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A bill to be entitled  
 An act relating to the Florida Incentive-based Permitting  
 Act; creating s. 403.0874, F.S.; providing a short title;  
 providing legislative findings; providing purposes;  
 providing definitions; providing for an Incentive-based  
 Permitting Program; providing compliance incentives for  
 certain environmental permitting activities; providing  
 requirements and limitations; providing for administration  
 by the Department of Environmental Protection; requiring  
 the department to adopt certain rules; amending ss.  
 161.041, 373.219, and 373.413, F.S.; specifying  
 application of Incentive-based Permitting Program  
 provisions; amending s. 403.087, F.S.; revising criteria  
 for department permit issuance to conform; providing an  
 effective date.

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

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

403.0874 Incentive-based Permitting Program.--

(1) SHORT TITLE.--This section may be cited as the  
 "Florida Incentive-based Permitting Act."

(2) LEGISLATIVE FINDINGS; PUBLIC PURPOSE.--

(a) The Legislature finds and declares that a permit  
 applicant's history of compliance with applicable permit  
 conditions and requirements and the environmental laws of this  
 state is a factor that should be considered by the agency when

29 the agency is considering whether to issue or reissue a permit  
 30 to an applicant, based upon compliance incentives under this  
 31 section.

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

37 (c) The agency is encouraged to work with permittees and  
 38 permit applicants to encourage compliance and avoid burdensome  
 39 and expensive consequences of noncompliance.

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

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

45 (a) "Agency" means the Department of Environmental  
 46 Protection.

47 (b) "Applicant" means the proposed permittee or  
 48 transferee, owner, or operator of a regulated activity seeking  
 49 an agency permit.

50 (c) "Environmental laws" means any state or federal law  
 51 that regulates activities for the purpose of protecting the  
 52 environment, or for the purpose of protecting the public health  
 53 from pollution or contaminants, but does not include any law  
 54 that regulates activities for the purpose of zoning, growth  
 55 management, or land use. The term includes, but is not limited

56 to, chapter 161, parts II and IV of chapter 373, and chapter  
 57 403.

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

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

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

73 (a) Level 1.--

74 1. An applicant shall be entitled to incentives pursuant  
 75 to this paragraph at a site if the applicant conducted the  
 76 regulated activity for at least 4 of the 5 years preceding  
 77 submittal of the permit application or, if the activity is a new  
 78 regulated activity, the applicant conducted a similar regulated  
 79 activity under an agency permit for at least 4 of the 5 years at  
 80 a different site in this state preceding submittal of the permit  
 81 application. However, an applicant shall not be entitled to  
 82 incentives under this paragraph if the applicant has a relevant  
 83 compliance history at the subject site that includes any

84 violation that resulted in enforcement action and the violation  
85 resulted in the potential for harm to human health or the  
86 environment. Alleged violations shall not be considered unless a  
87 consent order or other settlement has been entered into or the  
88 violation has been adjudicated.

89 2. Level 1 incentives shall include:

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

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

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

112 any expedited review processes found in agency rules.

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

120 (b) Level 2.--

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

125 a. Reductions in actual or permitted discharges or  
126 emissions;

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

129 c. Waste reduction or reuse;

130 d. Implementation of a voluntary environmental management  
131 system; or

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

133 2. Level 2 incentives may include all Level 1 incentives  
134 and shall also include:

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

137 b. Fewer routine inspections than other regulated  
138 activities similarly situated.

139 c. Expedited review of requests for permit modifications.

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

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

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

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

152 161.041 Permits required.--

153 (5) The Incentive-based Permitting Program provisions of  
 154 s. 403.0874 shall apply to all permits issued under this  
 155 chapter.

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

158 373.219 Permits required.--

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

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

163 373.413 Permits for construction or alteration.--

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

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

168 403.087 Permits; general issuance; denial; revocation;  
 169 prohibition; penalty.--

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

174 (a) Has submitted material false or inaccurate information  
 175 in the his or her application for such permit when true or  
 176 accurate information would have warranted denial of the permit  
 177 initially;

178 (b) Has violated law, department orders, rules, or  
 179 regulations, or ~~permit~~ conditions directly related to such  
 180 permit;

181 (c) Has failed to submit operational reports or other  
 182 information required by department rule or regulation directly  
 183 related to such permit; or

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

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