitted to the agency shall be accompanied by this  
339 completed form in order to be considered complete. During the  
340 permit review process, the information on the form shall be  
341 updated by the applicant to reflect any changes until such time  
342 as the agency takes final action on the application. The form  
343 shall include the following:

344 (a) A section requiring every applicant to report the  
345 relevant criminal history of the applicant, including the nature  
346 of the offense, the date of the offense, the court having  
347 jurisdiction in the case, the date of conviction or other  
348 disposition, and the disposition of the offense.

349 (b) A section requiring every applicant which is a  
350 business entity and which has not held an agency permit during 4  
351 of the 5 years preceding submittal of the permit application to  
352 identify those persons having legal or actual authority to  
353 control the owner, operator, or permittee. The form may specify  
354 categories of persons having such authority and other relevant  
355 information that must be reported. The form may not require an  
356 applicant to report violations or offenses that are not part of  
357 the relevant compliance history specified in paragraph (4)(a).

358 (7) RULEMAKING.--In addition to the rulemaking necessary  
359 to adopt the form identified in subsection (6), and to implement



HB 1525

2003

360 the Tier 2 incentives of subsection (4), the department is  
361 authorized, but not required, to adopt such other rules as are  
362 necessary to implement this section, including rules providing  
363 for appropriate public notice and comment.

364 (8) NOTIFICATION.--The agency is encouraged to work with  
365 permittees and permit applicants prior to taking any of the  
366 actions authorized under this section in order to encourage  
367 compliance and avoid overly burdensome consequences of  
368 noncompliance. In each case in which the agency initiates a  
369 formal enforcement action and prior to implementing the  
370 sanctions outlined in this section, the agency shall clearly and  
371 specifically:

372 (a) Inform the alleged violator if the provisions of this  
373 section have been triggered.

374 (b) Put the alleged violator on notice of the consequences  
375 of the violations and the potential consequences of continuing  
376 noncompliance.

377 (9) EXISTING AUTHORITY.--Nothing in this section shall be  
378 construed to limit the agency's existing authority to consider  
379 factors other than an applicant's compliance history, such as  
380 the technical merits of the proposed project or the applicant's  
381 financial and human resources, when determining whether the  
382 applicant has provided the reasonable assurance necessary to  
383 receive the requested permit.

384 (10) INAPPLICABLE TO GENERAL PERMITS.--This section shall  
385 not apply to general permits issued in accordance with s.  
386 403.814. However, the agency may continue to use its existing  
387 authority to consider the compliance history of those wishing to  
388 use general permits.



HB 1525

2003

389 Section 2. Subsection (5) of section 403.087, Florida  
390 Statutes, is amended to read:

391 403.087 Permits; general issuance; denial; revocation;  
392 prohibition; penalty.--

393 (5) The department shall issue permits to construct,  
394 operate, maintain, expand, or modify an installation which may  
395 reasonably be expected to be a source of pollution only if the  
396 applicant affirmatively provides the department with reasonable  
397 assurance that the proposed activity and applicant will comply  
398 with department rules, laws, orders, and permit conditions ~~when~~  
399 ~~it determines that the installation is provided or equipped with~~  
400 ~~pollution control facilities that will abate or prevent~~  
401 ~~pollution to the degree that will comply with the standards or~~  
402 ~~rules adopted by the department, except as provided in s.~~  
403 403.088 or s. 403.0872. The compliance history of the applicant  
404 shall be one factor that the department shall consider in  
405 determining whether the applicant has provided such reasonable  
406 assurance. However, separate construction permits shall not be  
407 required for installations permitted under s. 403.0885, except  
408 that the department may require an owner or operator proposing  
409 to construct, expand, or modify such an installation to submit  
410 for department review, as part of application for permit or  
411 permit modification, engineering plans, preliminary design  
412 reports, or other information 90 days prior to commencing  
413 construction. The department may also require the engineer of  
414 record or another registered professional engineer, within 30  
415 days after construction is complete, to certify that the  
416 construction was completed in accordance with the plans  
417 submitted to the department, noting minor deviations which were  
418 necessary because of site-specific conditions.



HB 1525

2003

419 Section 3. Subsection (2) of section 403.0872, Florida  
420 Statutes, is amended to read:

421 403.0872 Operation permits for major sources of air  
422 pollution; annual operation license fee.--Provided that program  
423 approval pursuant to 42 U.S.C. s. 7661a has been received from  
424 the United States Environmental Protection Agency, beginning  
425 January 2, 1995, each major source of air pollution, including  
426 electrical power plants certified under s. 403.511, must obtain  
427 from the department an operation permit for a major source of  
428 air pollution under this section. This operation permit is the  
429 only department operation permit for a major source of air  
430 pollution required for such source; provided, at the applicant's  
431 request, the department shall issue a separate acid rain permit  
432 for a major source of air pollution that is an affected source  
433 within the meaning of 42 U.S.C. s. 7651a(1). Operation permits  
434 for major sources of air pollution, except general permits  
435 issued pursuant to s. 403.814, must be issued in accordance with  
436 the procedures contained in this section and in accordance with  
437 chapter 120; however, to the extent that chapter 120 is  
438 inconsistent with the provisions of this section, the procedures  
439 contained in this section prevail.

440 (2) An application for an operation permit for a major  
441 source of air pollution must be submitted in accordance with  
442 rules of the department governing permit applications. The  
443 department shall adopt rules defining the timing, content, and  
444 distribution of an application for a permit under this section.  
445 A permit application processing fee is not required. The  
446 department may issue an operation permit for a major source of  
447 air pollution only if the applicant affirmatively provides the  
448 department with reasonable assurance that the proposed activity



HB 1525

2003

449 and applicant are in compliance with and will continue to comply  
450 with department rules, laws, orders, and permit conditions ~~when~~  
451 ~~it has reasonable assurance that the source applies pollution~~  
452 ~~control technology, including fuel or raw material selection,~~  
453 ~~necessary to enable it to comply with the standards or rules~~  
454 ~~adopted by the department or~~ the permit contains an approved  
455 compliance plan that provides such reasonable assurance for that  
456 source. The compliance history of the applicant shall be one  
457 factor that the department shall consider in determining whether  
458 the applicant has provided such reasonable assurance. If two or  
459 more major air pollution sources that belong to the same Major  
460 Group as described in the Standard Industrial Classification  
461 Manual, 1987, are operated at a single site, the owner may elect  
462 to receive a single operation permit covering all such sources  
463 at the site.

464 (a) An application for a permit under this section is  
465 timely and complete if it is submitted in accordance with  
466 department rules governing the timing of applications and  
467 substantially addresses the information specified in  
468 completeness criteria determined by department rule in  
469 accordance with applicable regulations of the United States  
470 Environmental Protection Agency governing the contents of  
471 applications for permits under 42 U.S.C. s. 7661b(d). Unless the  
472 department requests additional information or otherwise notifies  
473 the applicant of incompleteness within 60 days after receipt of  
474 an application, the application is complete.

475 (b) Any permitted air pollution source that submits a  
476 timely and complete application for a permit under this section  
477 is entitled to operate in compliance with its existing air  
478 permit pending the conclusion of proceedings associated with its





HB 1525

2003

479 application. Notwithstanding the timing requirements of  
480 paragraph (c) and subsection (3), the department may process  
481 applications received during the first year of permit processing  
482 under this section, in a manner consistent with 42 U.S.C. s.  
483 7661b(c).

484 (c) The department may request additional information  
485 necessary to process a permit application subsequent to a  
486 determination of completeness in accordance with s. 403.0876(1).

487 Section 4. Paragraph (b) of subsection (2) of section  
488 403.088, Florida Statutes, is amended to read:

489 403.088 Water pollution operation permits; conditions.--

490 (2)

491 (b) The department may issue a permit only if the  
492 applicant affirmatively provides the department with reasonable  
493 assurance that the proposed activity and applicant will comply  
494 with department rules, laws, orders, and permit conditions. The  
495 compliance history of the applicant shall be one factor that the  
496 department shall consider in determining whether the applicant  
497 has provided such reasonable assurance. If the department finds  
498 that the proposed discharge will reduce the quality of the  
499 receiving waters below the classification established for them,  
500 it shall deny the application and refuse to issue a permit. If  
501 the department finds that the proposed discharge will not reduce  
502 the quality of the receiving waters below the classification  
503 established for them, it may issue an operation permit if it  
504 finds that such degradation is necessary or desirable under  
505 federal standards and under circumstances which are clearly in  
506 the public interest.

507 Section 5. Paragraph (b) of subsection (17) of section  
508 403.703, Florida Statutes, is amended to read:



HB 1525

2003

509 403.703 Definitions.--As used in this act, unless the  
510 context clearly indicates otherwise, the term:

511 (17) "Construction and demolition debris" means discarded  
512 materials generally considered to be not water-soluble and  
513 nonhazardous in nature, including, but not limited to, steel,  
514 glass, brick, concrete, asphalt roofing material, pipe, gypsum  
515 wallboard, and lumber, from the construction or destruction of a  
516 structure as part of a construction or demolition project or  
517 from the renovation of a structure, and including rocks, soils,  
518 tree remains, trees, and other vegetative matter that normally  
519 results from land clearing or land development operations for a  
520 construction project, including such debris from construction of  
521 structures at a site remote from the construction or demolition  
522 project site. Mixing of construction and demolition debris with  
523 other types of solid waste will cause it to be classified as  
524 other than construction and demolition debris. The term also  
525 includes:

526 (b) Except as provided in s. 403.707 (11)~~(12)~~(j),  
527 unpainted, nontreated wood scraps from facilities manufacturing  
528 materials used for construction of structures or their  
529 components and unpainted, nontreated wood pallets provided the  
530 wood scraps and pallets are separated from other solid waste  
531 where generated and the generator of such wood scraps or pallets  
532 implements reasonable practices of the generating industry to  
533 minimize the commingling of wood scraps or pallets with other  
534 solid waste; and

535 Section 6. Subsection (8) of section 403.707, Florida  
536 Statutes, is amended, and subsections (9)-(16) are renumbered as  
537 subsections (8)-(15), respectively, to read:

538 403.707 Permits.--



HB 1525

2003

539 ~~(8) The department may refuse to issue a permit to an~~  
540 ~~applicant who by past conduct in this state has repeatedly~~  
541 ~~violated pertinent statutes, rules, or orders or permit terms or~~  
542 ~~conditions relating to any solid waste management facility and~~  
543 ~~who is deemed to be irresponsible as defined by department rule.~~  
544 ~~For the purposes of this subsection, an applicant includes the~~  
545 ~~owner or operator of the facility, or if the owner or operator~~  
546 ~~is a business entity, a parent of a subsidiary corporation, a~~  
547 ~~partner, a corporate officer or director, or a stockholder~~  
548 ~~holding more than 50 percent of the stock of the corporation.~~

549 Section 7. Subsection (6) is added to section 373.413,  
550 Florida Statutes, to read:

551 373.413 Permits for construction or alteration.--

552 (6) The provisions of s. 403.0874, the Performance-based  
553 Permitting Program, shall apply to individual and conceptual  
554 permits issued under this part.

555 Section 8. Subsection (5) is added to section 161.041,  
556 Florida Statutes, to read:

557 161.041 Permits required.--

558 (5) The provisions of s. 403.0874, the Performance-based  
559 Permitting Program, shall apply to all permits issued under this  
560 chapter.

561 Section 9. This act shall take effect January 1, 2004.