

Bill No. SB 1182

Barcode 932892

1 with applicable conditions and requirements of a permit and
2 the environmental laws of this state should be eligible for
3 longer permits, expedited permit reviews, short-form permit
4 renewals, and other incentives to reward and encourage such
5 applicants.

6 (c) The agency is encouraged to work with permittees
7 and permit applicants to encourage compliance and avoid
8 burdensome and expensive consequences of noncompliance.

9 (d) It is therefore declared to be the purpose of this
10 section to provide the department with clear and specific
11 authority to consider the compliance history of a permit
12 applicant who has applied for an incentive-based permit.

13 (3) DEFINITIONS.--As used in this section, the term:

14 (a) "Agency" means the Department of Environmental
15 Protection.

16 (b) "Applicant" means the proposed permittee or
17 transferee, owner, or operator of a regulated activity seeking
18 an agency permit.

19 (c) "Environmental laws" means any state or federal
20 law that regulates activities for the purpose of protecting
21 the environment, or for the purpose of protecting the public
22 health from pollution or contaminants, but does not include
23 any law that regulates activities for the purpose of zoning,
24 growth management, or land use. The term includes, but is not
25 limited to, chapter 161, part IV of chapter 373, and this
26 chapter.

27 (d) "Regulated activity" means any activity,
28 including, but not limited to, the construction or operation
29 of a facility, installation, system, or project, for which a
30 permit or certification is required under an agency law.

31 (e) "Site" means a single parcel, or multiple

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1 contiguous or adjacent parcels, of land on which the applicant
2 proposes to conduct, or has conducted, a regulated activity.

3 (4) COMPLIANCE INCENTIVES.--In order to obtain
4 compliance incentives, the applicant must affirmatively
5 request such incentives as part of the permit application.
6 Unless otherwise prohibited by state or federal law, agency
7 rule, or federal regulation, and if the applicant meets all
8 other applicable criteria for the issuance of a permit, any
9 applicant who meets the criteria set forth in this subsection
10 is entitled to the following incentives:

11 (a) Level I.--

12 1. An applicant shall be entitled to incentives
13 pursuant to this paragraph at a site if the applicant
14 conducted the regulated activity for at least 4 of the 5 years
15 preceding submittal of the permit application or, if the
16 activity is a new regulated activity, the applicant conducted
17 a similar regulated activity under an agency permit for at
18 least 4 of the 5 years at a different site in this state
19 preceding submittal of the permit application. However, an
20 applicant is not entitled to incentives under this paragraph
21 if the applicant has a relevant compliance history at the
22 subject site which includes any violation that resulted in
23 enforcement action and the violation resulted in the potential
24 for harm to human health or the environment. Alleged
25 violations may not be considered unless a consent order or
26 other settlement has been entered into or the violation has
27 been adjudicated.

28 2. Level 1 incentives include the renewal of a permit
29 for 5 years and, after notice and an opportunity for public
30 comment, the automatic renewal for one additional 5-year term
31 without agency action unless the agency determines, based on

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1 information submitted by the applicant or resulting from
 2 public comments or its own records, that the applicant has
 3 committed violations during the relevant review period which
 4 disqualify the applicant from receiving the automatic or
 5 expedited renewal.

6 a. The processing time following receipt of a
 7 completed application shall be 45 days for the issuance of
 8 agency action.

9 b. Renewal of a permit not involving substantial
 10 construction or expansion may be made upon a shortened
 11 application form specifying only the changes in the regulated
 12 activity or a certification by the applicant that no changes
 13 in the regulated activity are proposed if that is the case. An
 14 applicant for short-form renewal must complete and submit the
 15 prescribed compliance form with the application and remains
 16 subject to the compliance-history review of this section. All
 17 other procedural requirements for a renewal application remain
 18 unchanged. This sub-subparagraph supplements any expedited
 19 review process provided in agency rules.

20 c. Within 6 months after the effective date of this
 21 section, the department shall initiate rulemaking to implement
 22 Level 1 incentives. The rule must specify what incentives will
 23 be made available, how applicants may qualify for incentives,
 24 and how extended permits may be transferred. Until an
 25 implementing rule is adopted, Level 1 incentives are not
 26 available to permit applicants under this section.

27 (b) Level 2.--

28 1. An applicant is entitled to incentives pursuant to
 29 this paragraph if the applicant meets the requirements for
 30 Level 1 and the applicant takes any other actions not
 31 otherwise required by law which result in:

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1 a. Reductions in actual or permitted discharges or
2 emissions;

3 b. Reductions in the affects of regulated activities
4 on public lands or natural resources;

5 c. Waste reduction or reuse;

6 d. Implementation of a voluntary environmental
7 management system; or

8 e. Other similar actions as determined by department
9 rule.

10 2. Level 2 incentives may include all Level 1
11 incentives and shall also include:

12 a. Ten-year permits, if the applicant has conducted a
13 regulated activity at the site for at least 5 years.

14 b. Fewer routine inspections than other regulated
15 activities similarly situated.

16 c. Expedited review of requests for permit
17 modifications.

18 d. Agency recognition, program-specific incentives, or
19 certifications in lieu of renewal permits.

20 e. No more than two requests for additional
21 information.

22 3. Within 6 months after the effective date of this
23 section, the department shall initiate rulemaking to implement
24 Level 2 incentives. The rule must specify what incentives will
25 be made available, how applicants may qualify for incentives,
26 and how extended permits may be transferred. Until an
27 implementing rule is adopted, Level 2 incentives are not
28 available to permit applicants under this section.

29 Section 2. Subsection (5) is added to section 161.041,
30 Florida Statutes, to read:

31 161.041 Permits required.--

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1 (5) The provisions of the Incentive-based Permitting
2 Program of s. 403.0874 apply to all permits issued under this
3 chapter.

4 Section 3. Subsection (6) is added to section 373.413,
5 Florida Statutes, to read:

6 373.413 Permits for construction or alteration.--

7 (6) The provisions of the Incentive-based Permitting
8 Program of s. 403.0874 apply to permits issued under this
9 section.

10 Section 4. Subsection (7) of section 403.087, Florida
11 Statutes, is amended to read:

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

14 (7) A permit issued pursuant to this section shall not
15 become a vested right in the permittee. The department may
16 revoke any permit issued by it if it finds that the
17 permitholder knowingly:

18 (a) Has submitted false or inaccurate information in
19 the his or her application for the permit when true or
20 accurate information would have warranted denial of the
21 permit;

22 (b) Has violated law, department orders, rules, or
23 regulations, or ~~permit~~ conditions directly related to the
24 permit and has refused to correct or cure such violations when
25 requested to do so;

26 (c) Has failed to submit operational reports or other
27 information required by department rule or regulation directly
28 related to the permit and has refused to correct or cure such
29 violations when requested to do so; or

30 (d) Has refused lawful inspection under s. 403.091 at
31 the facility authorized by the permit.

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1 Section 5. This act shall take effect upon becoming a
2 law.

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5 ===== T I T L E A M E N D M E N T =====

6 And the title is amended as follows:

7 Delete everything before the enacting clause

8

9 and insert:

10

A bill to be entitled

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An act relating to incentive-based permitting;

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creating s. 403.0874, F.S.; providing a short

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title; providing legislative findings;

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providing purposes; providing definitions;

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providing for an Incentive-based Permitting

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Program; providing compliance incentives for

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certain environmental permitting activities;

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providing requirements and limitations;

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providing for administration by the Department

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of Environmental Protection; requiring the

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department to adopt certain rules; requiring

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agency notification of formal enforcement

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actions; providing notice requirements;

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amending ss. 161.041 and 373.413, F.S.;

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specifying application of the provisions of the

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Incentive-based Permitting Program; amending s.

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403.087, F.S.; revising criteria for permits

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issued by the department, to conform; providing

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an effective date.

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