

CHAMBER ACTION

1 The State Resources Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the Florida Incentive-based Permitting  
7 Act; creating s. 403.0874, F.S.; providing a popular name;  
8 providing legislative findings; providing purposes;  
9 providing definitions; providing for an Incentive-based  
10 Permitting Program; providing compliance incentives for  
11 certain environmental permitting activities; providing  
12 requirements and limitations; providing for administration  
13 by the Department of Environmental Protection; requiring  
14 the department to adopt certain rules; amending ss.  
15 161.041, 373.219, and 373.413, F.S.; specifying  
16 application of Incentive-based Permitting Program  
17 provisions; amending s. 403.087, F.S.; revising criteria  
18 for department permit issuance to conform; providing an  
19 effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

23 Section 1. Section 403.0874, Florida Statutes, is created  
24 to read:

25 403.0874 Incentive-based Permitting Program.--

26 (1) POPULAR NAME.--This section may be cited as the  
27 "Florida Incentive-based Permitting Act."

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

29 (a) The Legislature finds and declares that a permit  
30 applicant's history of compliance with applicable permit  
31 conditions and requirements and the environmental laws of this  
32 state is a factor that should be considered by the agency when  
33 the agency is considering whether to issue or reissue a permit  
34 to an applicant, based upon compliance incentives under this  
35 section.

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

41 (c) The agency is encouraged to work with permittees and  
42 permit applicants to encourage compliance and avoid burdensome  
43 and expensive consequences of noncompliance.

44 (d) It is therefore declared to be the purpose of this  
45 section to provide the agency with clear and specific authority  
46 to consider the compliance history of a permit applicant who has  
47 applied for an incentive-based permit.

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

49 (a) "Agency" means the Department of Environmental  
50 Protection.

51           (b) "Applicant" means the proposed permittee or  
 52 transferee, owner, or operator of a regulated activity seeking  
 53 an agency permit.

54           (c) "Environmental laws" means any state or federal law  
 55 that regulates activities for the purpose of protecting the  
 56 environment, or for the purpose of protecting the public health  
 57 from pollution or contaminants, but does not include any law  
 58 that regulates activities for the purpose of zoning, growth  
 59 management, or land use. The term includes, but is not limited  
 60 to, chapter 161, parts II and IV of chapter 373, and chapter  
 61 403.

62           (d) "Regulated activity" means any activity, including,  
 63 but not limited to, the construction or operation of a facility,  
 64 installation, system, or project, for which a permit or  
 65 certification is required by law.

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

69           (4) COMPLIANCE INCENTIVES.--In order to obtain compliance  
 70 incentives, the applicant must affirmatively request such  
 71 incentives as part of the permit application. Unless otherwise  
 72 prohibited by state or federal law, agency rule, or federal  
 73 regulation, and provided the applicant meets all other  
 74 applicable criteria for the issuance of a permit, any applicant  
 75 who meets the criteria set forth in this subsection is entitled  
 76 to the following incentives:

77           (a) Level 1.--

78        1. An applicant shall be entitled to incentives pursuant  
 79 to this paragraph at a site if the applicant conducted the  
 80 regulated activity for at least 4 of the 5 years preceding  
 81 submittal of the permit application or, if the activity is a new  
 82 regulated activity, the applicant conducted a similar regulated  
 83 activity under an agency permit for at least 4 of the 5 years at  
 84 a different site in this state preceding submittal of the permit  
 85 application. However, an applicant shall not be entitled to  
 86 incentives under this paragraph if the applicant has a relevant  
 87 compliance history at the subject site that includes any  
 88 violation that resulted in enforcement action and the violation  
 89 resulted in the potential for harm to human health or the  
 90 environment. Alleged violations shall not be considered unless a  
 91 consent order or other settlement has been entered into or the  
 92 violation has been adjudicated.

93        2. Level 1 incentives shall include:

94        a. Automatic renewal of permit.--A renewal of a permit  
 95 shall be issued for a period of 5 years and shall, after notice  
 96 and an opportunity for public comment, be automatically renewed  
 97 for one additional 5-year term without agency action unless the  
 98 agency determines, based on information submitted by the  
 99 applicant or resulting from the public comments or its own  
 100 records, that the applicant has committed violations during the  
 101 relevant review period that disqualify the applicant from  
 102 receiving the automatic or expedited renewal.

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

106 c. Short-form renewals.--Renewals of permits not involving  
107 substantial construction or expansion may be made upon a  
108 shortened application form specifying only the changes in the  
109 regulated activity or a certification by the applicant that no  
110 changes in the regulated activity are proposed if that is the  
111 case. Applicants for short-form renewals shall complete and  
112 submit the prescribed compliance form with the application and  
113 shall remain subject to the compliance history review of this  
114 section. All other procedural requirements for renewal  
115 applications remain unchanged. This provision shall supplement  
116 any expedited review processes found in agency rules.

117 d. Rulemaking.--Within 6 months after the effective date  
118 of this section, the agency shall initiate rulemaking to  
119 implement Level 1 incentives. The rule shall specify what  
120 incentives will be made available, how applicants may qualify  
121 for incentives, and how extended permits may be transferred.  
122 Until an implementing rule is adopted, Level 1 incentives shall  
123 not be available to permit applicants under this section.

124 (b) Level 2.--

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

129 a. Reductions in actual or permitted discharges or  
130 emissions;

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

133 c. Waste reduction or reuse;

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134 d. Implementation of a voluntary environmental management  
135 system; or

136 e. Other similar actions as determined by agency rule.

137 2. Level 2 incentives may include all Level 1 incentives  
138 and shall also include:

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

141 b. Fewer routine inspections than other regulated  
142 activities similarly situated.

143 c. Expedited review of requests for permit modifications.

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

146 e. No more than two requests for additional information.

147 (c) Rulemaking.--Within 6 months after the effective date  
148 of this section, the agency shall initiate rulemaking to  
149 implement Level 2 incentives. The rule shall specify what  
150 incentives will be made available, how applicants may qualify  
151 for incentives, and how extended permits may be transferred.  
152 Until an implementing rule is adopted, Level 2 incentives shall  
153 not be available to permit applicants under this section.

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

156 161.041 Permits required.--

157 (5) The Incentive-based Permitting Program provisions of  
158 s. 403.0874 shall apply to all permits issued under this  
159 chapter.

160 Section 3. Subsection (3) is added to section 373.219,  
161 Florida Statutes, to read:

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162 373.219 Permits required.--

163 (3) The Incentive-based Permitting Program provisions of  
164 s. 403.0874 shall apply to all permits issued under this part.

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

167 373.413 Permits for construction or alteration.--

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

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

172 403.087 Permits; general issuance; denial; revocation;  
173 prohibition; penalty.--

174 (7) A permit issued pursuant to this section shall not  
175 become a vested right in the permittee. The department may  
176 revoke any permit issued by it if it finds that the  
177 permitholder:

178 (a) Has submitted material false or inaccurate information  
179 in the ~~his or her~~ application for such permit when true or  
180 accurate information would have warranted denial of the permit  
181 initially;

182 (b) Has violated law, department orders, rules, or  
183 regulations, or ~~permit~~ conditions directly related to such  
184 permit;

185 (c) Has failed to submit operational reports or other  
186 information required by department rule or regulation directly  
187 related to such permit; or

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

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190 | Section 6. This act shall take effect upon becoming a law. |