

1 conditions and requirements and the environmental laws of this
2 state is a factor that should be considered by the department
3 when the department is considering whether to issue or reissue
4 a permit to an applicant, based upon compliance incentives
5 under this section.

6 (b) Permit applicants with a history of compliance
7 with applicable permit conditions and requirements and the
8 environmental laws of this state should be eligible for longer
9 permits, expedited permit reviews, short-form permit renewals,
10 and other incentives to reward and encourage such applicants.

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

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

16 (a) "Agency" means the Department of Environmental
17 Protection.

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

21 (c) "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 for the purpose of zoning,
26 growth management, or land use. The term includes, but is not
27 limited to, chapter 161, part IV of chapter 373, and chapter
28 403.

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

3 (e) "Site" means a single parcel, or multiple
4 contiguous or adjacent parcels, of land on which the applicant
5 proposes to conduct, or has conducted, a regulated activity.

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

14 (a) Level 1.--

15 1. An applicant shall be entitled to incentives
16 pursuant to this paragraph at a site if the applicant
17 conducted the regulated activity for at least 4 of the 5 years
18 preceding submittal of the permit application or, if the
19 activity is a new regulated activity, the applicant conducted
20 a similar regulated activity under an agency permit for at
21 least 4 of the 5 years at a different site in this state
22 preceding submittal of the permit application. However, an
23 applicant shall not be entitled to incentives under this
24 paragraph if the applicant has a relevant compliance history
25 at the subject site that includes any knowing violation that
26 resulted in formal enforcement action and the violation
27 resulted in significant harm to human health or the
28 environment. The term "knowing" means awareness of the nature
29 of a person's acts, not awareness that such acts violate the
30 law. The term does not include conduct that is the result of
31 an act of God, mechanical failure, events beyond the control

1 of the applicant, an accident, or a mistake of fact. The term
2 "act of God," which means only an unforeseeable act
3 exclusively occasioned by the violence of nature without the
4 interference of any human agency, shall not be deemed to cause
5 any failure to comply with a permit condition or requirement.

6 2. Level 1 incentives shall include:

7 a. Automatic renewal of permit.--A renewal of a permit
8 shall be issued for a period of 5 years and shall, after
9 notice and an opportunity for public comment, be automatically
10 renewed for one additional 5-year term without agency action
11 unless the agency determines, based on information submitted
12 by the applicant or resulting from the public comments or its
13 own records, that the applicant has committed violations
14 during the relevant review period that disqualify the
15 applicant from receiving the automatic or expedited renewal.

16 b. Expedited permit review.--The processing time
17 following receipt of a completed application shall be 45 days
18 for the issuance of the agency action.

19 c. Short-form renewals.--Renewals of permits not
20 involving substantial construction or expansion may be made
21 upon a shortened application form specifying only the changes
22 in the regulated activity or a certification by the applicant
23 that no changes in the regulated activity are proposed if that
24 is the case. Applicants for short-form renewals shall complete
25 and submit the prescribed compliance form with the application
26 and shall remain subject to the compliance history review of
27 this section. All other procedural requirements for renewal
28 applications remain unchanged. This provision shall supplement
29 any expedited review processes found in agency rules.

30 d. Rulemaking.--Within 6 months after the effective
31 date of this section, the department shall initiate rulemaking

1 to implement Level 1 incentives. The rule shall specify what
2 incentives will be made available, how applicants may qualify
3 for incentives, and how extended permits may be transferred.
4 Until an implementing rule is adopted, Level 1 incentives
5 shall not be available to permit applicants under this
6 section.

7 (b) Level 2.--

8 1. An applicant shall be entitled to incentives
9 pursuant to this paragraph if the applicant meets the
10 requirements for Level 1 and the applicant takes any other
11 actions not otherwise required by law that result in:

12 a. Reductions in actual or permitted discharges or
13 emissions;

14 b. Reductions in the impacts of regulated activities
15 on public lands or natural resources;

16 c. Waste reduction or reuse;

17 d. Implementation of a voluntary environmental
18 management system; or

19 e. Other similar actions as determined by department
20 rule.

21 2. Level 2 incentives may include all Level 1
22 incentives and shall also include:

23 a. Ten-year permits, provided the applicant has
24 conducted a regulated activity at the site for at least 5
25 years.

26 b. Fewer routine inspections than other regulated
27 activities similarly situated.

28 c. Expedited review of requests for permit
29 modifications.

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

1 e. No more than two requests for additional
2 information.

3 (c) Rulemaking.--Within 6 months after the effective
4 date of this section, the department shall initiate rulemaking
5 to implement Level 2 incentives. The rule shall specify what
6 incentives will be made available, how applicants may qualify
7 for incentives, and how extended permits may be transferred.

8 Until an implementing rule is adopted, Level 2 incentives
9 shall not be available to permit applicants under this
10 section.

11 (5) NOTIFICATION.--The agency is encouraged to work
12 with permittees and permit applicants to encourage compliance
13 and avoid burdensome and expensive consequences of
14 noncompliance. In each case in which the agency initiates a
15 formal enforcement action and prior to considering incentives
16 outlined in this section, the agency shall clearly and
17 specifically:

18 (a) Inform the alleged permittee if the provisions of
19 this section will allow for considering incentives.

20 (b) Put the alleged permittee on notice of the
21 consequences of violations and the potential consequences of
22 continuing noncompliance in relation to Level 1 or Level 2
23 incentives.

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

26 161.041 Permits required.--

27 (5) The Incentive-based Permitting Program provisions
28 of s. 403.0874 shall apply to all permits issued under this
29 chapter.

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

1 373.413 Permits for construction or alteration.--

2 (6) The Incentive-based Permitting Program provisions
3 of s. 403.0874 shall apply to permits issued under this
4 section.

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

7 403.087 Permits; general issuance; denial; revocation;
8 prohibition; penalty.--

9 (7) A permit issued pursuant to this section shall not
10 become a vested right in the permittee. The department may
11 revoke any permit issued by it if it finds that the
12 permit holder knowingly:

13 (a) Has submitted false or inaccurate information in
14 the ~~his or her~~ application for such permit;

15 (b) Has violated law, department orders, rules, or
16 regulations, or ~~permit~~ conditions directly related to such
17 permit and has refused to correct or cure such violations when
18 requested to do so;

19 (c) Has failed to submit operational reports or other
20 information required by department rule or regulation directly
21 related to such permit and has refused to correct or cure such
22 violations when requested to do so; or

23 (d) Has refused lawful inspection under s. 403.091 at
24 the facility authorized by such permit.

25 Section 5. This act shall take effect upon becoming a
26 law.

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