

1 A bill to be entitled
2 An act relating to environmental regulation; amending
3 s. 20.255, F.S.; authorizing the Department of
4 Environmental Protection to adopt rules requiring or
5 incentivizing the electronic submission of certain
6 forms, documents, fees, and reports; amending ss.
7 125.022 and 166.033, F.S.; providing requirements for
8 the review of development permit applications by
9 counties and municipalities; amending s. 211.3103,
10 F.S.; revising the definition of "phosphate-related
11 expenses" to include maintenance and restoration of
12 certain lands; amending s. 253.0345, F.S.; revising
13 provisions for the duration of leases and letters of
14 consent issued by the Board of Trustees of the
15 Internal Improvement Trust Fund for special events;
16 providing conditions for fees relating to such leases
17 and letters of consent; creating s. 253.0346, F.S.;
18 defining the term "first-come, first-served basis";
19 providing conditions for the discount and waiver of
20 lease fees and surcharges for certain marinas,
21 boatyards, and marine retailers; providing
22 applicability; amending s. 253.0347, F.S.; providing
23 exemptions from lease fees for certain lessees;
24 amending s. 373.118, F.S.; deleting provisions
25 requiring the department to adopt general permits for
26 public marina facilities; deleting certain
27 requirements under general permits for public marina
28 facilities and mooring fields; limiting the number of

29 | vessels for mooring fields authorized under such
30 | permits; providing for the department to issue certain
31 | leases; amending s. 373.233, F.S.; clarifying
32 | conditions for competing consumptive use of water
33 | applications; amending s. 373.236, F.S.; prohibiting
34 | water management districts from reducing certain
35 | allocations as a result of seawater desalination plant
36 | activities; providing an exception; amending s.
37 | 373.308, F.S.; providing that issuance of well permits
38 | is the sole responsibility of water management
39 | districts, delegated local governments, and local
40 | county health departments; prohibiting certain
41 | counties and other government entities from imposing
42 | requirements and fees and establishing programs for
43 | installation and abandonment of groundwater wells;
44 | amending s. 373.323, F.S.; providing that licenses
45 | issued by water management districts are the only
46 | water well contractor licenses required for
47 | construction, repair, or abandonment of water wells;
48 | authorizing licensed water well contractors to install
49 | equipment for all water systems; amending s. 373.403,
50 | F.S.; defining the term "mean annual flood line";
51 | amending s. 373.406, F.S.; exempting specified ponds,
52 | ditches, and wetlands from surface water management
53 | and storage requirements; exempting certain water
54 | control districts from certain wetlands regulation;
55 | amending s. 376.313, F.S.; holding harmless a person
56 | who discharges pollution pursuant to ch. 403, F.S.;

57 | amending s. 403.031, F.S.; defining the term
58 | "beneficiary"; amending s. 403.061, F.S.; authorizing
59 | the department to adopt rules requiring or
60 | incentivizing the electronic submission of certain
61 | forms, documents, fees, and reports; amending s.
62 | 403.0872, F.S.; extending the payment deadline of
63 | permit fees for major sources of air pollution and
64 | conforming the date for related notice by the
65 | department; revising provisions for the calculation of
66 | such annual fees; amending s. 403.088, F.S.; revising
67 | conditions for denial of water pollution operation
68 | permit applications; amending s. 403.7046, F.S.;
69 | providing requirements for the review of recovered
70 | materials dealer registration applications; providing
71 | that a recovered materials dealer may seek injunctive
72 | relief and damages for certain violations; amending s.
73 | 403.813, F.S.; revising conditions under which certain
74 | permits are not required for seawall restoration
75 | projects; creating s. 403.8141, F.S.; requiring the
76 | Department of Environmental Protection to establish
77 | general permits for special events; providing permit
78 | requirements; amending s. 403.973, F.S.; authorizing
79 | expedited permitting for natural gas pipelines,
80 | subject to specified certification; providing that
81 | natural gas pipelines are subject to certain
82 | requirements; providing that natural gas pipelines are
83 | eligible for certain review; providing an effective
84 | date.

85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112

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

Section 1. Subsection (8) is added to section 20.255, Florida Statutes, to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(8) The department may adopt rules requiring or incentivizing electronic submission of forms, documents, fees, or reports required under chapter 161, chapter 253, chapter 373, chapter 376, chapter 377, or chapter 403. The rules must reasonably accommodate technological or financial hardship and must provide procedures for obtaining an exemption due to such a hardship.

Section 2. Section 125.022, Florida Statutes, is amended to read:

125.022 Development permits.—

(1) When reviewing an application for a development permit that is certified by a professional listed in s. 403.0877, a county may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing. Before a third request for additional information, the applicant must be offered a meeting to attempt to resolve outstanding issues. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the county, at the applicant's request, shall proceed to process the application for approval or denial.

113 (2) When a county denies an application for a development
114 permit, the county shall give written notice to the applicant.
115 The notice must include a citation to the applicable portions of
116 an ordinance, rule, statute, or other legal authority for the
117 denial of the permit.

118 (3) As used in this section, the term "development permit"
119 has the same meaning as in s. 163.3164.

120 (4) For any development permit application filed with the
121 county after July 1, 2012, a county may not require as a
122 condition of processing or issuing a development permit that an
123 applicant obtain a permit or approval from any state or federal
124 agency unless the agency has issued a final agency action that
125 denies the federal or state permit before the county action on
126 the local development permit.

127 (5) Issuance of a development permit by a county does not
128 in any way create any rights on the part of the applicant to
129 obtain a permit from a state or federal agency and does not
130 create any liability on the part of the county for issuance of
131 the permit if the applicant fails to obtain requisite approvals
132 or fulfill the obligations imposed by a state or federal agency
133 or undertakes actions that result in a violation of state or
134 federal law. A county may attach such a disclaimer to the
135 issuance of a development permit and may include a permit
136 condition that all other applicable state or federal permits be
137 obtained before commencement of the development.

138 (6) This section does not prohibit a county from providing
139 information to an applicant regarding what other state or
140 federal permits may apply.

141 Section 3. Section 166.033, Florida Statutes, is amended
142 to read:

143 166.033 Development permits.—

144 (1) When reviewing an application for a development permit
145 that is certified by a professional listed in s. 403.0877, a
146 municipality may not request additional information from the
147 applicant more than three times, unless the applicant waives the
148 limitation in writing. Before a third request for additional
149 information, the applicant must be offered a meeting to attempt
150 to resolve outstanding issues. If the applicant believes the
151 request for additional information is not authorized by
152 ordinance, rule, statute, or other legal authority, the
153 municipality, at the applicant's request, shall proceed to
154 process the application for approval or denial.

155 (2) When a municipality denies an application for a
156 development permit, the municipality shall give written notice
157 to the applicant. The notice must include a citation to the
158 applicable portions of an ordinance, rule, statute, or other
159 legal authority for the denial of the permit.

160 (3) As used in this section, the term "development permit"
161 has the same meaning as in s. 163.3164.

162 (4) For any development permit application filed with the
163 municipality after July 1, 2012, a municipality may not require
164 as a condition of processing or issuing a development permit
165 that an applicant obtain a permit or approval from any state or
166 federal agency unless the agency has issued a final agency
167 action that denies the federal or state permit before the
168 municipal action on the local development permit.

169 (5) Issuance of a development permit by a municipality
170 does not in any way create any right on the part of an applicant
171 to obtain a permit from a state or federal agency and does not
172 create any liability on the part of the municipality for
173 issuance of the permit if the applicant fails to obtain
174 requisite approvals or fulfill the obligations imposed by a
175 state or federal agency or undertakes actions that result in a
176 violation of state or federal law. A municipality may attach
177 such a disclaimer to the issuance of development permits and may
178 include a permit condition that all other applicable state or
179 federal permits be obtained before commencement of the
180 development.

181 (6) This section does not prohibit a municipality from
182 providing information to an applicant regarding what other state
183 or federal permits may apply.

184 Section 4. Paragraph (c) of subsection (6) of section
185 211.3103, Florida Statutes is amended to read:

186 211.3103 Levy of tax on severance of phosphate rock; rate,
187 basis, and distribution of tax.—

188 (6)

189 (c) For purposes of this section, "phosphate-related
190 expenses" means those expenses that provide for infrastructure
191 or services in support of the phosphate industry, including
192 environmental education, reclamation or restoration of phosphate
193 lands, maintenance and restoration of reclaimed lands and county
194 owned environmental lands which were formerly phosphate lands,
195 community infrastructure on such reclaimed lands and county
196 owned environmental lands which were formerly phosphate lands,

197 and similar expenses directly related to support of the
198 industry.

199 Section 5. Section 253.0345, Florida Statutes, is amended
200 to read:

201 253.0345 Special events; submerged land leases.—

202 (1) The trustees may ~~are authorized to~~ issue leases or
203 letters of consent ~~consents of use or leases~~ to riparian
204 landowners, special ~~and~~ event promoters, and boat show owners to
205 allow the installation of temporary structures, including docks,
206 moorings, pilings, and access walkways, on sovereign submerged
207 lands solely for the purpose of facilitating boat shows and
208 displays in, or adjacent to, established marinas or government-
209 owned ~~government-owned~~ upland property. Riparian owners of
210 adjacent uplands who are not seeking a lease or letter of
211 consent ~~of use~~ shall be notified by certified mail of any
212 request for such a lease or letter of consent of use ~~before~~
213 ~~prior to~~ approval by the trustees. The trustees shall balance
214 the interests of any objecting riparian owners with the economic
215 interests of the public and the state as a factor in determining
216 whether ~~if~~ a lease or letter of consent of use should be
217 executed over the objection of adjacent riparian owners. This
218 section does ~~shall~~ not apply to structures for viewing motorboat
219 racing, high-speed motorboat contests, or high-speed displays in
220 waters where manatees are known to frequent.

221 (2) A lease or letter of consent for a ~~Any~~ special event
222 under ~~provided for in~~ subsection (1):

223 (a) Shall be for a period not to exceed 45 ~~30~~ days and a
224 duration not to exceed 10 consecutive years.

225 (b) Shall include a lease fee, if applicable, based solely
 226 on the period and actual size of the preemption and conditions
 227 to allow reconfiguration of temporary structures within the
 228 lease area with notice to the department of the configuration
 229 and size of preemption within the lease area.

230 (c) The lease or letter of consent ~~of use~~ may also contain
 231 appropriate requirements for removal of the temporary
 232 structures, including the posting of sufficient surety to
 233 guarantee appropriate funds for removal of the structures should
 234 the promoter or riparian owner fail to do so within the time
 235 specified in the agreement.

236 (3) ~~Nothing in This section does not shall be construed to~~
 237 allow any lease or letter of consent ~~of use~~ that would result in
 238 harm to the natural resources of the area as a result of the
 239 structures or the activities of the special events agreed to.

240 Section 6. Section 253.0346, Florida Statutes, is created
 241 to read:

242 253.0346 Lease of sovereignty submerged lands for marinas,
 243 boatyards, and marine retailers.-

244 (1) For purposes of this section, the term "first-come,
 245 first-served basis" means the facility operates on state-owned
 246 submerged land for which:

247 (a) There is not a club membership, stock ownership,
 248 equity interest, or other qualifying requirement.

249 (b) Rental terms do not exceed 12 months and do not
 250 include automatic renewal rights or conditions.

251 (2) For marinas that are open to the public on a first-
 252 come, first-served basis and for which at least 90 percent of

253 the slips are open for rent to the public, a discount of 30
254 percent on the annual lease fee shall apply if dockage rate
255 sheet publications and dockage advertising clearly state that
256 slips are open for rent to the public on a first-come, first-
257 served basis.

258 (3) For a facility designated by the department as a Clean
259 Marina, Clean Boatyard, or Clean Marine Retailer under the Clean
260 Marina Program:

261 (a) A discount of 10 percent on the annual lease fee shall
262 apply if the facility:

- 263 1. Actively maintains designation under the program.
264 2. Complies with the terms of the lease.
265 3. Does not change use during the term of the lease.

266 (b) Extended-term lease surcharges shall be waived if the
267 facility:

- 268 1. Actively maintains designation under the program.
269 2. Complies with the terms of the lease.
270 3. Does not change use during the term of the lease.
271 4. Is available to the public on a first-come, first-
272 served basis.

273 (c) If the facility is in arrears on lease fees or fails
274 to comply with paragraph (b), the facility is not eligible for
275 the discount or waiver under this subsection until arrears have
276 been paid and compliance with the program has been met.

277 (4) This section applies to new leases or amendments to
278 leases effective after July 1, 2013.

279 Section 7. Paragraphs (e) and (f) are added to subsection
280 (2) of section 253.0347, Florida Statutes, to read:

281 253.0347 Lease of sovereignty submerged lands for private
 282 residential docks and piers.-

283 (2)

284 (e) A lessee of sovereignty submerged lands for a private
 285 residential single-family dock designed to moor up to four boats
 286 is not required to pay lease fees for a preempted area equal to
 287 or less than 10 times the riparian shoreline along sovereignty
 288 submerged land on the affected waterbody or the square footage
 289 authorized for a private residential single-family dock under
 290 rules adopted by the Board of Trustees of the Internal
 291 Improvement Trust Fund for the management of sovereignty
 292 submerged lands, whichever is greater.

293 (f) A lessee of sovereignty submerged lands for a private
 294 residential multifamily dock designed to moor boats up to the
 295 number of units within the multifamily development is not
 296 required to pay lease fees for a preempted area equal to or less
 297 than 10 times the riparian shoreline along sovereignty submerged
 298 land on the affected waterbody times the number of units with
 299 docks in the private multifamily development.

300 Section 8. Subsection (4) of section 373.118, Florida
 301 Statutes, is amended to read:

302 373.118 General permits; delegation.-

303 (4) The department shall adopt by rule one or more general
 304 permits for local governments to construct, operate, and
 305 maintain ~~public marina facilities,~~ public mooring fields, public
 306 boat ramps, including associated courtesy docks, and associated
 307 parking facilities located in uplands. Such general permits
 308 adopted by rule shall include provisions to ensure compliance

309 with part IV of this chapter, subsection (1), and the criteria
310 necessary to include the general permits in a state programmatic
311 general permit issued by the United States Army Corps of
312 Engineers under s. 404 of the Clean Water Act, Pub. L. No. 92-
313 500, as amended, 33 U.S.C. ss. 1251 et seq. A facility
314 authorized under such general permits is exempt from review as a
315 development of regional impact if the facility complies with the
316 comprehensive plan of the applicable local government. Such
317 facilities shall be consistent with the local government manatee
318 protection plan required pursuant to chapter 379 ~~and shall~~
319 ~~obtain Clean Marina Program status prior to opening for~~
320 ~~operation and maintain that status for the life of the facility.~~
321 ~~Marinas and mooring fields authorized under any such general~~
322 ~~permit shall not exceed an area of 50,000 square feet over~~
323 ~~wetlands and other surface waters.~~ Mooring fields authorized
324 under such general permits may not exceed 100 vessels. All
325 facilities permitted under this section shall be constructed,
326 maintained, and operated in perpetuity for the exclusive use of
327 the general public. The department is authorized to have
328 delegation of authority from the Board of Trustees of the
329 Internal Improvement Trust Fund to issue leases for mooring
330 fields that meet the requirements of such general permits. The
331 department shall initiate the rulemaking process within 60 days
332 after the effective date of this act.

333 Section 9. Subsection (1) of section 373.233, Florida
334 Statutes, is amended to read:

335 373.233 Competing applications.—

336 (1) If two or more applications that ~~which~~ otherwise

337 comply with the provisions of this part are pending for a
338 quantity of water that is inadequate for both or all, or which
339 for any other reason are in conflict, and the governing board or
340 department has deemed the application complete, the governing
341 board or the department has ~~shall have~~ the right to approve or
342 modify the application which best serves the public interest.

343 Section 10. Subsection (4) of section 373.236, Florida
344 Statutes, is amended to read:

345 373.236 Duration of permits; compliance reports.—

346 (4) Where necessary to maintain reasonable assurance that
347 the conditions for issuance of a 20-year permit can continue to
348 be met, the governing board or department, in addition to any
349 conditions required pursuant to s. 373.219, may require a
350 compliance report by the permittee every 10 years during the
351 term of a permit. The Suwannee River Water Management District
352 may require a compliance report by the permittee every 5 years
353 through July 1, 2015, and thereafter every 10 years during the
354 term of the permit. This report shall contain sufficient data to
355 maintain reasonable assurance that the initial conditions for
356 permit issuance are met. Following review of this report, the
357 governing board or the department may modify the permit to
358 ensure that the use meets the conditions for issuance. Permit
359 modifications pursuant to this subsection shall not be subject
360 to competing applications, provided there is no increase in the
361 permitted allocation or permit duration, and no change in
362 source, except for changes in source requested by the district.
363 In order to promote the sustainability of natural systems
364 through the diversification of water supplies to include sources

365 that are resistant to drought, a water management district may
366 not reduce an existing permitted allocation of water during the
367 permit term as a result of planned future construction of, or
368 additional water becoming available from, sources that are
369 resistant to drought, including, but not limited to, a seawater
370 desalination plant, unless such reductions are conditions of a
371 permit with the water management district. Except as otherwise
372 provided in this subsection, this subsection ~~shall~~ does not ~~be~~
373 ~~construed to~~ limit the existing authority of the department or
374 the governing board to modify or revoke a consumptive use
375 permit.

376 Section 11. Subsection (1) of section 373.308, Florida
377 Statutes, is amended to read:

378 373.308 Implementation of programs for regulating water
379 wells.—

380 (1) The department shall authorize the governing board of
381 a water management district to implement a program for the
382 issuance of permits for the location, construction, repair, and
383 abandonment of water wells. Upon authorization from the
384 department, issuance of well permits will be the sole
385 responsibility of the water management district, delegated local
386 government, or local county health department. Other government
387 entities may not impose additional or duplicate requirements or
388 fees or establish a separate program for the permitting of the
389 location, abandonment, boring, or other activities reasonably
390 associated with the installation and abandonment of a
391 groundwater well.

392 Section 12. Subsections (1) and (10) of section 373.323,

393 Florida Statutes, are amended to read:

394 373.323 Licensure of water well contractors; application,
 395 qualifications, and examinations; equipment identification.—

396 (1) Every person who wishes to engage in business as a
 397 water well contractor shall obtain from the water management
 398 district a license to conduct such business. Licensure under
 399 this part by a water management district shall be the only water
 400 well contractor license required for the construction, repair,
 401 or abandonment of water wells in the state or any political
 402 subdivision thereof.

403 (10) Water well contractors licensed under this section
 404 may install, repair, and modify pumps and tanks in accordance
 405 with the Florida Building Code, Plumbing; Section 612—Wells
 406 pumps and tanks used for private potable water systems. In
 407 addition, licensed water well contractors may install pumps,
 408 tanks, and water conditioning equipment for all water ~~well~~
 409 systems.

410 Section 13. Subsection (23) is added to section 373.403,
 411 Florida Statutes, to read:

412 373.403 Definitions.—When appearing in this part or in any
 413 rule, regulation, or order adopted pursuant thereto, the
 414 following terms mean:

415 (23) "Mean annual flood line," for the limited purposes of
 416 delineating the environmental resource permit regulatory limits
 417 of other surface waters, means the water surface boundary
 418 produced by the discharge determined by calculating the
 419 arithmetic mean of the maximum yearly discharges for the period
 420 of record, to include at least the most recent 10-year period.

421 If at least 10 years of data is not available, the mean annual
422 flood line may be determined through consideration of data
423 available and field verification conducted by a certified
424 professional surveyor and mapper with experience in the
425 determination of floodwater elevations and subsequently verified
426 by the department. Field verification of the mean annual flood
427 line shall be performed using the provisions of chapter 62-340,
428 Florida Administrative Code, and the Florida Wetlands
429 Delineation Manual. Generally accepted hydrological standards
430 and procedures shall be used to qualify hydrologic field
431 indicators as rare or aberrant before exclusion from mean annual
432 flood determinations.

433 Section 14. Subsections (13), (14), and (15) are added to
434 section 373.406, Florida Statutes, to read:

435 373.406 Exemptions.—The following exemptions shall apply:

436 (13) Nothing in this part, or in any rule, regulation, or
437 order adopted pursuant to this part, applies to construction,
438 alteration, operation, or maintenance of any wholly owned,
439 manmade excavated farm ponds, as defined in s. 403.927,
440 constructed entirely in uplands. Alteration or maintenance may
441 not involve any work to connect the farm pond to, or expand the
442 farm pond into, other wetlands or other surface waters.

443 (14) Nothing in this part, or in any rule, regulation, or
444 order adopted pursuant to this part, may require a permit for
445 activities affecting wetlands created solely by the unauthorized
446 flooding or interference with the natural flow of surface water
447 caused by an unaffiliated adjoining landowner. Requests to
448 qualify for this exemption must be made within 7 years of the

449 cause of such unauthorized flooding or unauthorized interference
450 with the natural flow of surface water and must be submitted in
451 writing to the district or department. Such activities may not
452 begin without a written determination from the district or
453 department confirming that the activity qualifies for the
454 exemption. This exemption does not expand the jurisdiction of
455 the department or the water management districts and does not
456 apply to activities that discharge dredged or fill material into
457 waters of the United States, including wetlands, subject to
458 federal jurisdiction under section 404 of the federal Clean
459 Water Act, 33 U.S.C. s. 1344.

460 (15) Any water control district created and operating
461 pursuant to chapter 298 for which a valid environmental resource
462 permit or management and storage of surface waters permit has
463 been issued pursuant to this part is exempt from further
464 wetlands regulation imposed pursuant to chapters 125, 163, and
465 166.

466 Section 15. Subsection (3) of section 376.313, Florida
467 Statutes, is amended to read:

468 376.313 Nonexclusiveness of remedies and individual cause
469 of action for damages under ss. 376.30-376.317.—

470 (3) Except as provided in s. 376.3078(3) and (11), nothing
471 contained in ss. 376.30-376.317 prohibits any person from
472 bringing a cause of action in a court of competent jurisdiction
473 for all damages resulting from a discharge or other condition of
474 pollution covered by ss. 376.30-376.317 and which was not
475 authorized pursuant to chapter 403. Nothing in this chapter
476 shall prohibit or diminish a party's right to contribution from

477 other parties jointly or severally liable for a prohibited
478 discharge of pollutants or hazardous substances or other
479 pollution conditions. Except as otherwise provided in subsection
480 (4) or subsection (5), in any such suit, it is not necessary for
481 such person to plead or prove negligence in any form or manner.
482 Such person need only plead and prove the fact of the prohibited
483 discharge or other pollutive condition and that it has occurred.
484 The only defenses to such cause of action shall be those
485 specified in s. 376.308.

486 Section 16. Subsection (22) is added to section 403.031,
487 Florida Statutes, to read:

488 403.031 Definitions.—In construing this chapter, or rules
489 and regulations adopted pursuant hereto, the following words,
490 phrases, or terms, unless the context otherwise indicates, have
491 the following meanings:

492 (22) "Beneficiary" means any person, partnership,
493 corporation, business entity, charitable organization, not-for-
494 profit corporation, state, county, district, authority, or
495 municipal unit of government or any other separate unit of
496 government created or established by law.

497 Section 17. Subsection (43) is added to section 403.061,
498 Florida Statutes, to read:

499 403.061 Department; powers and duties.—The department
500 shall have the power and the duty to control and prohibit
501 pollution of air and water in accordance with the law and rules
502 adopted and promulgated by it and, for this purpose, to:

503 (43) Adopt rules requiring or incentivizing the electronic
504 submission of forms, documents, fees, or reports required under

505 chapter 161, chapter 253, chapter 373, chapter 376, chapter 377,
506 or this chapter. The rules must reasonably accommodate
507 technological or financial hardship and provide procedures for
508 obtaining an exemption due to such hardship.

509

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

514 Section 18. Subsection (11) of section 403.0872, Florida
515 Statutes, is amended to read:

516 403.0872 Operation permits for major sources of air
517 pollution; annual operation license fee.—Provided that program
518 approval pursuant to 42 U.S.C. s. 7661a has been received from
519 the United States Environmental Protection Agency, beginning
520 January 2, 1995, each major source of air pollution, including
521 electrical power plants certified under s. 403.511, must obtain
522 from the department an operation permit for a major source of
523 air pollution under this section. This operation permit is the
524 only department operation permit for a major source of air
525 pollution required for such source; provided, at the applicant's
526 request, the department shall issue a separate acid rain permit
527 for a major source of air pollution that is an affected source
528 within the meaning of 42 U.S.C. s. 7651a(1). Operation permits
529 for major sources of air pollution, except general permits
530 issued pursuant to s. 403.814, must be issued in accordance with
531 the procedures contained in this section and in accordance with
532 chapter 120; however, to the extent that chapter 120 is

533 inconsistent with the provisions of this section, the procedures
534 contained in this section prevail.

535 (11) Each major source of air pollution permitted to
536 operate in this state must pay between January 15 and April
537 ~~March~~ 1 of each year, upon written notice from the department,
538 an annual operation license fee in an amount determined by
539 department rule. The annual operation license fee shall be
540 terminated immediately in the event the United States
541 Environmental Protection Agency imposes annual fees solely to
542 implement and administer the major source air-operation permit
543 program in Florida under 40 C.F.R. s. 70.10(d).

544 (a) The annual fee must be assessed based upon the
545 source's previous year's emissions and must be calculated by
546 multiplying the applicable annual operation license fee factor
547 times the tons of each regulated air pollutant actually emitted,
548 as calculated in accordance with department's emissions
549 computation and reporting rules. The annual fee shall only apply
550 to those regulated pollutants, ~~(except carbon monoxide)~~ and
551 greenhouse gases, for which an allowable numeric emission
552 limiting standard is specified in allowed to be emitted per hour
553 by specific condition of the source's most recent construction
554 or operation permit, times the annual hours of operation allowed
555 by permit condition; provided, however, that:

556 1. The license fee factor is \$25 or another amount
557 determined by department rule which ensures that the revenue
558 provided by each year's operation license fees is sufficient to
559 cover all reasonable direct and indirect costs of the major
560 stationary source air-operation permit program established by

561 this section. The license fee factor may be increased beyond \$25
562 only if the secretary of the department affirmatively finds that
563 a shortage of revenue for support of the major stationary source
564 air-operation permit program will occur in the absence of a fee
565 factor adjustment. The annual license fee factor may never
566 exceed \$35.

567 ~~2. For any source that operates for fewer hours during the~~
568 ~~calendar year than allowed under its permit, the annual fee~~
569 ~~calculation must be based upon actual hours of operation rather~~
570 ~~than allowable hours if the owner or operator of the source~~
571 ~~documents the source's actual hours of operation for the~~
572 ~~calendar year. For any source that has an emissions limit that~~
573 ~~is dependent upon the type of fuel burned, the annual fee~~
574 ~~calculation must be based on the emissions limit applicable~~
575 ~~during actual hours of operation.~~

576 ~~3. For any source whose allowable emission limitation is~~
577 ~~specified by permit per units of material input or heat input or~~
578 ~~product output, the applicable input or production amount may be~~
579 ~~used to calculate the allowable emissions if the owner or~~
580 ~~operator of the source documents the actual input or production~~
581 ~~amount. If the input or production amount is not documented, the~~
582 ~~maximum allowable input or production amount specified in the~~
583 ~~permit must be used to calculate the allowable emissions.~~

584 ~~4. For any new source that does not receive its first~~
585 ~~operation permit until after the beginning of a calendar year,~~
586 ~~the annual fee for the year must be reduced pro rata to reflect~~
587 ~~the period during which the source was not allowed to operate.~~

588 ~~5. For any source that emits less of any regulated air~~

589 ~~pollutant than allowed by permit condition, the annual fee~~
590 ~~calculation for such pollutant must be based upon actual~~
591 ~~emissions rather than allowable emissions if the owner or~~
592 ~~operator documents the source's actual emissions by means of~~
593 ~~data from a department-approved certified continuous emissions~~
594 ~~monitor or from an emissions monitoring method which has been~~
595 ~~approved by the United States Environmental Protection Agency~~
596 ~~under the regulations implementing 42 U.S.C. ss. 7651 et seq.,~~
597 ~~or from a method approved by the department for purposes of this~~
598 ~~section.~~

599 2.6. The amount of each regulated air pollutant in excess
600 of 4,000 tons per year ~~allowed to be~~ emitted by any source, or
601 group of sources belonging to the same Major Group as described
602 in the Standard Industrial Classification Manual, 1987, may not
603 be included in the calculation of the fee. Any source, or group
604 of sources, which does not emit any regulated air pollutant in
605 excess of 4,000 tons per year, is allowed a one-time credit not
606 to exceed 25 percent of the first annual licensing fee for the
607 prorated portion of existing air-operation permit application
608 fees remaining upon commencement of the annual licensing fees.

609 3.7. If the department has not received the fee by March 1
610 ~~February 15~~ of the calendar year, the permittee must be sent a
611 written warning of the consequences for failing to pay the fee
612 by April ~~March~~ 1. If the fee is not postmarked by April ~~March~~ 1
613 of the calendar year, the department shall impose, in addition
614 to the fee, a penalty of 50 percent of the amount of the fee,
615 plus interest on such amount computed in accordance with s.
616 220.807. The department may not impose such penalty or interest

617 on any amount underpaid, provided that the permittee has timely
618 remitted payment of at least 90 percent of the amount determined
619 to be due and remits full payment within 60 days after receipt
620 of notice of the amount underpaid. The department may waive the
621 collection of underpayment and shall not be required to refund
622 overpayment of the fee, if the amount due is less than 1 percent
623 of the fee, up to \$50. The department may revoke any major air
624 pollution source operation permit if it finds that the
625 permitholder has failed to timely pay any required annual
626 operation license fee, penalty, or interest.

627 ~~4.8.~~ Notwithstanding the computational provisions of this
628 subsection, the annual operation license fee for any source
629 subject to this section shall not be less than \$250, except that
630 the annual operation license fee for sources permitted solely
631 through general permits issued under s. 403.814 shall not exceed
632 \$50 per year.

633 ~~5.9.~~ Notwithstanding the provisions of s.
634 403.087(6)(a)5.a., authorizing air pollution construction permit
635 fees, the department may not require such fees for changes or
636 additions to a major source of air pollution permitted pursuant
637 to this section, unless the activity triggers permitting
638 requirements under Title I, Part C or Part D, of the federal
639 Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and
640 administer such permits shall be considered direct and indirect
641 costs of the major stationary source air-operation permit
642 program under s. 403.0873. The department shall, however,
643 require fees pursuant to the provisions of s. 403.087(6)(a)5.a.
644 for the construction of a new major source of air pollution that

645 will be subject to the permitting requirements of this section
646 once constructed and for activities triggering permitting
647 requirements under Title I, Part C or Part D, of the federal
648 Clean Air Act, 42 U.S.C. ss. 7470-7514a.

649 (b) Annual operation license fees collected by the
650 department must be sufficient to cover all reasonable direct and
651 indirect costs required to develop and administer the major
652 stationary source air-operation permit program, which shall
653 consist of the following elements to the extent that they are
654 reasonably related to the regulation of major stationary air
655 pollution sources, in accordance with United States
656 Environmental Protection Agency regulations and guidelines:

- 657 1. Reviewing and acting upon any application for such a
658 permit.
- 659 2. Implementing and enforcing the terms and conditions of
660 any such permit, excluding court costs or other costs associated
661 with any enforcement action.
- 662 3. Emissions and ambient monitoring.
- 663 4. Preparing generally applicable regulations or guidance.
- 664 5. Modeling, analyses, and demonstrations.
- 665 6. Preparing inventories and tracking emissions.
- 666 7. Implementing the Small Business Stationary Source
667 Technical and Environmental Compliance Assistance Program.
- 668 8. Any audits conducted under paragraph (c).

669 (c) An audit of the major stationary source air-operation
670 permit program must be conducted 2 years after the United States
671 Environmental Protection Agency has given full approval of the
672 program to ascertain whether the annual operation license fees

673 collected by the department are used solely to support any
674 reasonable direct and indirect costs as listed in paragraph (b).
675 A program audit must be performed biennially after the first
676 audit.

677 Section 19. Paragraph (b) of subsection (2) of section
678 403.088, Florida Statutes, is amended to read:

679 403.088 Water pollution operation permits; conditions.—
680 (2)

681 (b)1. If the department finds that the proposed discharge
682 will reduce the quality of the receiving waters below the
683 classification established for them, it shall deny the
684 application and refuse to issue a permit. The department may not
685 use the results from a field procedure or laboratory method to
686 make such a finding or determine facility compliance unless the
687 field procedure or laboratory method has been adopted by rule or
688 noticed and approved by department order pursuant to department
689 rule. Field procedures and laboratory methods must satisfy the
690 quality assurance requirements of department rule and must
691 produce data of known and verifiable quality. The results of
692 field procedures and laboratory methods shall be evaluated for
693 sources of uncertainty to assure suitability for the intended
694 purposes as properly documented with each procedure or method.

695 2. If the department finds that the proposed discharge
696 will not reduce the quality of the receiving waters below the
697 classification established for them, it may issue an operation
698 permit if it finds that such degradation is necessary or
699 desirable under federal standards and under circumstances which
700 are clearly in the public interest.

701 Section 20. Paragraph (b) of subsection (3) of section
 702 403.7046, Florida Statutes, is amended, and subsection (4) is
 703 added to that section, to read:

704 403.7046 Regulation of recovered materials.—

705 (3) Except as otherwise provided in this section or
 706 pursuant to a special act in effect on or before January 1,
 707 1993, a local government may not require a commercial
 708 establishment that generates source-separated recovered
 709 materials to sell or otherwise convey its recovered materials to
 710 the local government or to a facility designated by the local
 711 government, nor may the local government restrict such a
 712 generator's right to sell or otherwise convey such recovered
 713 materials to any properly certified recovered materials dealer
 714 who has satisfied the requirements of this section. A local
 715 government may not enact any ordinance that prevents such a
 716 dealer from entering into a contract with a commercial
 717 establishment to purchase, collect, transport, process, or
 718 receive source-separated recovered materials.

719 (b) Before ~~Prior to~~ engaging in business within the
 720 jurisdiction of the local government, a recovered materials
 721 dealer must provide the local government with a copy of the
 722 certification provided for in this section. In addition, the
 723 local government may establish a registration process whereby a
 724 recovered materials dealer must register with the local
 725 government prior to engaging in business within the jurisdiction
 726 of the local government. Such registration process is limited to
 727 requiring the dealer to register its name, including the owner
 728 or operator of the dealer, and, if the dealer is a business

729 entity, its general or limited partners, its corporate officers
730 and directors, its permanent place of business, evidence of its
731 certification under this section, and a certification that the
732 recovered materials will be processed at a recovered materials
733 processing facility satisfying the requirements of this section.
734 The local government must take action on a registration
735 application within 90 days after receipt of the application.
736 During the pendency of the local government's review, the local
737 government may not use the registration information to unfairly
738 compete with the recovered materials dealer seeking
739 registration. All counties, and municipalities whose population
740 exceeds 35,000 according to the population estimates determined
741 pursuant to s. 186.901, may establish a reporting process which
742 shall be limited to the regulations, reporting format, and
743 reporting frequency established by the department pursuant to
744 this section, which shall, at a minimum, include requiring the
745 dealer to identify the types and approximate amount of recovered
746 materials collected, recycled, or reused during the reporting
747 period; the approximate percentage of recovered materials
748 reused, stored, or delivered to a recovered materials processing
749 facility or disposed of in a solid waste disposal facility; and
750 the locations where any recovered materials were disposed of as
751 solid waste. Information reported under this subsection which,
752 if disclosed, would reveal a trade secret, as defined in s.
753 812.081(1)(c), is confidential and exempt from the provisions of
754 s. 24(a), Art. I of the State Constitution and s. 119.07(1). The
755 local government may charge the dealer a registration fee
756 commensurate with and no greater than the cost incurred by the

757 local government in operating its registration program.
 758 Registration program costs are limited to those costs associated
 759 with the activities described in this paragraph. Any reporting
 760 or registration process established by a local government with
 761 regard to recovered materials shall be governed by the
 762 provisions of this section and department rules adopted
 763 ~~promulgated~~ pursuant thereto.

764 (4) A recovered materials dealer may initiate an action
 765 for injunctive relief or damages for alleged violations of this
 766 section.

767 Section 21. Paragraph (e) of subsection (1) of section
 768 403.813, Florida Statutes, is amended to read:

769 403.813 Permits issued at district centers; exceptions.—

770 (1) A permit is not required under this chapter, chapter
 771 373, chapter 61-691, Laws of Florida, or chapter 25214 or
 772 chapter 25270, 1949, Laws of Florida, for activities associated
 773 with the following types of projects; however, except as
 774 otherwise provided in this subsection, ~~nothing in this~~
 775 subsection does not relieve ~~relieves~~ an applicant from any
 776 requirement to obtain permission to use or occupy lands owned by
 777 the Board of Trustees of the Internal Improvement Trust Fund or
 778 a any water management district in its governmental or
 779 proprietary capacity or from complying with applicable local
 780 pollution control programs authorized under this chapter or
 781 other requirements of county and municipal governments:

782 (e) The restoration of seawalls at their previous
 783 locations or upland of, or within 18 inches ~~1-foot~~ waterward of,
 784 their previous locations. However, this shall not affect the

785 permitting requirements of chapter 161, and department rules
786 shall clearly indicate that this exception does not constitute
787 an exception from the permitting requirements of chapter 161.

788 Section 22. Section 403.8141, Florida Statutes, is created
789 to read:

790 403.8141 Special event permits.—The department shall issue
791 permits for special events under s. 253.0345. The permits must
792 be for a period that runs concurrently with the lease or letter
793 of consent issued pursuant to s. 253.0345 and must allow for the
794 movement of temporary structures within the footprint of the
795 lease area.

796 Section 23. Paragraph (b) of subsection (14) and paragraph
797 (b) of subsection (19) of section 403.973, Florida Statutes, are
798 amended, and paragraph (g) is added to subsection (3) of that
799 section, to read:

800 403.973 Expedited permitting; amendments to comprehensive
801 plans.—

802 (3)

803 (g) Projects to construct interstate natural gas pipelines
804 subject to certification by the Federal Energy Regulatory
805 Commission are eligible for the expedited permitting process.

806 (14)

807 (b) Projects identified in paragraph (3)(f) or paragraph
808 (3)(g) or challenges to state agency action in the expedited
809 permitting process for establishment of a state-of-the-art
810 biomedical research institution and campus in this state by the
811 grantee under s. 288.955 are subject to the same requirements as
812 challenges brought under paragraph (a), except that,

CS/CS/HB 999

2013

813 notwithstanding s. 120.574, summary proceedings must be
814 conducted within 30 days after a party files the motion for
815 summary hearing, regardless of whether the parties agree to the
816 summary proceeding.

817 (19) The following projects are ineligible for review
818 under this part:

819 (b) A project, the primary purpose of which is to:

820 1. Effect the final disposal of solid waste, biomedical
821 waste, or hazardous waste in this state.

822 2. Produce electrical power, unless the production of
823 electricity is incidental and not the primary function of the
824 project or the electrical power is derived from a fuel source
825 for renewable energy as defined in s. 366.91(2)(d).

826 3. Extract natural resources.

827 4. Produce oil.

828 5. Construct, maintain, or operate an oil, petroleum,
829 ~~natural gas,~~ or sewage pipeline.

830 Section 24. This act shall take effect July 1, 2013.