

By Senator Smith

14-9A-03

See HB 1525

1 A bill to be entitled
2 An act relating to establishment of a
3 performance-based environmental permitting
4 system; creating s. 403.0874, F.S.; providing
5 an act name; providing legislative findings;
6 providing purposes; providing definitions;
7 providing compliance incentives for certain
8 environmental permitting activities; providing
9 requirements and limitations; requiring the
10 Department of Environmental Protection to adopt
11 certain rules; providing for consequences for
12 certain noncompliance with certain permitting
13 decisions; providing for agency consideration
14 of an applicant's compliance history for
15 certain purposes; providing limitations;
16 providing for consideration of civil or
17 criminal violations; providing for permit
18 application denials under certain
19 circumstances; providing for limited
20 application approval under certain
21 circumstances; providing for limited permit
22 approvals; providing for reporting forms;
23 providing form information and structure
24 requirements; providing rulemaking authority
25 for the department; requiring agency
26 notification of formal enforcement actions;
27 providing notice requirements; providing
28 construction relating to existing agency
29 authority; specifying nonapplication to certain
30 general permits; amending ss. 403.087,
31 403.0872, 403.088, and 403.707, F.S.; revising

1 criteria for department permit issuance to
2 conform; amending s. 403.703, F.S.; correcting
3 a cross-reference; amending ss. 373.413 and
4 161.041, F.S.; specifying application of
5 Performance-based Permitting Program
6 provisions; providing an effective date.
7

8 Be It Enacted by the Legislature of the State of Florida:
9

10 Section 1. Section 403.0874, Florida Statutes, is
11 created to read:

12 403.0874 Performance-based Permitting Program.--

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

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

16 (a) The Legislature finds and declares that a permit
17 applicant's history of compliance or noncompliance with
18 environmental laws and permit conditions is a factor that
19 should be considered by the department when the department
20 determines whether to issue or reissue a permit to an
21 applicant.

22 (b) Permit applicants with a history of compliance
23 with the environmental laws and permit conditions should be
24 eligible for longer permits, expedited permit reviews,
25 short-form permit renewals, and other incentives to reward and
26 encourage such applicants.

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

1 (d) It is therefore declared to be the purpose of this
2 act to provide the department with clear and specific
3 authority to consider the compliance history of permit
4 applicants and, in some cases, those who control the
5 applicants when evaluating whether the applicant has provided
6 reasonable assurance that the applicant can and will comply
7 with applicable laws, rules, and permit conditions applicable
8 to the regulated activity.

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

10 (a) "Applicant" means the proposed permittee or
11 transferee, owner, or operator of a regulated activity seeking
12 an agency permit. If an applicant has not held an agency
13 permit during at least 4 of the 5 years preceding submittal of
14 the permit application, the term also includes any person who
15 has the legal or actual authority to control the proposed
16 permittee, transferee, owner, or operator.

17 (b) "Agency" means the Department of Environmental
18 Protection.

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

21 (d) "Environmental laws" means any state or federal
22 law that regulates activities for the purpose of protecting
23 the environment, or for the purpose of protecting the public
24 health from pollution or contaminants, but does not include
25 any law that regulates activities only for the purpose of
26 zoning, growth management, or land use.

27 (e) "Formal enforcement action" means that the agency
28 fully and finally adjudicated a civil action. The term also
29 includes criminal charges filed against the applicant,
30 including those officers, directors, trustees, partners, or
31 employees of the applicant who have legal or actual

1 operational control over a department-regulated activity, for
2 an environmental offense that the applicant has been convicted
3 of or pled guilty or nolo contendere to, regardless of whether
4 adjudication is withheld.

5 (f) "Knowing" means awareness of the nature of a
6 person's acts, not awareness that such acts violate the law.
7 The term does not include conduct that is the result of an act
8 of God, mechanical failure, events beyond the control of the
9 applicant, an accident or a mistake of fact. Knowing
10 violations by an applicant include, but are not limited to,
11 violations knowingly committed by those officers, directors,
12 trustees, partners, or employees of the applicant who have
13 legal or actual operational control over department-regulated
14 activity.

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

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

23 (i) "Site" means a single parcel, or multiple
24 contiguous or adjacent parcels, of land on which the applicant
25 proposes to conduct, or has conducted, a regulated activity. A
26 site is a new site if the applicant has not held an agency
27 permit for a regulated activity at that location for at least
28 4 of the 5 years preceding submission of an application.

29 (4) COMPLIANCE INCENTIVES.--In order to obtain a
30 compliance incentive, the applicant must affirmatively request
31 it as part of the permit application. Unless otherwise

1 prohibited by state or federal law, agency rule, or federal
2 regulation, and provided the applicant meets all other
3 applicable criteria for the issuance of a permit, any
4 applicant who meets the criteria set forth in this subsection
5 is entitled to the following incentives:

6 (a) Tier 1.--

7 1. An applicant shall be entitled to incentives
8 pursuant to this paragraph at a site if the applicant
9 conducted the regulated activity for at least 4 of the 5 years
10 preceding submittal of the permit application or, if the
11 activity is a new regulated activity, the applicant conducted
12 a similar regulated activity under an agency permit for at
13 least 4 of the 5 years at a different site in this state
14 preceding submittal of the permit application. However, an
15 applicant shall not be entitled to incentives under this
16 paragraph if the applicant has a relevant compliance history
17 at the subject site that includes any of the following
18 violations that resulted in formal enforcement action:

19 a. A knowing violation of any agency law, rule,
20 consent order, final order, or final judgment;

21 b. An environmental crime; or

22 c. Two or more knowing violations of the permit
23 occurring on two or more separate occasions and resulting in
24 two or more formal enforcement actions, in which the violation
25 resulted in significant harm to human health or the
26 environment.

27 2. Tier 1 incentives may include:

28 a. Automatic renewal of permit. A renewal of an
29 operation or closure permit shall be issued for a period of 5
30 years and shall, after notice and an opportunity for public
31 comment, be automatically renewed for one additional 5-year

1 term without agency action unless the agency determines, based
2 on information submitted by the applicant or resulting from
3 the public comments or its own records, that the applicant has
4 committed violations or crimes during the relevant review
5 period that disqualify the applicant from receiving the
6 requested extension.

7 b. Expedited permit review. The processing time
8 following receipt of a completed application shall be 45 days
9 for the issuance of the agency action.

10 c. Short-form renewals. Renewals of operation or
11 closure permits not involving substantial construction or
12 expansion may be made upon a shortened application form
13 specifying only the changes in the regulated activity or a
14 certification by the applicant that no changes in the
15 regulated activity are proposed if that is the case.

16 Applicants for short-form renewals shall complete and submit
17 the prescribed compliance form with the application and shall
18 remain subject to the compliance history review of this
19 section. All other procedural requirements for renewal
20 applications remain unchanged. This provision shall supplement
21 any expedited review processes found in agency rules.

22 (b) Tier 2.--An applicant shall be entitled to
23 incentives pursuant to this paragraph if the applicant meets
24 the requirements for Tier 1 and the applicant takes other
25 actions not otherwise required by law that significantly
26 reduce threats or impacts to the environment or public health.
27 Such actions may include reductions in actual or permitted
28 discharges or emissions, reductions in the impacts of
29 regulated activities on public lands or natural resources,
30 waste reduction or reuse, implementation of a voluntary
31 environmental management system, or other similar actions as

1 determined by department rule. Tier 2 incentives may include
2 all Tier 1 incentives and may also include:

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

6 2. Fewer routine inspections than other regulated
7 activities similarly situated.

8 3. Expedited review of requests for permit
9 modifications.

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

12 5. No more than two requests for additional
13 information.

14 (c) Within 6 months after the effective date of this
15 act, the department shall initiate rulemaking to implement
16 Tier 2 incentives. The rule shall specify what incentives will
17 be made available, how applicants may qualify for incentives,
18 how extended permits may be transferred and the limitations on
19 transfer, and how incentives may be removed or revoked if the
20 applicant's compliance history changes. Until an implementing
21 rule is adopted, Tier 2 incentives shall not be available to
22 permit applicants under this act.

23 (5) CONSEQUENCES OF NONCOMPLIANCE ON AGENCY PERMITTING
24 DECISIONS.--The agency shall consider the applicant's relevant
25 compliance history, as described in this subsection, when
26 determining whether a permit applicant has provided reasonable
27 assurance of future compliance with applicable agency laws,
28 rules, and conditions of the requested permit. Nothing in this
29 subsection is intended to conflict with any requirement of any
30 federally delegated or approved program.

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

5 1. Each criminal violation must have occurred during
6 the 5 years preceding submission of the permit application to
7 the agency.

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

11 3. If the application is for the renewal of an agency
12 permit, except for a permit for a relocatable facility,
13 source, or activity or a permit at any site other than a new
14 site, the agency shall only consider the applicant's knowing
15 violations at that site and the applicant's environmental
16 felony offenses at any site in the country.

17 4. If the application is for a new permit at a new
18 site or any permit for a relocatable facility or source, the
19 agency shall consider the applicant's knowing violations at
20 any site conducting the same activity regulated by the
21 department in this state and the applicant's environmental
22 felony offenses at any site in the country.

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

25 (c) If the applicant's relevant compliance history
26 does include knowing civil or criminal violations as specified
27 in paragraph (a), the agency shall consider and weigh the
28 following factors in order to evaluate such violations in the
29 context of the applicant's overall compliance history and to
30 determine whether the applicant has provided, on balance,

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1 reasonable assurance of future compliance with agency laws,
2 rules, and the proposed permit:

3 1. The number of knowing violations and the
4 seriousness of such violations in relation to the industry
5 norm and history for the activity regulated by the department.

6 2. The number of other similar facilities controlled
7 by the applicant.

8 3. The number and complexity of any permits held by
9 the applicant and the statistical potential for violations to
10 occur.

11 4. Whether the knowing violations involved regulatory
12 programs that are the same as, or similar to, the regulatory
13 program from which the permit is being requested.

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

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

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

22 8. Whether the facility for which a permit is being
23 requested provides or proposes to provide utility services to
24 the public or serves a similar public purpose.

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

27 (d) If the applicant's relevant compliance history
28 includes one or more of the knowing violations or offenses
29 described in this paragraph, the agency may determine, subject
30 to the notification requirements in subsection (8), that the
31 applicant has not provided reasonable assurance and may deny

1 the permit application and the applicant shall not be entitled
2 to apply for a permit for that regulated activity for a period
3 of 1 year from the time a final order denying the permit has
4 been entered:

5 1. A felony criminal violation of any environmental
6 law in the United States;

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

10 3. A knowing violation of an agency law, rule, consent
11 order, final order, or final judgment that would constitute a
12 misdemeanor if prosecuted as a crime;

13 4. A violation involving the intentional circumvention
14 of pollution control equipment required by agency rules, laws,
15 orders, or permit conditions;

16 5. A violation involving the knowing failure to
17 install, maintain, or operate any monitoring device or method
18 required to be maintained by agency rules, laws, orders, or
19 permit conditions;

20 6. A violation involving the knowing submittal of any
21 false statement, representation, or certification in any
22 application, record, report, plan, or other document filed or
23 required to be maintained by agency rules, laws, orders, or
24 permit conditions; or

25 7. A violation involving falsifying, tampering with,
26 or knowingly rendering inaccurate any monitoring device or
27 method required to be maintained by agency rules, laws,
28 orders, or permit conditions.

29 (e) If the applicant's relevant compliance history
30 demonstrates a pattern of noncompliance, the agency may, in
31 its discretion, issue a permit, not to exceed 1 year in

1 duration, if the applicant satisfies all other reasonable
2 assurance requirements. A pattern of noncompliance exists when
3 the applicant is responsible for two or more environmental
4 crimes, knowing civil violations, or a combination thereof,
5 occurring on two or more separate occasions and resulting in
6 two or more formal enforcement actions in which the violation
7 resulted in a significant harm to human health or the
8 environment within a 5-year period. Any civil violation
9 specifically identified in the Environmental Litigation Reform
10 Act, as set forth in s. 403.121, shall not be considered,
11 unless the violation was also a knowing violation.

12 1. The agency shall include a statement in the formal
13 enforcement action that the agency has determined that the
14 applicant has a pattern of noncompliance and that this
15 determination has formed the basis for issuing subsequent
16 permits for a period not to exceed 1 year. This probationary
17 and limited duration permit shall cease and a standard
18 duration permit issued upon a demonstration that the applicant
19 has implemented an approach, program, or remedial measures
20 that is effectively designed to prevent a recurrence of the
21 non-compliance. The agency shall also include a notification
22 in its notice of intended agency action following a
23 determination of a pattern of noncompliance that the permit
24 could be revoked or an application to renew the permit could
25 be denied if the pattern of noncompliance continues.

26 2. If, at the time of permit renewal following notice
27 of a determination of a pattern of noncompliance, the agency
28 determines that the applicant committed one or more relevant
29 violations enumerated in this paragraph resulting in a
30 continuing pattern of noncompliance, the agency shall deny the
31 permit application, and the applicant shall not be entitled to

1 apply for a permit for that regulated activity for a period of
2 6 months from the time a final order denying the permit has
3 been entered. This probationary and limited duration permit
4 shall cease and a standard duration permit issued upon a
5 demonstration that the applicant has implemented an approach,
6 program, or remedial measures that is effectively designed to
7 prevent a recurrence of the noncompliance.

8 (f) If the agency denies a permit application in
9 accordance with this subsection for a permit that includes
10 closure, post-closure, or corrective action requirements, the
11 agency may deny that portion of the permit authorizing
12 operation and may issue a permit that contains only the
13 closure, post-closure, or corrective action requirements and
14 conditions.

15 (6) REPORTING FORM.--The department shall establish a
16 form, by rule, to be used for the purpose of implementing this
17 section. Every permit application subject to this section that
18 is submitted to the agency shall be accompanied by this
19 completed form in order to be considered complete. During the
20 permit review process, the information on the form shall be
21 updated by the applicant to reflect any changes until such
22 time as the agency takes final action on the application. The
23 form shall include the following:

24 (a) A section requiring every applicant to report the
25 relevant criminal history of the applicant, including the
26 nature of the offense, the date of the offense, the court
27 having jurisdiction in the case, the date of conviction or
28 other disposition, and the disposition of the offense.

29 (b) A section requiring every applicant which is a
30 business entity and which has not held an agency permit during
31 4 of the 5 years preceding submittal of the permit application

1 to identify those persons having legal or actual authority to
2 control the owner, operator, or permittee. The form may
3 specify categories of persons having such authority and other
4 relevant information that must be reported. The form may not
5 require an applicant to report violations or offenses that are
6 not part of the relevant compliance history specified in
7 paragraph (4)(a).

8 (7) RULEMAKING.--In addition to the rulemaking
9 necessary to adopt the form identified in subsection (6), and
10 to implement the Tier 2 incentives of subsection (4), the
11 department is authorized, but not required, to adopt such
12 other rules as are necessary to implement this section,
13 including rules providing for appropriate public notice and
14 comment.

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

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

25 (b) Put the alleged violator on notice of the
26 consequences of the violations and the potential consequences
27 of continuing noncompliance.

28 (9) EXISTING AUTHORITY.--Nothing in this section shall
29 be construed to limit the agency's existing authority to
30 consider factors other than an applicant's compliance history,
31 such as 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.

4 (10) INAPPLICABLE TO GENERAL PERMITS.--This section
5 shall not apply to general permits issued in accordance with
6 s. 403.814. However, the agency may continue to use its
7 existing authority to consider the compliance history of those
8 wishing to use general permits.

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

11 403.087 Permits; general issuance; denial; revocation;
12 prohibition; penalty.--

13 (5) The department shall issue permits to construct,
14 operate, maintain, expand, or modify an installation which may
15 reasonably be expected to be a source of pollution only if the
16 applicant affirmatively provides the department with
17 reasonable assurance that the proposed activity and applicant
18 will comply with department rules, laws, orders, and permit
19 conditions ~~when it determines that the installation is~~
20 ~~provided or equipped with pollution control facilities that~~
21 ~~will abate or prevent pollution to the degree that will comply~~
22 ~~with the standards or rules adopted by the department, except~~
23 as provided in s. 403.088 or s. 403.0872. The compliance
24 history of the applicant shall be one factor that the
25 department shall consider in determining whether the applicant
26 has provided such reasonable assurance. However, separate
27 construction permits shall not be required for installations
28 permitted under s. 403.0885, except that the department may
29 require an owner or operator proposing to construct, expand,
30 or modify such an installation to submit for department
31 review, as part of application for permit or permit

1 modification, engineering plans, preliminary design reports,
2 or other information 90 days prior to commencing construction.
3 The department may also require the engineer of record or
4 another registered professional engineer, within 30 days after
5 construction is complete, to certify that the construction was
6 completed in accordance with the plans submitted to the
7 department, noting minor deviations which were necessary
8 because of site-specific conditions.

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

11 403.0872 Operation permits for major sources of air
12 pollution; annual operation license fee.--Provided that
13 program approval pursuant to 42 U.S.C. s. 7661a has been
14 received from the United States Environmental Protection
15 Agency, beginning January 2, 1995, each major source of air
16 pollution, including electrical power plants certified under
17 s. 403.511, must obtain from the department an operation
18 permit for a major source of air pollution under this section.
19 This operation permit is the only department operation permit
20 for a major source of air pollution required for such source;
21 provided, at the applicant's request, the department shall
22 issue a separate acid rain permit for a major source of air
23 pollution that is an affected source within the meaning of 42
24 U.S.C. s. 7651a(1). Operation permits for major sources of air
25 pollution, except general permits issued pursuant to s.
26 403.814, must be issued in accordance with the procedures
27 contained in this section and in accordance with chapter 120;
28 however, to the extent that chapter 120 is inconsistent with
29 the provisions of this section, the procedures contained in
30 this section prevail.

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1 (2) An application for an operation permit for a major
2 source of air pollution must be submitted in accordance with
3 rules of the department governing permit applications. The
4 department shall adopt rules defining the timing, content, and
5 distribution of an application for a permit under this
6 section. A permit application processing fee is not required.
7 The department may issue an operation permit for a major
8 source of air pollution only if the applicant affirmatively
9 provides the department with reasonable assurance that the
10 proposed activity and applicant are in compliance with and
11 will continue to comply with department rules, laws, orders,
12 and permit conditions ~~when it has reasonable assurance that~~
13 ~~the source applies pollution control technology, including~~
14 ~~fuel or raw material selection, necessary to enable it to~~
15 ~~comply with the standards or rules adopted by the department~~
16 ~~or the permit contains an approved compliance plan that~~
17 provides such reasonable assurance for that source. The
18 compliance history of the applicant shall be one factor that
19 the department shall consider in determining whether the
20 applicant has provided such reasonable assurance. If two or
21 more major air pollution sources that belong to the same Major
22 Group as described in the Standard Industrial Classification
23 Manual, 1987, are operated at a single site, the owner may
24 elect to receive a single operation permit covering all such
25 sources at the site.

26 (a) An application for a permit under this section is
27 timely and complete if it is submitted in accordance with
28 department rules governing the timing of applications and
29 substantially addresses the information specified in
30 completeness criteria determined by department rule in
31 accordance with applicable regulations of the United States

1 Environmental Protection Agency governing the contents of
2 applications for permits under 42 U.S.C. s. 7661b(d). Unless
3 the department requests additional information or otherwise
4 notifies the applicant of incompleteness within 60 days after
5 receipt of an application, the application is complete.

6 (b) Any permitted air pollution source that submits a
7 timely and complete application for a permit under this
8 section is entitled to operate in compliance with its existing
9 air permit pending the conclusion of proceedings associated
10 with its application. Notwithstanding the timing requirements
11 of paragraph (c) and subsection (3), the department may
12 process applications received during the first year of permit
13 processing under this section, in a manner consistent with 42
14 U.S.C. s. 7661b(c).

15 (c) The department may request additional information
16 necessary to process a permit application subsequent to a
17 determination of completeness in accordance with s.
18 403.0876(1).

19 Section 4. Paragraph (b) of subsection (2) of section
20 403.088, Florida Statutes, is amended to read:

21 403.088 Water pollution operation permits;
22 conditions.--

23 (2)

24 (b) The department may issue a permit only if the
25 applicant affirmatively provides the department with
26 reasonable assurance that the proposed activity and applicant
27 will comply with department rules, laws, orders, and permit
28 conditions. The compliance history of the applicant shall be
29 one factor that the department shall consider in determining
30 whether the applicant has provided such reasonable assurance.

31 If the department finds that the proposed discharge will

1 reduce the quality of the receiving waters below the
2 classification established for them, it shall deny the
3 application and refuse to issue a permit. If the department
4 finds that the proposed discharge will not reduce the quality
5 of the receiving waters below the classification established
6 for them, it may issue an operation permit if it finds that
7 such degradation is necessary or desirable under federal
8 standards and under circumstances which are clearly in the
9 public interest.

10 Section 5. Paragraph (b) of subsection (17) of section
11 403.703, Florida Statutes, is amended to read:

12 403.703 Definitions.--As used in this act, unless the
13 context clearly indicates otherwise, the term:

14 (17) "Construction and demolition debris" means
15 discarded materials generally considered to be not
16 water-soluble and nonhazardous in nature, including, but not
17 limited to, steel, glass, brick, concrete, asphalt roofing
18 material, pipe, gypsum wallboard, and lumber, from the
19 construction or destruction of a structure as part of a
20 construction or demolition project or from the renovation of a
21 structure, and including rocks, soils, tree remains, trees,
22 and other vegetative matter that normally results from land
23 clearing or land development operations for a construction
24 project, including such debris from construction of structures
25 at a site remote from the construction or demolition project
26 site. Mixing of construction and demolition debris with other
27 types of solid waste will cause it to be classified as other
28 than construction and demolition debris. The term also
29 includes:

30 (b) Except as provided in s. 403.707(11)(~~12~~)(j),
31 unpainted, nontreated wood scraps from facilities

1 manufacturing materials used for construction of structures or
2 their components and unpainted, nontreated wood pallets
3 provided the wood scraps and pallets are separated from other
4 solid waste where generated and the generator of such wood
5 scraps or pallets implements reasonable practices of the
6 generating industry to minimize the commingling of wood scraps
7 or pallets with other solid waste; and

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

11 403.707 Permits.--

12 ~~(8) The department may refuse to issue a permit to an~~
13 ~~applicant who by past conduct in this state has repeatedly~~
14 ~~violated pertinent statutes, rules, or orders or permit terms~~
15 ~~or conditions relating to any solid waste management facility~~
16 ~~and who is deemed to be irresponsible as defined by department~~
17 ~~rule. For the purposes of this subsection, an applicant~~
18 ~~includes the owner or operator of the facility, or if the~~
19 ~~owner or operator is a business entity, a parent of a~~
20 ~~subsidiary corporation, a partner, a corporate officer or~~
21 ~~director, or a stockholder holding more than 50 percent of the~~
22 ~~stock of the corporation.~~

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

25 373.413 Permits for construction or alteration.--

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

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

31 161.041 Permits required.--

1 (5) The provisions of s. 403.0874, the
2 Performance-based Permitting Program, shall apply to all
3 permits issued under this chapter.
4 Section 9. This act shall take effect January 1, 2004.
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