

1 this state is a factor that should be considered by the agency
2 when the agency is considering whether to issue a new permit
3 or reissue a permit to an applicant based upon compliance
4 incentives under this section.

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

11 (c) The agency is encouraged to work with permittees
12 and permit applicants to encourage compliance and avoid
13 burdensome and expensive consequences of noncompliance.

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

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

19 (a) "Agency" means the Department of Environmental
20 Protection.

21 (b) "Applicant" means the proposed permittee or
22 transferee, owner, or operator of a regulated activity seeking
23 an agency permit. However, the term does not include a
24 subsidiary of or an affiliate of an entity that has a history
25 of noncompliance for any regulated activity.

26 (c) "Environmental laws" means any state or federal
27 law that regulates activities for the purpose of protecting
28 the environment, or for the purpose of protecting the public
29 health from pollution or contaminants, but does not include
30 any law that regulates activities for the purpose of zoning,
31 growth management, or land use. The term includes, but is not

1 limited to, chapter 161, part IV of chapter 373, and chapter
2 403.

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

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

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

18 (a) Level 1 incentives criteria; application for a new
19 permit; rulemaking.--

20 1. An applicant is entitled to incentives if the
21 activity is a new regulated activity and the applicant
22 conducted a similar regulated activity under an agency permit
23 at a different site in this state for at least 4 of the 5
24 years preceding submittal of the permit application. However,
25 an applicant is not entitled to incentives under this
26 paragraph if the applicant has a relevant compliance history
27 for a similar regulated activity which includes any violation
28 that resulted in enforcement action. If the applicant has
29 alleged violations at a different site which may result in
30 enforcement action and the alleged violations may result in
31 the potential for harm to human health or the environment, the

1 applicant is not entitled to incentives under this paragraph.
2 However, if pending alleged violations that eliminate an
3 applicant from receiving incentives under this paragraph are
4 disposed of and the applicant is found not to have committed
5 the alleged violation, incentives shall be available to the
6 applicant. Alleged minor violations may not be considered
7 under this paragraph.

8 2. Level 1 incentives include:

9 a. Expedited permit review.--The processing time
10 following receipt of a completed application shall be 75 days
11 for the issuance of the agency action.

12 b. Extended permits.--Permits may be extended for 7
13 years if the applicant has conducted a similar regulated
14 activity at a site for 4 of the last 5 years.

15 3. Within 6 months after the effective date of this
16 section, the agency shall initiate rulemaking to implement
17 Level 1 incentives. The rule must specify what incentives will
18 be made available, how applicants may qualify for incentives,
19 and how extended permits may be transferred. Until an
20 implementing rule is adopted, Level 1 incentives are not
21 available to permit applicants under this section.

22 (b) Level 2 incentives criteria; application for
23 permit renewal; rulemaking.--

24 1. An applicant for a renewal of a permit is entitled
25 to incentives pursuant to this paragraph if the applicant
26 conducted a regulated activity at the site in this state for
27 at least 4 of the last 5 years preceding submittal of an
28 application for renewal. An applicant is not entitled to
29 incentives under this paragraph if the applicant has a
30 relevant compliance history at the site which includes any
31 violation that resulted in enforcement action. If the

1 applicant has alleged violations at the site which may result
2 in enforcement action and the alleged violations may result in
3 the potential for harm to human health or the environment, the
4 applicant is not entitled to incentives under this paragraph.
5 However, if pending alleged violations that eliminate an
6 applicant from receiving incentives under this paragraph are
7 disposed of and the applicant is found not to have committed
8 the alleged violation, incentives shall be available to the
9 applicant. Alleged minor violations may not be considered
10 under this paragraph. In addition, an applicant for the
11 renewal of a permit is entitled to incentives pursuant to this
12 paragraph if the applicant takes any other actions at the site
13 which are not otherwise required by law and which result in:
14 a. Beneficial reductions in actual or permitted
15 discharges or emissions;
16 b. Beneficial reductions in the effects of regulated
17 activities on public lands or natural resources;
18 c. Beneficial waste reduction or the reuse of waste
19 generated at the site;
20 d. Implementation of a voluntary environmental
21 management system; or
22 e. Other similar actions as determined by agency rule.
23 2. Level 2 incentives include:
24 a. Ten-year permits if the applicant has conducted a
25 regulated activity at the site for at least 5 years.
26 b. Fewer routine inspections than required for other
27 regulated activities similarly situated.
28 c. Short-form renewals of permits not involving
29 substantial modifications which may be made upon a shortened
30 application form specifying only the changes in the regulated
31 activity or a certification by the applicant that no changes

1 in the regulated activity are proposed if that is the case.
2 Applicants for short-form renewals must complete and submit
3 the prescribed compliance form with the application and remain
4 subject to the compliance-history review of this section. All
5 other requirements for renewal applications apply. This
6 sub-subparagraph supplements any expedited-review process
7 provided by agency rules.

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

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

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

14 3. Within 6 months after the effective date of this
15 section, the agency shall initiate rulemaking to implement
16 Level 2 incentives. The rule must specify what incentives will
17 be made available, how applicants may qualify for incentives,
18 and how extended permits may be transferred. Until an
19 implementing rule is adopted, Level 2 incentives are not
20 available to permit applicants under this section.

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

23 161.041 Permits required.--

24 (5) The Incentive-based Permitting Program in s.
25 403.0874 applies to all permits issued under this chapter.

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

28 373.413 Permits for construction or alteration.--

29 (6) The Incentive-based Permitting Program in s.
30 403.0874 applies to permits issued under this section.

31

