By the Committee on Community Affairs; and Senator Bennett

578-01887-12 2012716c1

A bill to be entitled

An act relating to environmental regulation; amending s. 125.022, F.S.; prohibiting a county from requiring an applicant to obtain a permit or approval from any state or federal agency as a condition of processing a development permit under certain conditions; authorizing a county to attach certain disclaimers to the issuance of a development permit; amending s. 166.033, F.S.; prohibiting a municipality from requiring an applicant to obtain a permit or approval from any state or federal agency as a condition of processing a development permit under certain conditions; authorizing a municipality to attach certain disclaimers to the issuance of a development permit; amending s. 218.075, F.S.; providing for the reduction or waiver of permit processing fees relating to projects that serve a public purpose for certain entities created by special act, local ordinance, or interlocal agreement; amending s. 258.397, F.S.; providing an exemption from a showing of extreme hardship relating to the sale, transfer, or lease of sovereignty submerged lands in the Biscayne Bay Aquatic Preserve for certain municipal applicants; providing for additional dredging and filling activities in the preserve; amending s. 339.63, F.S.; providing exceptions to criteria required for system facilities designated under the Strategic Intermodal System; amending s. 373.026, F.S.; requiring the Department of Environmental Protection to expand its

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use of Internet-based self-certification services for exemptions and permits issued by the department and water management districts; amending s. 373.306, F.S.; exempting underground injection control wells from certain rules; amending s. 373.4141, F.S.; reducing the time within which a permit must be approved, denied, or subject to notice of proposed agency action; prohibiting a state agency or an agency of the state from requiring additional permits or approval from a local, state, or federal agency without explicit authority; amending s. 373.4144, F.S.; providing legislative intent with respect to the coordination of regulatory duties among specified state and federal agencies; encouraging expanded use of the state programmatic general permit or regional general permits; providing for a voluntary state programmatic general permit for certain dredge and fill activities; amending s. 373.441, F.S.; requiring that certain counties or municipalities apply by a specified date to the department or water management district for authority to require certain permits; providing that following such delegation, the department or district may not regulate activities that are subject to the delegation; clarifying the authority of local governments to adopt pollution control programs under certain conditions; providing applicability with respect to solid mineral mining; amending s. 376.3071, F.S.; exempting program deductibles, copayments, and certain assessment report

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requirements from expenditures under the low-scored site initiative; amending s. 376.30715, F.S.; providing that the transfer of a contaminated site from an owner to a child of the owner or corporate entity does not disqualify the site from the innocent victim petroleum storage system restoration financial assistance program; authorizing certain applicants to reapply for financial assistance; amending s. 380.0657, F.S.; authorizing expedited permitting for certain inland multimodal facilities; amending s. 403.061, F.S.; requiring the department to establish reasonable zones of mixing for discharges into specified waters; providing that certain groundwater standards that are exceeded do not create liability for site cleanup; providing that certain soil cleanup target levels that are exceeded are not a basis for enforcement or cleanup; amending s. 403.087, F.S.; revising conditions under which the department is authorized to revoke permits for sources of air or water pollution; amending s. 403.1838, F.S.; revising the definition of the term "financially disadvantaged small community" for purposes of the Small Community Sewer Construction Assistance Act; amending s. 403.7045, F.S.; providing conditions under which sludge from an industrial waste treatment works is not solid waste; amending s. 403.707, F.S.; exempting the disposal of solid waste monitored by certain groundwater monitoring plans from specific authorization; extending the duration of all permits

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issued to solid waste management facilities that meet specified criteria; providing an exception; providing for prorated permit fees; providing applicability; specifying a permit term for a solid waste management facility that does not have a leachate control system meeting the requirements of the department under certain conditions; authorizing the department to adopt rules; providing that the department is not required to submit the rules to the Environmental Regulation Commission for approval; requiring that permit fee caps for solid waste management facilities be prorated to reflect the extended permit term; amending s. 403.709, F.S.; creating a solid waste landfill closure account within the Solid Waste Management Trust Fund to fund the closing and long-term care of solid waste facilities under certain circumstances; requiring that the department deposit funds that are reimbursed into the solid waste landfill closure account; amending s. 403.7125, F.S.; requiring that the department require by rule that the owner or operator of a solid waste management facility receiving waste on or after a specified date provide financial assurance for the cost of completing corrective action for violations of water quality standards; amending s. 403.814, F.S.; providing for issuance of general permits for the construction, alteration, and maintenance of certain surface water management systems under certain circumstances; specifying conditions for the construction of the

system without any action by the department or water management district; amending s. 403.853, F.S.; providing for the department, or a local county health department designated by the department, to perform sanitary surveys for certain transient noncommunity water systems; amending s. 403.973, F.S.; authorizing expedited permitting for certain commercial or industrial development projects that individually or collectively will create a minimum number of jobs; providing for a project-specific memorandum of agreement to apply to a project subject to expedited permitting; clarifying the authority of the department to enter final orders for the issuance of certain licenses; revising criteria for the review of certain sites; amending s. 526.203, F.S.; revising the definition of the term "blended gasoline"; defining the term "renewable fuel"; authorizing the sale of unblended fuels for certain uses; providing an effective date.

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

Section 1. Section 125.022, Florida Statutes, is amended to read:

125.022 Development permits.—<u>If</u> ~~When~~ a county denies an application for a development permit, the county shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit.

As used in this section, the term "development permit" has the same meaning as in s. 163.3164. A county may not require as a condition of processing a development permit that an applicant obtain a permit or approval from a state or federal agency unless that agency has issued a notice of intent to deny the federal or state permit before the county action on the local development permit. The issuance of a development permit by a county does not create a right on the part of the applicant to obtain a permit from a state or federal agency and does not create a liability on the part of the county for issuance of the permit if the applicant fails to fulfill its legal obligations to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency. A county may attach such a disclaimer to the issuance of a development permit and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a county from providing information to an applicant regarding what other state or federal permits may apply.

Section 2. Section 166.033, Florida Statutes, is amended to read:

166.033 Development permits.—If ~~When~~ a municipality denies an application for a development permit, the municipality shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. As used in this section, the term "development permit" has the same meaning as in s. 163.3164. A municipality may not require as a condition of processing a development permit that an

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applicant obtain a permit or approval from a state or federal agency unless that agency has issued a notice of intent to deny the federal or state permit before the municipal action on the local development permit. The issuance of a development permit by a municipality does not create a right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to fulfill its legal obligations to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency. A municipality may attach such a disclaimer to the issuance of a development permit and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a municipality from providing information to an applicant regarding what other state or federal permits may apply.

Section 3. Section 218.075, Florida Statutes, is amended to read:

218.075 Reduction or waiver of permit processing fees.—Notwithstanding any other provision of law, the Department of Environmental Protection and the water management districts shall reduce or waive permit processing fees for a county that has ~~counties with~~ a population of 50,000 or fewer ~~less~~ on April 1, 1994, until such county exceeds ~~counties exceed~~ a population of 75,000; for a municipality that has ~~and municipalities with~~ a population of 25,000 or fewer; for an entity created by special act, local ordinance, or interlocal agreement of such county or municipality; ~~less,~~ or for a ~~any~~ county or municipality not included within a metropolitan statistical area. Fee reductions

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or waivers shall be approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship due to one of the following factors:

(1) Per capita taxable value is less than the statewide average for the current fiscal year;

(2) Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;

(3) Any condition specified in s. 218.503(1) which results in the county or municipality being in a state of financial emergency;

(4) Ad valorem operating millage rate for the current fiscal year is greater than 8 mills; or

(5) A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The permit applicant must be the governing body of a county or municipality, ~~or~~ a third party under contract with a county or municipality, or an entity created by special act, local ordinance, or interlocal agreement, and the project for which the fee reduction or waiver is sought must serve a public purpose. If a permit processing fee is reduced, the total fee may ~~shall~~ not exceed $100.

Section 4. Paragraphs (a) and (b) of subsection (3) of section 258.397, Florida Statutes, are amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the Internal Improvement Trust Fund is authorized and directed to maintain the aquatic preserve hereby created pursuant and subject to the following provisions:

(a) A ~~No further~~ sale, transfer, or lease of sovereignty submerged lands in the preserve may not ~~shall~~ be approved or consummated by the board of trustees, except upon a showing of extreme hardship on the part of the applicant and a determination by the board of trustees that such sale, transfer, or lease is in the public interest. A municipal applicant proposing a project under paragraph (b) is exempt from showing extreme hardship.

(b) A ~~No further~~ dredging or filling of submerged lands of the preserve may not ~~shall~~ be approved or tolerated by the board of trustees except:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects or for such minimum dredging and spoiling as may be constituted as a public necessity or for preservation of the bay according to the expressed intent of this section.

2. Such other alteration of physical conditions, including the placement of riprap, as may be necessary to enhance the quality and utility of the preserve.

3. Such minimum dredging and filling as may be authorized for the creation and maintenance of marinas, piers, and docks and their attendant navigation channels and access roads. Such projects may ~~only~~ be authorized only upon a specific finding by the board of trustees that there is assurance that the project

will be constructed and operated in a manner that will not adversely affect the water quality and utility of the preserve. This subparagraph does ~~shall~~ not authorize the connection of upland canals to the waters of the preserve.

4. Such dredging as ~~is~~ necessary for the purpose of eliminating conditions hazardous to the public health or for the purpose of eliminating stagnant waters, islands, and spoil banks, the dredging of which would enhance the aesthetic and environmental quality and utility of the preserve and be clearly in the public interest as determined by the board of trustees.

5. Such dredging and filling as necessary for the creation of public waterfront promenades.

Any dredging or filling under this subsection or improvements under subsection (5) may ~~shall~~ be approved only after public notice as provided by s. 253.115.

Section 5. Subsection (4) of section 339.63, Florida Statutes, is amended, and subsections (5) and (6) are added to that section, to read:

339.63 System facilities designated; additions and deletions.—

(4) After the initial designation of the Strategic Intermodal System under subsection (1), the department shall, in coordination with the metropolitan planning organizations, local governments, regional planning councils, transportation providers, and affected public agencies, add facilities to or delete facilities from the Strategic Intermodal System described in paragraph (2)(a) based upon criteria adopted by the department with the exceptions provided in subsections (5) and

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(6).

(5) ~~However,~~ An airport that is designated as a reliever airport to a Strategic Intermodal System airport which has at least 75,000 itinerant operations per year, has a runway length of at least 5,500 linear feet, is capable of handling aircraft weighing at least 60,000 pounds with a dual wheel configuration which is served by at least one precision instrument approach, and serves a cluster of aviation-dependent industries, shall be designated as part of the Strategic Intermodal System by the Secretary of Transportation upon the request of a reliever airport meeting this criteria.

(6) A planned facility that is projected to create at least 50 full-time jobs and is designated in the local comprehensive plan as an intermodal logistics center or inland logistics center, or the local equivalent, and meets the following criteria shall be designated as part of the Strategic Intermodal System by the Secretary of Transportation upon the request of a planned intermodal logistics center facility. The planned facility must:

(a) Serve the purpose of receiving or sending cargo for distribution and providing cargo storage, consolidation, and repackaging and transfer of goods, and may, if developed as proposed, include other intermodal terminals, related transportation facility, warehousing and distribution, and associated office space, light industrial, manufacturing, and assembly uses;

(b) Be proximate to one or more Strategic Intermodal System-designated highway facility for the purpose of facilitating regional freight traffic movements within the

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state;

(c) Be located within 30 miles to an existing Strategic Intermodal System- or Emerging Strategic Intermodal System-designated rail line;

(d) Be located within 100 miles of a Strategic Intermodal System-designated seaport, for the purpose of providing additional relief for expansion of cargo storage and seaport movement capacity, and have a collaborative agreement, letter of interest, or memorandum of understanding with the seaport; and

(e) Be consistent with market feasibility studies for location and size of a intermodal logistics center or an inland port facility as published by the Department of Transportation or other sources.

If a planned facility is designated as an intermodal logistics center or inland logistics center, or the local equivalent, a local government must adopt a waiver of transportation concurrency or a limited exemption that allows up to 150 percent increase in the adopted level of service capacity standard for the project's impact to roadway facilities on the Strategic Intermodal System.

Section 6. Subsection (10) is added to section 373.026, Florida Statutes, to read:

373.026 General powers and duties of the department.—The department, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, it is the policy of the state that, to the greatest extent possible, the department may enter into interagency or interlocal agreements with any other state agency, any water

management district, or any local government conducting programs related to or materially affecting the water resources of the state. All such agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the department shall, to the greatest extent possible:

(10) Expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the department and the water management districts, if the expansion is economically feasible. In addition to expanding the use of Internet-based, self-certification services for appropriate exemptions and general permits, the department and the water management districts shall identify and develop general permits for appropriate activities currently requiring individual review which could be expedited through the use of applicable professional certification.

Section 7. Section 373.306, Florida Statutes, is amended to read:

373.306 Scope.—A ~~No~~ person may not ~~shall~~ construct, repair, abandon, or cause to be constructed, repaired, or abandoned, any water well contrary to the provisions of this part and applicable rules ~~and regulations~~. This part does ~~shall~~ not apply to equipment used temporarily for dewatering purposes or to the process used in dewatering or to wells that have been authorized under the state's underground injection control program pursuant to department rules.

Section 8. Subsection (2) of section 373.4141, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

373.4141 Permits; processing.—

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(2) A permit shall be approved, ~~or~~ denied, or subject to a notice of proposed agency action within 60 ~~90~~ days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

(4) A state agency or an agency of the state may not require as a condition of approval for a permit or as an item to complete a pending permit application that an applicant obtain a permit or approval from any other local, state, or federal agency without explicit statutory authority to require such permit or approval.

Section 9. Section 373.4144, Florida Statutes, is amended to read:

373.4144 Federal environmental permitting.—

(1) It is the intent of the Legislature to facilitate the coordination of a more efficient process for implementing regulatory duties and functions between the Department of Environmental Protection, the water management districts, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Environmental Protection Agency, the Fish and Wildlife Conservation Commission, and other relevant federal and state agencies.

(2) The Department of Environmental Protection may obtain issuance by the United States Army Corps of Engineers, pursuant to state and federal law and as set forth in this section, of an expanded state programmatic general permit, or a series of regional general permits, for categories of activities in waters of the United States governed by the Clean Water Act and in

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navigable waters under the Rivers and Harbors Act of 1899 which are similar in nature, which will cause only minimal adverse environmental effects when performed separately, and which will have only minimal cumulative adverse effects on the environment.

(3) The Department of Environmental Protection may use a state general permit or a regional general permit to eliminate overlapping federal regulations and state rules that protect the same resource and to avoid duplication of permitting between the United States Army Corps of Engineers and the department for minor work located in waters of the United States, including navigable waters, and to eliminate, in appropriate cases, the need for a separate individual approval from the United States Army Corps of Engineers while ensuring the most stringent protection of wetland resources.

(4) The department may not seek issuance of or take any action pursuant to a permit unless the conditions of that permit are at least as protective of the environment and natural resources as existing state law under this part and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899.

(5) The department and the water management districts may implement a voluntary state programmatic general permit for all dredge and fill activities impacting 3 acres or less of wetlands or other surface waters, including navigable waters, subject to agreement with the United States Army Corps of Engineers, if the general permit is at least as protective of the environment and natural resources as existing state law under this part and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899.

~~(1) The department is directed to develop, on or before October 1, 2005, a mechanism or plan to consolidate, to the maximum extent practicable, the federal and state wetland permitting programs. It is the intent of the Legislature that all dredge and fill activities impacting 10 acres or less of wetlands or waters, including navigable waters, be processed by the state as part of the environmental resource permitting program implemented by the department and the water management districts. The resulting mechanism or plan shall analyze and propose the development of an expanded state programmatic general permit program in conjunction with the United States Army Corps of Engineers pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899. Alternatively, or in combination with an expanded state programmatic general permit, the mechanism or plan may propose the creation of a series of regional general permits issued by the United States Army Corps of Engineers pursuant to the referenced statutes. All of the regional general permits must be administered by the department or the water management districts or their designees.~~

~~(2) The department is directed to file with the Speaker of the House of Representatives and the President of the Senate a report proposing any required federal and state statutory changes that would be necessary to accomplish the directives listed in this section and to coordinate with the Florida Congressional Delegation on any necessary changes to federal law to implement the directives.~~

(6)~~(3) Nothing in~~ This section does not ~~shall be construed to~~ preclude the department from pursuing a series of regional

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general permits for construction activities in wetlands or surface waters or from pursuing complete assumption of federal permitting programs regulating the discharge of dredged or fill material pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899, so long as the assumption encompasses all dredge and fill activities in, on, or over jurisdictional wetlands or waters, including navigable waters, within the state.

Section 10. Present subsections (3), (4), and (5) of section 373.441, Florida Statutes, are renumbered as subsections (7), (8), and (9), respectively, and new subsections (3), (4), and (5) and subsection (6) are added to that section, to read:

373.441 Role of counties, municipalities, and local pollution control programs in permit processing; delegation.—

(3) A county or municipality that has a population of 400,000 or more as of July 1, 2012, and that implements a local pollution control program regulating all or a portion of the wetlands or surface waters throughout its geographic boundary must apply for delegation of state environmental resource permitting authority before January 1, 2014. If the county or municipality fails to receive delegation of all or a portion of state environmental resource permitting authority within 2 years after submitting its application for delegation or by January 1, 2016, at the latest, it may not require permits that in part or in full are substantially similar to the requirements needed to obtain an environmental resource permit. A county or municipality that has received delegation before January 1, 2014, does not need to reapply.

(4) The department may delegate state environmental resource permitting authority to local governments. The department must grant or deny an application for delegation of authority submitted by a county or municipality that meets the criteria in subsection (3) within 2 years after receipt of the application. If an application for delegation of authority is denied, any available legal challenge to the denial tolls the preemption deadline until resolution of the legal challenge. Upon delegation of authority to a qualified local government, the department and water management district may not regulate the activities delegated to the qualified local government within that jurisdiction.

(5) This section does not prohibit or limit a local government that meets the criteria in subsection (3) from regulating wetlands or surface waters on or after January 1, 2014, if the local government receives delegation of all or a portion of state environmental resource permitting authority within 2 years after submitting its application for the delegation.

(6) Notwithstanding subsections (3), (4), and (5), this section does not apply to environmental resource permitting or reclamation applications for solid mineral mining and does not prohibit the application of local government regulations to any new solid mineral mine or any proposed addition to, change to, or expansion of an existing solid mineral mine.

Section 11. Paragraph (b) of subsection (11) of section 376.3071, Florida Statutes, is amended to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—

(11)

(b) *Low-scored site initiative.*—Notwithstanding s. 376.30711, any site with a priority ranking score of 10 points or less may voluntarily participate in the low-scored site initiative, whether or not the site is eligible for state restoration funding.

1. To participate in the low-scored site initiative, the responsible party or property owner must affirmatively demonstrate that the following conditions are met:

a. Upon reassessment pursuant to department rule, the site retains a priority ranking score of 10 points or less.

b. No excessively contaminated soil, as defined by department rule, exists onsite as a result of a release of petroleum products.

c. A minimum of 6 months of groundwater monitoring indicates that the plume is shrinking or stable.

d. The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment.

e. The area of groundwater containing the petroleum products' chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated.

f. Soils onsite that are subject to human exposure found between land surface and 2 feet below land surface meet the soil cleanup target levels established by department rule or human exposure is limited by appropriate institutional or engineering controls.

2. Upon affirmative demonstration of the conditions under

subparagraph 1., the department shall issue a determination of "No Further Action." Such determination acknowledges that minimal contamination exists onsite and that such contamination is not a threat to human health or the environment. If no contamination is detected, the department may issue a site rehabilitation completion order.

3. Sites that are eligible for state restoration funding may receive payment of preapproved costs for the low-scored site initiative as follows:

a. A responsible party or property owner may submit an assessment plan designed to affirmatively demonstrate that the site meets the conditions under subparagraph 1. Notwithstanding the priority ranking score of the site, the department may preapprove the cost of the assessment pursuant to s. 376.30711, including 6 months of groundwater monitoring, not to exceed $30,000 for each site. The department may not pay the costs associated with the establishment of institutional or engineering controls.

b. The assessment work shall be completed no later than 6 months after the department issues its approval.

c. No more than $10 million for the low-scored site initiative <u>may</u> ~~shall~~ be encumbered from the Inland Protection Trust Fund in any fiscal year. Funds shall be made available on a first-come, first-served basis and shall be limited to 10 sites in each fiscal year for each responsible party or property owner.

<u>d. Program deductibles, copayments, and the limited contamination assessment report requirements under paragraph (13)(c) do not apply to expenditures under this paragraph.</u>

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Section 12. Section 376.30715, Florida Statutes, is amended to read:

376.30715 Innocent victim petroleum storage system restoration.—A contaminated site acquired by the current owner before ~~prior to~~ July 1, 1990, which has ceased operating as a petroleum storage or retail business before ~~prior to~~ January 1, 1985, is eligible for financial assistance pursuant to s. 376.305(6), notwithstanding s. 376.305(6)(a). For purposes of this section, the term "acquired" means the acquisition of title to the property; however, a subsequent transfer of the property to a spouse or a child of the owner, a surviving spouse or a child of the owner in trust or free of trust, ~~or~~ a revocable trust created for the benefit of the settlor, or a corporate entity created by the owner to hold title to the site does not disqualify the site from financial assistance pursuant to s. 376.305(6). Applicants previously denied coverage may reapply. Eligible sites shall be ranked in accordance with s. 376.3071(5).

Section 13. Subsection (1) of section 380.0657, Florida Statutes, is amended to read:

380.0657 Expedited permitting process for economic development projects.—

(1) The Department of Environmental Protection and, as appropriate, the water management districts created under chapter 373 shall adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106, or any inland multimodal facility

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receiving or sending cargo to or from state ports, with the exception of those projects requiring approval by the Board of Trustees of the Internal Improvement Trust Fund.

Section 14. Subsection (11) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(11) Establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and also standards for the abatement of excessive and unnecessary noise. The department may ~~is authorized to~~ establish reasonable zones of mixing for discharges into waters. For existing installations as defined by department rule, zones of discharge to groundwater are authorized to a facility's or owner's property boundary and extending to the base of a specifically designated aquifer or aquifers. Primary and secondary groundwater standards that are exceeded and that occur within a zone of discharge do not create a liability pursuant to this chapter or chapter 376 for site cleanup, and soil cleanup target levels that are exceeded are not a basis for enforcement or site cleanup.

(a) If ~~When~~ a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam electric generating plant discharge of pollutants that is existing or licensed under this chapter on July 1, 1984, may nevertheless be granted a mixing zone, provided that:

1. The standard would not be met in the water body in the

absence of the discharge;

2. The discharge is in compliance with all applicable technology-based effluent limitations;

3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

4. The discharge otherwise complies with the mixing zone provisions specified in department rules.

(b) A ~~No~~ mixing zone for point source discharges may not ~~shall~~ be permitted in Outstanding Florida Waters except for:

1. Sources that have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;

2. Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act;

3. Discharges of water necessary for water management purposes which have been approved by the governing board of a water management district and, if required by law, by the secretary; and

4. The discharge of demineralization concentrate which has been determined permittable under s. 403.0882 and which meets the specific provisions of s. 403.0882(4)(a) and (b), if the proposed discharge is clearly in the public interest.

(c) The department, by rule, shall establish water quality criteria for wetlands which criteria give appropriate recognition to the water quality of such wetlands in their natural state.

~~Nothing in~~ This act does not ~~shall be construed to~~ invalidate

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any existing department rule relating to mixing zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 15. Subsection (7) of section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

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

(a) ~~Has~~ Submitted false or inaccurate information in the ~~his or her~~ application for the permit;

(b) ~~Has~~ Violated law, department orders, rules, ~~or regulations,~~ or ~~permit~~ conditions;

(c) ~~Has~~ Failed to submit operational reports or other information required by department rule which directly relates to the permit and has refused to correct or cure such violation when requested to do so ~~or regulation~~; or

(d) ~~Has~~ Refused lawful inspection under s. 403.091 at the facility authorized by the permit.

Section 16. Subsection (2) of section 403.1838, Florida Statutes, is amended to read:

403.1838 Small Community Sewer Construction Assistance Act.—

(2) The department shall use funds specifically appropriated to award grants under this section to assist financially disadvantaged small communities with their needs for adequate sewer facilities. For purposes of this section, the term "financially disadvantaged small community" means a municipality that has ~~with~~ a population of 10,000 ~~7,500~~ or fewer ~~less~~, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce.

Section 17. Paragraph (f) of subsection (1) of section 403.7045, Florida Statutes, is amended to read:

403.7045 Application of act and integration with other acts.—

(1) The following wastes or activities shall not be regulated pursuant to this act:

(f) Industrial byproducts, if:

1. A majority of the industrial byproducts are demonstrated to be sold, used, or reused within 1 year.

2. The industrial byproducts are not discharged, deposited, injected, dumped, spilled, leaked, or placed upon any land or water so that such industrial byproducts, or any constituent thereof, may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment such that a threat of contamination in excess of applicable department standards and criteria or a significant threat to public health is caused.

3. The industrial byproducts are not hazardous wastes as

defined under s. 403.703 and rules adopted under this section.

Sludge from an industrial waste treatment works which meets the exemption requirements of this paragraph is not solid waste as defined in s. 403.703(32).

Section 18. Subsections (2) and (3) of section 403.707, Florida Statutes, are amended to read:

403.707 Permits.—

(2) Except as provided in s. 403.722(6), a permit under this section is not required for the following~~, if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations, or orders~~:

(a) Disposal by persons of solid waste resulting from their own activities on their own property, if such waste is ordinary household waste from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter that normally result from land development operations. Disposal of materials that could create a public nuisance or adversely affect the environment or public health, such as white goods; automotive materials, such as batteries and tires; petroleum products; pesticides; solvents; or hazardous substances, is not covered under this exemption.

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners' ~~homeowners~~ or maintenance association for which the person contributes association assessments, if the solid waste in such containers

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is collected at least once a week.

(c) Disposal by persons of solid waste resulting from their own activities on their property, if the environmental effects of such disposal on groundwater and surface waters are:

1. Addressed or authorized by a site certification order issued under part II or a permit issued by the department under this chapter or rules adopted pursuant to this chapter; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department. If a facility has a permit authorizing disposal activity, a new area where solid waste is being disposed of which is monitored by an existing or modified groundwater monitoring plan is not required to be specifically authorized in a permit or other certification.

(d) Disposal by persons of solid waste resulting from their own activities on their own property, if such disposal occurred prior to October 1, 1988.

(e) Disposal of solid waste resulting from normal farming operations as defined by department rule. Polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled, which are used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, may be disposed of by open burning if a public nuisance or any condition adversely affecting the environment or the public health is not created by the open burning and state or federal ambient air quality standards are not violated.

(f) The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from

obtaining any other required permits, and does not affect a person's responsibility to dispose of clean debris appropriately if it is not to be used as fill material.

(g) Compost operations that produce less than 50 cubic yards of compost per year when the compost produced is used on the property where the compost operation is located.

(3)(a) All applicable provisions of ss. 403.087 and 403.088, relating to permits, apply to the control of solid waste management facilities.

(b) A permit, including a general permit, issued to a solid waste management facility that is designed with a leachate control system meeting department requirements shall be issued for a term of 20 years unless the applicant requests a shorter permit term. Notwithstanding the limitations of s. 403.087(6)(a), existing permit fees for a qualifying solid waste management facility shall be adjusted to the permit term authorized by this section. This paragraph applies to a qualifying solid waste management facility that applies for an operating or construction permit or renews an existing operating or construction permit on or after October 1, 2012.

(c) A permit, including a general permit, but not including a registration, issued to a solid waste management facility that does not have a leachate control system meeting department requirements shall be renewed for a term of 10 years, unless the applicant requests a shorter term, if the following conditions are met:

1. The applicant has conducted the regulated activity at the same site for which the renewal is sought for at least 4 years and 6 months before the date that the permit application

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is received by the department; and

2. At the time of applying for the renewal permit:

a. The applicant is not subject to a notice of violation, consent order, or administrative order issued by the department for violation of an applicable law or rule;

b. The department has not notified the applicant that the applicant is required to implement assessment or evaluation monitoring as a result of applicable groundwater standards or criteria being exceeded, or, if applicable, the applicant is completing corrective actions in accordance with applicable department rules; and

c. The applicant is in compliance with the applicable financial assurance requirements.

(d) The department may adopt rules to administer this subsection; however, the provisions of chapter 120 which require a statement of estimated regulatory cost and legislative ratification do not apply to such rulemaking, and the department is not required to submit the rules to the Environmental Regulation Commission for approval. Notwithstanding the limitations of s. 403.087(6)(a), permit fee caps for solid waste management facilities shall be prorated to reflect the extended permit term authorized by this subsection.

Section 19. Subsection (5) is added to section 403.709, Florida Statutes, to read:

403.709 Solid Waste Management Trust Fund; use of waste tire fees.—There is created the Solid Waste Management Trust Fund, to be administered by the department.

(5) A solid waste landfill closure account is created within the Solid Waste Management Trust Fund to provide funding

for the closing and long-term care of solid waste management facilities, if:

(a) The facility has or had a department permit to operate;

(b) The permittee provided proof of financial assurance for closure in the form of an insurance certificate;

(c) The facility has been deemed to be abandoned or has been ordered to close by the department; and

(d) Closure will be accomplished in substantial accordance with a closure plan approved by the department.

The department has a reasonable expectation that the insurance company issuing the closure insurance policy will provide or reimburse most or all of the funds required to complete the closing and long-term care of the facility. If the insurance company reimburses the department for the costs of the closing or long-term care of the facility, the department shall deposit the funds into the solid waste landfill closure account.

Section 20. Section 403.7125, Florida Statutes, is amended to read:

403.7125 Financial assurance ~~for closure~~.—

(1) Each ~~Every~~ owner or operator of a landfill is jointly and severally liable for the improper operation and closure of the landfill, as provided by law. As used in this section, the term "owner or operator" means any owner of record of any interest in land wherein a landfill is or has been located and any person or corporation that owns a majority interest in any other corporation that is the owner or operator of a landfill.

(2) The owner or operator of a landfill owned or operated by a local or state government or the Federal Government shall

establish a fee, or a surcharge on existing fees or other appropriate revenue-producing mechanism, to ensure the availability of financial resources for the proper closure of the landfill. However, the disposal of solid waste by persons on their own property, as described in s. 403.707(2), is exempt from this section.

(a) The revenue-producing mechanism must produce revenue at a rate sufficient to generate funds to meet state and federal landfill closure requirements.

(b) The revenue shall be deposited in an interest-bearing escrow account to be held and administered by the owner or operator. The owner or operator shall file with the department an annual audit of the account. The audit shall be conducted by an independent certified public accountant. Failure to collect or report such revenue, except as allowed in subsection (3), is a noncriminal violation punishable by a fine of not more than $5,000 for each offense. The owner or operator may make expenditures from the account and its accumulated interest only for the purpose of landfill closure and, if such expenditures do not deplete the fund to the detriment of eventual closure, for planning and construction of resource recovery or landfill facilities. Any moneys remaining in the account after paying for proper and complete closure, as determined by the department, shall, if the owner or operator does not operate a landfill, be deposited by the owner or operator into the general fund or the appropriate solid waste fund of the local government of jurisdiction.

(c) The revenue generated under this subsection and any accumulated interest thereon may be applied to the payment of,

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or pledged as security for, the payment of revenue bonds issued in whole or in part for the purpose of complying with state and federal landfill closure requirements. Such application or pledge may be made directly in the proceedings authorizing such bonds or in an agreement with an insurer of bonds to assure such insurer of additional security therefor.

(d) The provisions of s. 212.055 which relate to raising of revenues for landfill closure or long-term maintenance do not relieve a landfill owner or operator from the obligations of this section.

(e) The owner or operator of any landfill that had established an escrow account in accordance with this section and the conditions of its permit before ~~prior to~~ January 1, 2007, may continue to use that escrow account to provide financial assurance for closure of that landfill, even if that landfill is not owned or operated by a local or state government or the Federal Government.

(3) An owner or operator of a landfill owned or operated by a local or state government or by the Federal Government may provide financial assurance to the department in lieu of the requirements of subsection (2). An owner or operator of any other landfill, or any other solid waste management facility designated by department rule, shall provide financial assurance to the department for the closure of the facility. Such financial assurance may include surety bonds, certificates of deposit, securities, letters of credit, or other documents showing that the owner or operator has sufficient financial resources to cover, at a minimum, the costs of complying with applicable closure requirements. The owner or operator shall

estimate such costs to the satisfaction of the department.

(4) This section does not repeal, limit, or abrogate any other law authorizing local governments to fix, levy, or charge rates, fees, or charges for the purpose of complying with state and federal landfill closure requirements.

(5) The department shall by rule require that the owner or operator of a solid waste management facility that receives waste on or after October 9, 1993, and that is required by department rule to undertake corrective actions for violations of water quality standards provide financial assurance for the cost of completing such corrective actions. The same financial assurance mechanisms that are available for closure costs shall be available for costs associated with undertaking corrective actions.

(6) ~~(5)~~ The department shall adopt rules to implement this section.

Section 21. Subsection (12) is added to section 403.814, Florida Statutes, to read:

403.814 General permits; delegation.—

(12) A general permit shall be granted for the construction, alteration, and maintenance of a surface water management system serving a total project area of up to 10 acres. The construction of the system may proceed without any agency action by the department or water management district if:

(a) The total project area is less than 10 acres;

(b) The total project area involves less than 2 acres of impervious surface;

(c) The activities will not impact wetlands or other surface waters;

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(d) The activities are not conducted in, on, or over wetlands or other surface waters;

(e) Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;

(f) The project is not part of a larger common plan, development, or sale;

(g) The project does not cause:

1. Adverse water quantity or flooding impacts to receiving water and adjacent lands;

2. Adverse impacts to existing surface water storage and conveyance capabilities;

3. A violation of state water quality standards; or

4. An adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to s. 373.042 or a work of the district established pursuant to s. 373.086; and

(h) The surface water management system design plans are signed and sealed by a Florida-registered professional who attests that the system will perform and function as proposed and has been designed in accordance with appropriate, generally accepted performance standards and scientific principles.

Section 22. Subsection (6) of section 403.853, Florida Statutes, is amended to read:

403.853 Drinking water standards.—

(6) Upon the request of the owner or operator of a transient noncommunity water system using groundwater as a source of supply and serving religious institutions or businesses, other than restaurants or other public food service

establishments or religious institutions with school or day care services~~, and using groundwater as a source of supply~~, the department, or a local county health department designated by the department, shall perform a sanitary survey of the facility. Upon receipt of satisfactory survey results according to department criteria, the department shall reduce the requirements of such owner or operator from monitoring and reporting on a quarterly basis to performing these functions on an annual basis. Any revised monitoring and reporting schedule approved by the department under this subsection shall apply until such time as a violation of applicable state or federal primary drinking water standards is determined by the system owner or operator, by the department, or by an agency designated by the department, after a random or routine sanitary survey. Certified operators are not required for transient noncommunity water systems of the type and size covered by this subsection. Any reports required of such system shall be limited to the minimum as required by federal law. When not contrary to the provisions of federal law, the department may, upon request and by rule, waive additional provisions of state drinking water regulations for such systems.

Section 23. Paragraph (a) of subsection (3) and subsections (4), (5), (10), (11), (14), (15), and (18) of section 403.973, Florida Statutes, are amended to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)(a) The secretary shall direct the creation of regional permit action teams for the purpose of expediting review of permit applications and local comprehensive plan amendments

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submitted by:

1. Businesses creating at least 50 jobs or a commercial or industrial development project that will be occupied by businesses that would individually or collectively create at least 50 jobs; or

2. Businesses creating at least 25 jobs if the project is located in an enterprise zone, or in a county having a population of fewer than 75,000 or in a county having a population of fewer than 125,000 which is contiguous to a county having a population of fewer than 75,000, as determined by the most recent decennial census, residing in incorporated and unincorporated areas of the county.

(4) The regional teams shall be established through the execution of a project-specific memorandum ~~memoranda~~ of agreement developed and executed by the applicant and the secretary, with input solicited from ~~the Department of Economic Opportunity and~~ the respective heads of the Department of Transportation and its district offices, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, appropriate regional planning councils, appropriate water management districts, and voluntarily participating municipalities and counties. The memorandum ~~memoranda~~ of agreement should also accommodate participation in this expedited process by other local governments and federal agencies as circumstances warrant.

(5) In order to facilitate local government's option to participate in this expedited review process, the secretary shall, in cooperation with local governments and participating state agencies, create a standard form memorandum of agreement.

The standard form of the memorandum of agreement shall be used only if the local government participates in the expedited review process. In the absence of local government participation, only the project-specific memorandum of agreement executed pursuant to subsection (4) applies. A local government shall hold a duly noticed public workshop to review and explain to the public the expedited permitting process and the terms and conditions of the standard form memorandum of agreement.

(10) The memorandum ~~memoranda~~ of agreement may provide for the waiver or modification of procedural rules prescribing forms, fees, procedures, or time limits for the review or processing of permit applications under the jurisdiction of those agencies that are members of the regional permit action team ~~party to the memoranda of agreement~~. Notwithstanding any other provision of law to the contrary, a memorandum of agreement must to the extent feasible provide for proceedings and hearings otherwise held separately ~~by the parties to the memorandum of agreement~~ to be combined into one proceeding or held jointly and at one location. Such waivers or modifications are not authorized ~~shall not be available~~ for permit applications governed by federally delegated or approved permitting programs, the requirements of which would prohibit, or be inconsistent with, such a waiver or modification.

(11) The memorandum ~~standard form for memoranda~~ of agreement must ~~shall~~ include guidelines to be used in working with state, regional, and local permitting authorities. Guidelines may include, but are not limited to, the following:

(a) A central contact point for filing permit applications and local comprehensive plan amendments and for obtaining

information on permit and local comprehensive plan amendment requirements.~~;~~

(b) Identification of the individual or individuals within each respective agency who will be responsible for processing the expedited permit application or local comprehensive plan amendment for that agency.~~;~~

(c) A mandatory preapplication review process to reduce permitting conflicts by providing guidance to applicants regarding the permits needed from each agency and governmental entity, site planning and development, site suitability and limitations, facility design, and steps the applicant can take to ensure expeditious permit application and local comprehensive plan amendment review. As a part of this process, the first interagency meeting to discuss a project shall be held within 14 days after the secretary's determination that the project is eligible for expedited review. Subsequent interagency meetings may be scheduled to accommodate the needs of participating local governments that are unable to meet public notice requirements for executing a memorandum of agreement within this timeframe. This accommodation may not exceed 45 days from the secretary's determination that the project is eligible for expedited review.~~;~~

(d) The preparation of a single coordinated project description form and checklist and an agreement by state and regional agencies to reduce the burden on an applicant to provide duplicate information to multiple agencies.~~;~~

(e) Establishment of a process for the adoption and review of any comprehensive plan amendment needed by any certified project within 90 days after the submission of an application

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for a comprehensive plan amendment. However, the memorandum of agreement may not prevent affected persons as defined in s. 163.3184 from appealing or participating in this expedited plan amendment process and any review or appeals of decisions made under this paragraph.~~; and~~

(f) Additional incentives for an applicant who proposes a project that provides a net ecosystem benefit.

(14)(a) Challenges to state agency action in the expedited permitting process for projects processed under this section are subject to the summary hearing provisions of s. 120.574, except that the administrative law judge's decision, as provided in s. 120.574(2)(f), shall be in the form of a recommended order and do not constitute the final action of the state agency. In those proceedings where the action of only one agency of the state other than the Department of Environmental Protection is challenged, the agency of the state shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. In those proceedings where the actions of more than one agency of the state are challenged, the Governor shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. For ~~This paragraph does not apply to~~ the issuance of department licenses

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required under any federally delegated or approved permit program~~. In such instances~~, the department, and not the Governor, shall enter the final order. The participating agencies of the state may opt at the preliminary hearing conference to allow the administrative law judge's decision to constitute the final agency action.

(b) Projects identified in paragraph (3)(f) or challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s. 288.955 are subject to the same requirements as challenges brought under paragraph (a), except that, notwithstanding s. 120.574, summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

(15) The Department of Economic Opportunity, working with the agencies providing cooperative assistance and input regarding the memorandum ~~memoranda~~ of agreement, shall review sites proposed for the location of facilities that the Department of Economic Opportunity has certified to be eligible for the Innovation Incentive Program under s. 288.1089. Within 20 days after the request for the review by the Department of Economic Opportunity, the agencies shall provide to the Department of Economic Opportunity a statement as to each site's necessary permits under local, state, and federal law and an identification of significant permitting issues, which if unresolved, may result in the denial of an agency permit or approval or any significant delay caused by the permitting process.

(18) The Department of Economic Opportunity, working with the Rural Economic Development Initiative ~~and the agencies participating in the memoranda of agreement~~, shall provide technical assistance in preparing permit applications and local comprehensive plan amendments for counties having a population of fewer than 75,000 residents, or counties having fewer than 125,000 residents which are contiguous to counties having fewer than 75,000 residents. Additional assistance may include, but not be limited to, guidance in land development regulations and permitting processes, working cooperatively with state, regional, and local entities to identify areas within these counties which may be suitable or adaptable for preclearance review of specified types of land uses and other activities requiring permits.

Section 24. Subsection (1) of section 526.203, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

526.203 Renewable fuel standard.—

(1) DEFINITIONS.—As used in this act:

(a) "Blender," "importer," "terminal supplier," and "wholesaler" are defined as provided in s. 206.01.

(b) "Blended gasoline" means a mixture of 90 to 91 percent gasoline and 9 to 10 percent fuel ethanol or other renewable fuel, by volume, which ~~that~~ meets the specifications as adopted by the department. The fuel ethanol portion may be derived from any agricultural source.

(c) "Fuel ethanol" means an anhydrous denatured alcohol produced by the conversion of carbohydrates that meets the specifications as adopted by the department.

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(d) "Renewable fuel" means a fuel produced from renewable biomass which is used to replace or reduce the quantity of fossil fuel present in a transportation fuel.

(e) ~~(d)~~ "Unblended gasoline" means gasoline that has not been blended with fuel ethanol and that meets the specifications as adopted by the department.

(5) SALE OF UNBLENDED FUELS.—This section does not prohibit the sale of unblended fuels for the uses exempted under subsection (3).

Section 25. This act shall take effect July 1, 2012.

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