

26 facilities, discharge contingency plans for vessels,
27 sewage disposal facilities, dumping litter, small
28 quantity generators, and coral reef protection,
29 respectively; making technical changes; amending ss.
30 373.430 and 403.161, F.S.; revising criminal penalties
31 for violations of certain provisions relating to
32 pollution and the environment; making technical
33 changes; amending s. 403.121, F.S.; revising civil and
34 administrative penalties for violations of certain
35 provisions relating to pollution and the environment;
36 providing that each day that certain violations occur
37 or are not remediated constitutes a separate offense
38 until such violations are resolved by order or
39 judgment; increasing the amount of penalties that can
40 be assessed administratively; making technical
41 changes; amending ss. 403.726 and 403.727, F.S.;
42 revising civil penalties for violations of certain
43 provisions relating to hazardous waste for each day
44 that certain violations occur and are not resolved by
45 order or judgment; making technical changes;
46 reenacting s. 823.11(5), F.S., to incorporate the
47 amendment made to s. 376.16, F.S., in a reference
48 thereto; reenacting ss. 403.077(5), 403.131(2),
49 403.4154(3)(d), and 403.860(5), F.S., to incorporate
50 the amendment made to s. 403.121, F.S., in a reference

51 thereto; reenacting ss. 403.708(10), 403.7191(7), and
 52 403.811, F.S., to incorporate the amendment made to s.
 53 403.141, F.S., in a reference thereto; reenacting s.
 54 403.7255(2), F.S., to incorporate the amendment made
 55 to s. 403.161, F.S., in a reference thereto;
 56 reenacting s. 403.7186(8), F.S., to incorporate the
 57 amendment made to ss. 403.141 and 403.161, F.S., in
 58 references thereto; providing an effective date.
 59

60 Be It Enacted by the Legislature of the State of Florida:
 61

62 Section 1. Subsection (1) of section 161.054, Florida
 63 Statutes, is amended to read:

64 161.054 Administrative fines; liability for damage;
 65 liens.—

66 (1) In addition to the penalties provided for in ss.
 67 161.052, 161.053, and 161.121, any person, firm, corporation, or
 68 governmental agency, or agent thereof, refusing to comply with
 69 or willfully violating ~~any of the provisions of~~ s. 161.041, s.
 70 161.052, or s. 161.053, or any rule or order prescribed by the
 71 department thereunder, shall incur a fine for each offense in an
 72 amount up to \$15,000 ~~\$10,000~~ to be fixed, imposed, and collected
 73 by the department. Until a violation is resolved by order or
 74 judgment, each day during any portion of which such violation
 75 occurs or is not remediated constitutes a separate offense.

76 Section 2. Subsection (7) of section 258.397, Florida
 77 Statutes, is amended to read:

78 258.397 Biscayne Bay Aquatic Preserve.—

79 (7) ENFORCEMENT.—~~The provisions of~~ This section may be
 80 enforced in accordance with ~~the provisions of~~ s. 403.412. In
 81 addition, the Department of Legal Affairs may ~~is authorized to~~
 82 bring an action for civil penalties of \$7,500 ~~\$5,000~~ per day
 83 against any person, natural or corporate, who violates ~~the~~
 84 ~~provisions of~~ this section or any rule or regulation issued
 85 hereunder. Until a violation is resolved by order or judgment,
 86 each day during any portion of which such violation occurs or is
 87 not remediated constitutes a separate offense. Enforcement of
 88 applicable state regulations shall be supplemented by the Miami-
 89 Dade County Department of Environmental Resources Management
 90 through the creation of a full-time enforcement presence along
 91 the Miami River.

92 Section 3. Section 258.46, Florida Statutes, is amended to
 93 read:

94 258.46 Enforcement; violations; penalty.—~~The provisions of~~
 95 This act may be enforced by the Board of Trustees of the
 96 Internal Improvement Trust Fund or in accordance with ~~the~~
 97 ~~provisions of~~ s. 403.412. However, any violation by any person,
 98 natural or corporate, of ~~the provisions of~~ this act or any rule
 99 or regulation issued hereunder is ~~shall be~~ further punishable by
 100 a civil penalty of not less than \$750 ~~\$500~~ per day or more than

101 \$7,500 ~~\$5,000~~ per day of such violation. Until a violation is
 102 resolved by order or judgment, each day during any portion of
 103 which such violation occurs or is not remediated constitutes a
 104 separate offense.

105 Section 4. Subsections (5) and (7) of section 373.129,
 106 Florida Statutes, are amended to read:

107 373.129 Maintenance of actions.—The department, the
 108 governing board of any water management district, any local
 109 board, or a local government to which authority has been
 110 delegated pursuant to s. 373.103(8), is authorized to commence
 111 and maintain proper and necessary actions and proceedings in any
 112 court of competent jurisdiction for any of the following
 113 purposes:

114 (5) To recover a civil penalty for each offense in an
 115 amount not to exceed \$15,000 ~~\$10,000~~ per offense. Until a
 116 violation is resolved by order or judgment, each date during any
 117 portion of which such violation occurs or is not remediated
 118 constitutes a separate offense.

119 (a) A civil penalty recovered by a water management
 120 district pursuant to this subsection shall be retained and used
 121 exclusively by the water management district that collected the
 122 money. A civil penalty recovered by the department pursuant to
 123 this subsection must be deposited into the Water Quality
 124 Assurance Trust Fund established under s. 376.307.

125 (b) A local government that is delegated authority

126 | pursuant to s. 373.103(8) may deposit a civil penalty recovered
 127 | pursuant to this subsection into a local water pollution control
 128 | program trust fund, notwithstanding ~~the provisions of~~ paragraph
 129 | (a). However, civil penalties that are deposited in a local
 130 | water pollution control program trust fund and that are
 131 | recovered for violations of state water quality standards may be
 132 | used only to restore water quality in the area that was the
 133 | subject of the action, and civil penalties that are deposited in
 134 | a local water pollution control program trust fund and that are
 135 | recovered for violation of requirements relating to water
 136 | quantity may be used only to purchase lands and make capital
 137 | improvements associated with surface water management, or other
 138 | purposes consistent with the requirements of this chapter for
 139 | the management and storage of surface water.

140 | (7) To enforce ~~the provisions of~~ part IV of this chapter
 141 | in the same manner and to the same extent as provided in ss.
 142 | 373.430, 403.121(1) and (2), 403.131, 403.141, and 403.161.

143 | Section 5. Subsection (3) of section 373.209, Florida
 144 | Statutes, is amended to read:

145 | 373.209 Artesian wells; penalties for violation.—

146 | (3) Any person who violates ~~any provision of~~ this section
 147 | is ~~shall be~~ subject to either:

148 | (a) The remedial measures provided for in s. 373.436; or

149 | (b) A civil penalty of \$150 ~~\$100~~ a day for each and every
 150 | day of such violation and for each and every act of violation.

151 The civil penalty may be recovered by the water management board
 152 of the water management district in which the well is located or
 153 by the department in a suit in a court of competent jurisdiction
 154 in the county where the defendant resides, in the county of
 155 residence of any defendant if there is more than one defendant,
 156 or in the county where the violation took place. The place of
 157 suit shall be selected by the board or department, and the suit,
 158 by direction of the board or department, shall be instituted and
 159 conducted in the name of the board or department by appropriate
 160 counsel. The payment of any such damages does not impair or
 161 abridge any cause of action which any person may have against
 162 the person violating ~~any provision of~~ this section.

163 Section 6. Subsections (2) through (5) of section 373.430,
 164 Florida Statutes, are amended to read:

165 373.430 Prohibitions, violation, penalty, intent.—

166 (2) A person who ~~Whoever~~ commits a violation specified in
 167 subsection (1) is liable for any damage caused and for civil
 168 penalties as provided in s. 373.129.

169 (3) A ~~Any~~ person who willfully commits a violation
 170 specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of
 171 the third degree, punishable as provided in ss. 775.082(3)(e)
 172 and 775.083(1)(g), by a fine of not more than \$50,000 or by
 173 imprisonment for 5 years, or by both, for each offense. Each day
 174 during any portion of which such violation occurs constitutes a
 175 separate offense.

176 (4) A ~~Any~~ person who commits a violation specified in
 177 paragraph (1)(a) or paragraph (1)(b) due to reckless
 178 indifference or gross careless disregard commits ~~is guilty of~~ a
 179 misdemeanor of the second degree, punishable as provided in ss.
 180 775.082(4)(b) and 775.083(1)(g), by a fine of not more than
 181 \$10,000 ~~\$5,000~~ or 60 days in jail, or by both, for each offense.

182 (5) A ~~Any~~ person who willfully commits a violation
 183 specified in paragraph (1)(b) or who commits a violation
 184 specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor
 185 of the first degree, punishable as provided in ss. 775.082(4)(a)
 186 and 775.083(1)(g), by a fine of not more than \$10,000 or by 6
 187 months in jail, or by both, for each offense.

188 Section 7. Paragraphs (a) and (e) of subsection (5) of
 189 section 376.065, Florida Statutes, are amended to read:

190 376.065 Operation of terminal facility without discharge
 191 prevention and response certificate prohibited; penalty.—

192 (5) (a) A person who violates this section or the terms and
 193 requirements of such certification commits a noncriminal
 194 infraction. The civil penalty for any such infraction shall be
 195 \$750 ~~\$500~~, except as otherwise provided in this section.

196 (e) A person who elects to appear before the county court
 197 or who is required to so appear waives the limitations of the
 198 civil penalty specified in paragraph (a). The court, after a
 199 hearing, shall make a determination as to whether an infraction
 200 has been committed. If the commission of the infraction is

201 proved, the court shall impose a civil penalty of \$750 ~~\$500~~.

202 Section 8. Paragraphs (a) and (e) of subsection (2) of
 203 section 376.071, Florida Statutes, are amended to read:

204 376.071 Discharge contingency plan for vessels.—

205 (2) (a) A master of a vessel that violates subsection (1)
 206 commits a noncriminal infraction and shall be cited for such
 207 infraction. The civil penalty for such an infraction shall be
 208 \$7,500 ~~\$5,000~~, except as otherwise provided in this subsection.

209 (e) A person who elects to appear before the county court
 210 or who is required to appear waives the limitations of the civil
 211 penalty specified in paragraph (a). The court, after a hearing,
 212 shall make a determination as to whether an infraction has been
 213 committed. If the commission of the infraction is proved, the
 214 court shall impose a civil penalty of \$7,500 ~~\$5,000~~.

215 Section 9. Section 376.16, Florida Statutes, is amended to
 216 read:

217 376.16 Enforcement and penalties.—

218 (1) It is unlawful for any person to violate ~~any provision~~
 219 ~~of~~ ss. 376.011-376.21 or any rule or order of the department
 220 made pursuant to this act. A violation is ~~shall be~~ punishable by
 221 a civil penalty of up to \$75,000 ~~\$50,000~~ per violation per day
 222 to be assessed by the department. Until a violation is resolved
 223 by order or judgment, each day during any portion of which the
 224 violation occurs or is not remediated constitutes a separate
 225 offense. The penalty provisions of this subsection do ~~shall~~ not

226 | apply to any discharge promptly reported and removed by a person
 227 | responsible, in accordance with the rules and orders of the
 228 | department, or to any discharge of pollutants equal to or less
 229 | than 5 gallons.

230 | (2) In addition to the penalty provisions which may apply
 231 | under subsection (1), a person responsible for two or more
 232 | discharges of any pollutant reported pursuant to s. 376.12
 233 | within a 12-month period at the same facility commits a
 234 | noncriminal infraction and shall be cited by the department for
 235 | such infraction.

236 | (a) For discharges of gasoline or diesel over 5 gallons,
 237 | the civil penalty for the second discharge shall be \$750 ~~\$500~~
 238 | and the civil penalty for each subsequent discharge within a 12-
 239 | month period shall be \$1,500 ~~\$1,000~~, except as otherwise
 240 | provided in this section.

241 | (b) For discharges of any pollutant other than gasoline or
 242 | diesel, the civil penalty for a second discharge shall be \$3,750
 243 | ~~\$2,500~~ and the civil penalty for each subsequent discharge
 244 | within a 12-month period shall be \$7,500 ~~\$5,000~~, except as
 245 | otherwise provided in this section.

246 | (3) A person responsible for two or more discharges of any
 247 | pollutant reported pursuant to s. 376.12 within a 12-month
 248 | period at the same facility commits a noncriminal infraction and
 249 | shall be cited by the department for such infraction.

250 | (a) For discharges of gasoline or diesel equal to or less

251 than 5 gallons, the civil penalty shall be \$75 ~~\$50~~ for each
 252 discharge subsequent to the first.

253 (b) For discharges of pollutants other than gasoline or
 254 diesel equal to or less than 5 gallons, the civil penalty shall
 255 be \$150 ~~\$100~~ for each discharge subsequent to the first.

256 (4) A person charged with a noncriminal infraction
 257 pursuant to subsection (2) or subsection (3) may:

258 (a) Pay the civil penalty;

259 (b) Post a bond equal to the amount of the applicable
 260 civil penalty; or

261 (c) Sign and accept a citation indicating a promise to
 262 appear before the county court.

263
 264 The department employee authorized to issue these citations may
 265 indicate on the citation the time and location of the scheduled
 266 hearing and shall indicate the applicable civil penalty.

267 (5) Any person who willfully refuses to post bond or
 268 accept and sign a citation commits a misdemeanor of the second
 269 degree, punishable as provided in s. 775.082 or s. 775.083.

270 (6) After compliance with paragraph (4) (b) or paragraph
 271 (4) (c), any person charged with a noncriminal infraction under
 272 subsection (2) or subsection (3) may:

273 (a) Pay the civil penalty, either by mail or in person,
 274 within 30 days after the date of receiving the citation; or

275 (b) If the person has posted bond, forfeit the bond by not

276 | appearing at the designated time and location.

277 |

278 | A person cited for an infraction under this section who pays the
 279 | civil penalty or forfeits the bond has admitted the infraction
 280 | and waives the right to a hearing on the issue of commission of
 281 | the infraction. Such admission may not be used as evidence in
 282 | any other proceeding.

283 | (7) Any person who elects to appear before the county
 284 | court or who is required to appear waives the limitations of the
 285 | civil penalties specified in subsection (2). The court, after a
 286 | hearing, shall make a determination as to whether an infraction
 287 | has been committed. If the commission of an infraction is
 288 | proved, the court may impose a civil penalty up to, but not
 289 | exceeding, \$750 ~~\$500~~ for the second discharge of gasoline or
 290 | diesel and a civil penalty up to, but not exceeding, \$1,500
 291 | ~~\$1,000~~ for each subsequent discharge of gasoline or diesel
 292 | within a 12-month period.

293 | (8) Any person who elects to appear before the county
 294 | court or who is required to appear waives the limitations of the
 295 | civil penalties specified in subsection (2) or subsection (3).
 296 | The court, after a hearing, shall make a determination as to
 297 | whether an infraction has been committed. If the commission of
 298 | an infraction is proved, the court may impose a civil penalty up
 299 | to, but not exceeding, \$7,500 ~~\$5,000~~ for the second discharge of
 300 | pollutants other than gasoline or diesel and a civil penalty up

301 to, but not exceeding, \$15,000 ~~\$10,000~~ for each subsequent
 302 discharge of pollutants other than gasoline or diesel within a
 303 12-month period.

304 (9) At a hearing under this section, the commission of a
 305 charged offense must be proved by the greater weight of the
 306 evidence.

307 (10) A person who is found by a hearing official to have
 308 committed an infraction may appeal that finding to the circuit
 309 court.

310 (11) Any person who has not posted bond and who neither
 311 pays the applicable civil penalty, as specified in subsection
 312 (2) or subsection (3) within 30 days of receipt of the citation
 313 nor appears before the court commits a misdemeanor of the second
 314 degree, punishable as provided in s. 775.082 or s. 775.083.

315 (12) Any person who makes or causes to be made a false
 316 statement that ~~which~~ the person does not believe to be true in
 317 response to requirements of ~~the provisions of~~ ss. 376.011-376.21
 318 commits a felony of the second degree, punishable as provided in
 319 s. 775.082, s. 775.083, or s. 775.084.

320 Section 10. Paragraph (a) of subsection (6) of section
 321 376.25, Florida Statutes, is amended to read:

322 376.25 Gambling vessels; registration; required and
 323 prohibited releases.—

324 (6) PENALTIES.—

325 (a) A person who violates this section is subject to a

326 civil penalty of not more than \$75,000 ~~\$50,000~~ for each
327 violation. Until a violation is resolved by order or judgment,
328 each day during any portion of which such violation occurs or is
329 not remediated constitutes a separate offense.

330 Section 11. Paragraph (a) of subsection (1) of section
331 377.37, Florida Statutes, is amended to read:

332 377.37 Penalties.—

333 (1) (a) Any person who violates ~~any provision of~~ this law
334 or any rule, regulation, or order of the division made under
335 this chapter or who violates the terms of any permit to drill
336 for or produce oil, gas, or other petroleum products referred to
337 in s. 377.242(1) or to store gas in a natural gas storage
338 facility, or any lessee, permitholder, or operator of equipment
339 or facilities used in the exploration for, drilling for, or
340 production of oil, gas, or other petroleum products, or storage
341 of gas in a natural gas storage facility, who refuses inspection
342 by the division as provided in this chapter, is liable to the
343 state for any damage caused to the air, waters, or property,
344 including animal, plant, or aquatic life, of the state and for
345 reasonable costs and expenses of the state in tracing the source
346 of the discharge, in controlling and abating the source and the
347 pollutants, and in restoring the air, waters, and property,
348 including animal, plant, and aquatic life, of the state.
349 Furthermore, such person, lessee, permitholder, or operator is
350 subject to the judicial imposition of a civil penalty in an

351 amount of not more than \$15,000 ~~\$10,000~~ for each offense.
 352 However, the court may receive evidence in mitigation. Until a
 353 violation is resolved by order or judgment, each day during any
 354 portion of which such violation occurs or is not remediated
 355 constitutes a separate offense. This section does not ~~Nothing~~
 356 ~~herein shall~~ give the department the right to bring an action on
 357 behalf of any private person.

358 Section 12. Subsection (2) of section 378.211, Florida
 359 Statutes, is amended to read:

360 378.211 Violations; damages; penalties.—

361 (2) The department may institute a civil action in a court
 362 of competent jurisdiction to impose and recover a civil penalty
 363 for violation of this part or of any rule adopted or order
 364 issued pursuant to this part. The penalty may ~~shall~~ not exceed
 365 the following amounts, and the court shall consider evidence in
 366 mitigation:

367 (a) For violations of a minor or technical nature, \$150
 368 ~~\$100~~ per violation.

369 (b) For major violations by an operator on which a penalty
 370 has not been imposed under this paragraph during the previous 5
 371 years, \$1,500 ~~\$1,000~~ per violation.

372 (c) For major violations not covered by paragraph (b),
 373 \$7,500 ~~\$5,000~~ per violation.

374
 375 Subject to ~~the provisions of~~ subsection (4), until a violation

376 | is resolved by order or judgment, each day or any portion
 377 | thereof in which the violation continues or is not remediated
 378 | shall constitute a separate violation.

379 | Section 13. Subsection (2) of section 403.086, Florida
 380 | Statutes, is amended to read:

381 | 403.086 Sewage disposal facilities; advanced and secondary
 382 | waste treatment.—

383 | (2) Any facilities for sanitary sewage disposal shall
 384 | provide for secondary waste treatment and, in addition thereto,
 385 | advanced waste treatment as deemed necessary and ordered by the
 386 | Department of Environmental Protection. Failure to conform shall
 387 | be punishable by a civil penalty of \$750 ~~\$500~~ for each 24-hour
 388 | day or fraction thereof that such failure is allowed to continue
 389 | thereafter.

390 | Section 14. Section 403.121, Florida Statutes, is amended
 391 | to read:

392 | 403.121 Enforcement; procedure; remedies.—The department
 393 | shall have the following judicial and administrative remedies
 394 | available to it for violations of this chapter, as specified in
 395 | s. 403.161(1).

396 | (1) Judicial remedies:

397 | (a) The department may institute a civil action in a court
 398 | of competent jurisdiction to establish liability and to recover
 399 | damages for any injury to the air, waters, or property,
 400 | including animal, plant, and aquatic life, of the state caused

401 by any violation.

402 (b) The department may institute a civil action in a court
403 of competent jurisdiction to impose and to recover a civil
404 penalty for each violation in an amount of not more than \$15,000
405 ~~\$10,000~~ per offense. However, the court may receive evidence in
406 mitigation. Until a violation is resolved by order or judgment,
407 each day during any portion of which such violation occurs or is
408 not remediated constitutes a separate offense.

409 (c) Except as provided in paragraph (2)(c), it is ~~shall~~
410 not be a defense to, or ground for dismissal of, these judicial
411 remedies for damages and civil penalties that the department has
412 failed to exhaust its administrative remedies, has failed to
413 serve a notice of violation, or has failed to hold an
414 administrative hearing prior to the institution of a civil
415 action.

416 (2) Administrative remedies:

417 (a) The department may institute an administrative
418 proceeding to establish liability and to recover damages for any
419 injury to the air, waters, or property, including animal, plant,
420 or aquatic life, of the state caused by any violation. The
421 department may order that the violator pay a specified sum as
422 damages to the state. Judgment for the amount of damages
423 determined by the department may be entered in any court having
424 jurisdiction thereof and may be enforced as any other judgment.

425 (b) If the department has reason to believe a violation

426 | has occurred, it may institute an administrative proceeding to
427 | order the prevention, abatement, or control of the conditions
428 | creating the violation or other appropriate corrective action.
429 | Except for violations involving hazardous wastes, asbestos, or
430 | underground injection, the department shall proceed
431 | administratively in all cases in which the department seeks
432 | administrative penalties that do not exceed \$50,000 ~~\$10,000~~ per
433 | assessment as calculated in accordance with subsections (3),
434 | (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the
435 | administrative penalty assessed pursuant to subsection (3),
436 | subsection (4), or subsection (5) against a public water system
437 | serving a population of more than 10,000 shall be not less than
438 | \$1,000 per day per violation. The department may ~~shall~~ not
439 | impose administrative penalties in excess of \$50,000 ~~\$10,000~~ in
440 | a notice of violation. The department may ~~shall~~ not have more
441 | than one notice of violation seeking administrative penalties
442 | pending against the same party at the same time unless the
443 | violations occurred at a different site or the violations were
444 | discovered by the department subsequent to the filing of a
445 | previous notice of violation.

446 | (c) An administrative proceeding shall be instituted by
447 | the department's serving of a written notice of violation upon
448 | the alleged violator by certified mail. If the department is
449 | unable to effect service by certified mail, the notice of
450 | violation may be hand delivered or personally served in

451 accordance with chapter 48. The notice shall specify the
452 ~~provision of the~~ law, rule, regulation, permit, certification,
453 or order of the department alleged to be violated and the facts
454 alleged to constitute a violation thereof. An order for
455 corrective action, penalty assessment, or damages may be
456 included with the notice. When the department is seeking to
457 impose an administrative penalty for any violation by issuing a
458 notice of violation, any corrective action needed to correct the
459 violation or damages caused by the violation must be pursued in
460 the notice of violation or they are waived. However, an ~~no~~ order
461 is not ~~shall become~~ effective until after service and an
462 administrative hearing, if requested within 20 days after
463 service. Failure to request an administrative hearing within
464 this time period constitutes ~~shall constitute~~ a waiver thereof,
465 unless the respondent files a written notice with the department
466 within this time period opting out of the administrative process
467 initiated by the department to impose administrative penalties.
468 Any respondent choosing to opt out of the administrative process
469 initiated by the department in an action that seeks the
470 imposition of administrative penalties must file a written
471 notice with the department within 20 days after service of the
472 notice of violation opting out of the administrative process. A
473 respondent's decision to opt out of the administrative process
474 does not preclude the department from initiating a state court
475 action seeking injunctive relief, damages, and the judicial

476 imposition of civil penalties.

477 (d) If a person timely files a petition challenging a
478 notice of violation, that person will thereafter be referred to
479 as the respondent. The hearing requested by the respondent shall
480 be held within 180 days after the department has referred the
481 initial petition to the Division of Administrative Hearings
482 unless the parties agree to a later date. The department has the
483 burden of proving with the preponderance of the evidence that
484 the respondent is responsible for the violation. ~~No~~
485 Administrative penalties should not be imposed unless the
486 department satisfies that burden. Following the close of the
487 hearing, the administrative law judge shall issue a final order
488 on all matters, including the imposition of an administrative
489 penalty. When the department seeks to enforce that portion of a
490 final order imposing administrative penalties pursuant to s.
491 120.69, the respondent may ~~shall~~ not assert as a defense the
492 inappropriateness of the administrative remedy. The department
493 retains its final-order authority in all administrative actions
494 that do not request the imposition of administrative penalties.

495 (e) After filing a petition requesting a formal hearing in
496 response to a notice of violation in which the department
497 imposes an administrative penalty, a respondent may request that
498 a private mediator be appointed to mediate the dispute by
499 contacting the Florida Conflict Resolution Consortium within 10
500 days after receipt of the initial order from the administrative

501 law judge. The Florida Conflict Resolution Consortium shall pay
502 all of the costs of the mediator and for up to 8 hours of the
503 mediator's time per case at \$150 per hour. Upon notice from the
504 respondent, the Florida Conflict Resolution Consortium shall
505 provide to the respondent a panel of possible mediators from the
506 area in which the hearing on the petition would be heard. The
507 respondent shall select the mediator and notify the Florida
508 Conflict Resolution Consortium of the selection within 15 days
509 of receipt of the proposed panel of mediators. The Florida
510 Conflict Resolution Consortium shall provide all of the
511 administrative support for the mediation process. The mediation
512 must be completed at least 15 days before the final hearing date
513 set by the administrative law judge.

514 (f) In any administrative proceeding brought by the
515 department, the prevailing party shall recover all costs as
516 provided in ss. 57.041 and 57.071. The costs must be included in
517 the final order. The respondent is the prevailing party when an
518 order is entered awarding no penalties to the department and
519 such order has not been reversed on appeal or the time for
520 seeking judicial review has expired. The respondent is ~~shall be~~
521 entitled to an award of attorney's fees if the administrative
522 law judge determines that the notice of violation issued by the
523 department seeking the imposition of administrative penalties
524 was not substantially justified as defined in s. 57.111(3)(e).
525 An ~~No~~ award of attorney's fees as provided by this subsection

526 may not ~~shall~~ exceed \$15,000.

527 (g) Nothing herein shall be construed as preventing any
528 other legal or administrative action in accordance with law.
529 Nothing in this subsection shall limit the department's
530 authority provided in ss. 403.131, 403.141, and this section to
531 judicially pursue injunctive relief. When the department
532 exercises its authority to judicially pursue injunctive relief,
533 penalties in any amount up to the statutory maximum sought by
534 the department must be pursued as part of the state court action
535 and not by initiating a separate administrative proceeding. The
536 department retains the authority to judicially pursue penalties
537 in excess of \$50,000 ~~\$10,000~~ for violations not specifically
538 included in the administrative penalty schedule, or for multiple
539 or multiday violations alleged to exceed a total of \$50,000
540 ~~\$10,000~~. The department also retains the authority provided in
541 ss. 403.131, 403.141, and this section to judicially pursue
542 injunctive relief and damages, if a notice of violation seeking
543 the imposition of administrative penalties has not been issued.
544 The department has the authority to enter into a settlement,
545 either before or after initiating a notice of violation, and the
546 settlement may include a penalty amount different from the
547 administrative penalty schedule. Any case filed in state court
548 because it is alleged to exceed a total of \$50,000 ~~\$10,000~~ in
549 penalties may be settled in the court action for less than
550 \$50,000 ~~\$10,000~~.

551 (h) Chapter 120 applies ~~shall apply~~ to any administrative
552 action taken by the department or any delegated program pursuing
553 administrative penalties in accordance with this section.

554 (3) Except for violations involving hazardous wastes,
555 asbestos, or underground injection, administrative penalties
556 must be calculated according to the following schedule:

557 (a) For a drinking water contamination violation, the
558 department shall assess a penalty of \$3,000 ~~\$2,000~~ for a Maximum
559 Containment Level (MCL) violation; plus \$1,500 ~~\$1,000~~ if the
560 violation is for a primary inorganic, organic, or radiological
561 Maximum Contaminant Level or it is a fecal coliform bacteria
562 violation; plus \$1,500 ~~\$1,000~~ if the violation occurs at a
563 community water system; and plus \$1,500 ~~\$1,000~~ if any Maximum
564 Contaminant Level is exceeded by more than 100 percent. For
565 failure to obtain a clearance letter prior to placing a drinking
566 water system into service when the system would not have been
567 eligible for clearance, the department shall assess a penalty of
568 \$4,500 ~~\$3,000~~.

569 (b) For failure to obtain a required wastewater permit,
570 other than a permit required for surface water discharge, the
571 department shall assess a penalty of \$1,500 ~~\$1,000~~. For a
572 domestic or industrial wastewater violation not involving a
573 surface water or groundwater quality violation, the department
574 shall assess a penalty of \$3,000 ~~\$2,000~~ for an unpermitted or
575 unauthorized discharge or effluent-limitation exceedance. For an

576 unpermitted or unauthorized discharge or effluent-limitation
 577 exceedance that resulted in a surface water or groundwater
 578 quality violation, the department shall assess a penalty of
 579 \$7,500 ~~\$5,000~~.

580 (c) For a dredge and fill or stormwater violation, the
 581 department shall assess a penalty of \$1,500 ~~\$1,000~~ for
 582 unpermitted or unauthorized dredging or filling or unauthorized
 583 construction of a stormwater management system against the
 584 person or persons responsible for the illegal dredging or
 585 filling, or unauthorized construction of a stormwater management
 586 system plus \$3,000 ~~\$2,000~~ if the dredging or filling occurs in
 587 an aquatic preserve, an Outstanding Florida Water, a
 588 conservation easement, or a Class I or Class II surface water,
 589 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than
 590 one-quarter acre but less than or equal to one-half acre, and
 591 plus \$1,500 ~~\$1,000~~ if the area dredged or filled is greater than
 592 one-half acre but less than or equal to one acre. The
 593 administrative penalty schedule does ~~shall~~ not apply to a dredge
 594 and fill violation if the area dredged or filled exceeds one
 595 acre. The department retains the authority to seek the judicial
 596 imposition of civil penalties for all dredge and fill violations
 597 involving more than one acre. The department shall assess a
 598 penalty of \$4,500 ~~\$3,000~~ for the failure to complete required
 599 mitigation, failure to record a required conservation easement,
 600 or for a water quality violation resulting from dredging or

601 filling activities, stormwater construction activities or
602 failure of a stormwater treatment facility. For stormwater
603 management systems serving less than 5 acres, the department
604 shall assess a penalty of \$3,000 ~~\$2,000~~ for the failure to
605 properly or timely construct a stormwater management system. In
606 addition to the penalties authorized in this subsection, the
607 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation
608 against the contractor or agent of the owner or tenant that
609 conducts unpermitted or unauthorized dredging or filling. For
610 purposes of this paragraph, the preparation or signing of a
611 permit application by a person currently licensed under chapter
612 471 to practice as a professional engineer does ~~shall~~ not make
613 that person an agent of the owner or tenant.

614 (d) For mangrove trimming or alteration violations, the
615 department shall assess a penalty of \$7,500 ~~\$5,000~~ per violation
616 against the contractor or agent of the owner or tenant that
617 conducts mangrove trimming or alteration without a permit as
618 required by s. 403.9328. For purposes of this paragraph, the
619 preparation or signing of a permit application by a person
620 currently licensed under chapter 471 to practice as a
621 professional engineer does ~~shall~~ not make that person an agent
622 of the owner or tenant.

623 (e) For solid waste violations, the department shall
624 assess a penalty of \$3,000 ~~\$2,000~~ for the unpermitted or
625 unauthorized disposal or storage of solid waste; plus \$1,000 if

626 the solid waste is Class I or Class III (excluding yard trash)
 627 or if the solid waste is construction and demolition debris in
 628 excess of 20 cubic yards, plus \$1,500 ~~\$1,000~~ if the waste is
 629 disposed of or stored in any natural or artificial body of water
 630 or within 500 feet of a potable water well, plus \$1,500 ~~\$1,000~~
 631 if the waste contains PCB at a concentration of 50 parts per
 632 million or greater; untreated biomedical waste; friable asbestos
 633 greater than 1 cubic meter which is not wetted, bagged, and
 634 covered; used oil greater than 25 gallons; or 10 or more lead
 635 acid batteries. The department shall assess a penalty of \$4,500
 636 ~~\$3,000~~ for failure to properly maintain leachate control;
 637 unauthorized burning; failure to have a trained spotter on duty
 638 at the working face when accepting waste; or failure to provide
 639 access control for three consecutive inspections. The department
 640 shall assess a penalty of \$3,000 ~~\$2,000~~ for failure to construct
 641 or maintain a required stormwater management system.

642 (f) For an air emission violation, the department shall
 643 assess a penalty of \$1,500 ~~\$1,000~~ for an unpermitted or
 644 unauthorized air emission or an air-emission-permit exceedance,
 645 ~~plus \$1,000 if the emission results in an air quality violation,~~
 646 plus \$4,500 ~~\$3,000~~ if the emission was from a major source and
 647 the source was major for the pollutant in violation; plus \$1,500
 648 ~~\$1,000~~ if the emission was more than 150 percent of the
 649 allowable level.

650 (g) For storage tank system and petroleum contamination

651 violations, the department shall assess a penalty of \$7,500
652 ~~\$5,000~~ for failure to empty a damaged storage system as
653 necessary to ensure that a release does not occur until repairs
654 to the storage system are completed; when a release has occurred
655 from that storage tank system; for failure to timely recover
656 free product; or for failure to conduct remediation or
657 monitoring activities until a no-further-action or site-
658 rehabilitation completion order has been issued. The department
659 shall assess a penalty of \$4,500 ~~\$3,000~~ for failure to timely
660 upgrade a storage tank system. The department shall assess a
661 penalty of \$3,000 ~~\$2,000~~ for failure to conduct or maintain
662 required release detection; failure to timely investigate a
663 suspected release from a storage system; depositing motor fuel
664 into an unregistered storage tank system; failure to timely
665 assess or remediate petroleum contamination; or failure to
666 properly install a storage tank system. The department shall
667 assess a penalty of \$1,500 ~~\$1,000~~ for failure to properly
668 operate, maintain, or close a storage tank system.

669 (4) In an administrative proceeding, in addition to the
670 penalties that may be assessed under subsection (3), the
671 department shall assess administrative penalties according to
672 the following schedule:

673 (a) For failure to satisfy financial responsibility
674 requirements or for violation of s. 377.371(1), \$7,500 ~~\$5,000~~.

675 (b) For failure to install, maintain, or use a required

676 pollution control system or device, \$6,000 ~~\$4,000~~.

677 (c) For failure to obtain a required permit before
678 construction or modification, \$4,500 ~~\$3,000~~.

679 (d) For failure to conduct required monitoring or testing;
680 failure to conduct required release detection; or failure to
681 construct in compliance with a permit, \$3,000 ~~\$2,000~~.

682 (e) For failure to maintain required staff to respond to
683 emergencies; failure to conduct required training; failure to
684 prepare, maintain, or update required contingency plans; failure
685 to adequately respond to emergencies to bring an emergency
686 situation under control; or failure to submit required
687 notification to the department, \$1,500 ~~\$1,000~~.

688 (f) Except as provided in subsection (2) with respect to
689 public water systems serving a population of more than 10,000,
690 for failure to prepare, submit, maintain, or use required
691 reports or other required documentation, \$750 ~~\$500~~.

692 (5) Except as provided in subsection (2) with respect to
693 public water systems serving a population of more than 10,000,
694 for failure to comply with any other departmental regulatory
695 statute or rule requirement not otherwise identified in this
696 section, the department may assess a penalty of \$1,000 ~~\$500~~.

697 (6) For each additional day during which a violation
698 occurs, the administrative penalties in subsections ~~subsection~~
699 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be assessed per day
700 per violation.

701 (7) The history of noncompliance of the violator for any
702 previous violation resulting in an executed consent order, but
703 not including a consent order entered into without a finding of
704 violation, or resulting in a final order or judgment after the
705 effective date of this law involving the imposition of \$3,000
706 ~~\$2,000~~ or more in penalties shall be taken into consideration in
707 the following manner:

708 (a) One previous such violation within 5 years prior to
709 the filing of the notice of violation will result in a 25-
710 percent per day increase in the scheduled administrative
711 penalty.

712 (b) Two previous such violations within 5 years prior to
713 the filing of the notice of violation will result in a 50-
714 percent per day increase in the scheduled administrative
715 penalty.

716 (c) Three or more previous such violations within 5 years
717 prior to the filing of the notice of violation will result in a
718 100-percent per day increase in the scheduled administrative
719 penalty.

720 (8) The direct economic benefit gained by the violator
721 from the violation, where consideration of economic benefit is
722 provided by Florida law or required by federal law as part of a
723 federally delegated or approved program, shall be added to the
724 scheduled administrative penalty. The total administrative
725 penalty, including any economic benefit added to the scheduled

726 administrative penalty, may ~~shall~~ not exceed \$15,000 ~~\$10,000~~.

727 (9) The administrative penalties assessed for any
 728 particular violation may ~~shall~~ not exceed \$7,500 ~~\$5,000~~ against
 729 any one violator, unless the violator has a history of
 730 noncompliance, the economic benefit of the violation as
 731 described in subsection (8) exceeds \$7,500 ~~\$5,000~~, or there are
 732 multiday violations. The total administrative penalties may
 733 ~~shall~~ not exceed \$50,000 ~~\$10,000~~ per assessment for all
 734 violations attributable to a specific person in the notice of
 735 violation.

736 (10) The administrative law judge may receive evidence in
 737 mitigation. The penalties identified in subsections ~~subsection~~
 738 (3), ~~subsection~~ (4), and ~~subsection~~ (5) may be reduced up to 50
 739 percent by the administrative law judge for mitigating
 740 circumstances, including good faith efforts to comply prior to
 741 or after discovery of the violations by the department. Upon an
 742 affirmative finding that the violation was caused by
 743 circumstances beyond the reasonable control of the respondent
 744 and could not have been prevented by respondent's due diligence,
 745 the administrative law judge may further reduce the penalty.

746 (11) Penalties collected pursuant to this section shall be
 747 deposited into the Water Quality Assurance Trust Fund or other
 748 trust fund designated by statute and shall be used to fund the
 749 restoration of ecosystems, or polluted areas of the state, as
 750 defined by the department, to their condition before pollution

751 occurred. The Florida Conflict Resolution Consortium may use a
 752 portion of the fund to administer the mediation process provided
 753 in paragraph (2)(e) and to contract with private mediators for
 754 administrative penalty cases.

755 (12) The purpose of the administrative penalty schedule
 756 and process is to provide a more predictable and efficient
 757 manner for individuals and businesses to resolve relatively
 758 minor environmental disputes. Subsections (3)-(7) may ~~Subsection~~
 759 ~~(3), subsection (4), subsection (5), subsection (6), or~~
 760 ~~subsection (7)~~ shall not be construed as limiting a state court
 761 in the assessment of damages. The administrative penalty
 762 schedule does not apply to the judicial imposition of civil
 763 penalties in state court as provided in this section.

764 Section 15. Subsection (1) of section 403.141, Florida
 765 Statutes, is amended to read:

766 403.141 Civil liability; joint and several liability.—

767 (1) A person who ~~Whoever~~ commits a violation specified in
 768 s. 403.161(1) is liable to the state for any damage caused to
 769 the air, waters, or property, including animal, plant, or
 770 aquatic life, of the state and for reasonable costs and expenses
 771 of the state in tracing the source of the discharge, in
 772 controlling and abating the source and the pollutants, and in
 773 restoring the air, waters, and property, including animal,
 774 plant, and aquatic life, of the state to their former condition,
 775 and furthermore is subject to the judicial imposition of a civil

776 penalty for each offense in an amount of not more than \$15,000
777 ~~\$10,000~~ per offense. However, the court may receive evidence in
778 mitigation. Until a violation is resolved by order or judgment,
779 each day during any portion of which such violation occurs or is
780 not remediated constitutes a separate offense. Nothing herein
781 gives ~~shall give~~ the department the right to bring an action on
782 behalf of any private person.

783 Section 16. Subsections (2) through (5) of section
784 403.161, Florida Statutes, are amended to read:

785 403.161 Prohibitions, violation, penalty, intent.—

786 (2) A person who ~~Whoever~~ commits a violation specified in
787 subsection (1) is liable to the state for any damage caused and
788 for civil penalties as provided in s. 403.141.

789 (3) A ~~Any~~ person who willfully commits a violation
790 specified in paragraph (1)(a) commits ~~is guilty of~~ a felony of
791 the third degree, punishable as provided in ss. 775.082(3)(e)
792 and 775.083(1)(g) by a fine of not more than \$50,000 or by
793 imprisonment for 5 years, or by both, for each offense. Each day
794 during any portion of which such violation occurs constitutes a
795 separate offense.

796 (4) A ~~Any~~ person who commits a violation specified in
797 paragraph (1)(a) or paragraph (1)(b) due to reckless
798 indifference or gross careless disregard commits ~~is guilty of~~ a
799 misdemeanor of the second degree, punishable as provided in ss.
800 775.082(4)(b) and 775.083(1)(g) by a fine of not more than

801 \$10,000 ~~\$5,000~~ or by 60 days in jail, or by both, for each
 802 offense.

803 (5) A ~~Any~~ person who willfully commits a violation
 804 specified in paragraph (1)(b) or who commits a violation
 805 specified in paragraph (1)(c) commits ~~is guilty of~~ a misdemeanor
 806 of the first degree punishable as provided in ss. 775.082(4)(a)
 807 and 775.083(1)(g) by a fine of not more than \$10,000 or by 6
 808 months in jail, or by both for each offense.

809 Section 17. Paragraph (a) of subsection (6) of section
 810 403.413, Florida Statutes, is amended to read:

811 403.413 Florida Litter Law.—

812 (6) PENALTIES; ENFORCEMENT.—

813 (a) Any person who dumps litter in violation of subsection
 814 (4) in an amount not exceeding 15 pounds in weight or 27 cubic
 815 feet in volume and not for commercial purposes commits ~~is guilty~~
 816 ~~of~~ a noncriminal infraction, punishable by a civil penalty of
 817 \$150 ~~\$100~~, from which \$50 shall be deposited into the Solid
 818 Waste Management Trust Fund to be used for the solid waste
 819 management grant program pursuant to s. 403.7095. In addition,
 820 the court may require the violator to pick up litter or perform
 821 other labor commensurate with the offense committed.

822 Section 18. Subsection (5) of section 403.7234, Florida
 823 Statutes, is amended to read:

824 403.7234 Small quantity generator notification and
 825 verification program.—

826 (5) Any small quantity generator who does not comply with
 827 the requirements of subsection (4) and who has received a
 828 notification and survey in person or through one certified
 829 letter from the county is subject to a fine of between \$75 ~~\$50~~
 830 and \$150 ~~\$100~~ per day for a maximum of 100 days. The county may
 831 collect such fines and deposit them in its general revenue fund.
 832 Fines collected by the county shall be used to carry out the
 833 notification and verification procedure established in this
 834 section. If there are excess funds after the notification and
 835 verification procedures have been completed, such funds shall be
 836 used for hazardous and solid waste management purposes only.

837 Section 19. Subsection (3) of section 403.726, Florida
 838 Statutes, is amended to read:

839 403.726 Abatement of imminent hazard caused by hazardous
 840 substance.—

841 (3) An imminent hazard exists if any hazardous substance
 842 creates an immediate and substantial danger to human health,
 843 safety, or welfare or to the environment. The department may
 844 institute action in its own name, using the procedures and
 845 remedies of s. 403.121 or s. 403.131, to abate an imminent
 846 hazard. However, the department is authorized to recover a civil
 847 penalty of not more than \$37,500 ~~\$25,000~~ for each day until a ~~of~~
 848 ~~continued~~ violation is resolved by order or judgment. Whenever
 849 serious harm to human health, safety, and welfare; the
 850 environment; or private or public property may occur prior to

851 completion of an administrative hearing or other formal
 852 proceeding that which might be initiated to abate the risk of
 853 serious harm, the department may obtain, ex parte, an injunction
 854 without paying filing and service fees prior to the filing and
 855 service of process.

856 Section 20. Paragraph (a) of subsection (3) of section
 857 403.727, Florida Statutes, is amended to read:

858 403.727 Violations; defenses, penalties, and remedies.—

859 (3) Violations of the provisions of this act are
 860 punishable as follows:

861 (a) Any person who violates ~~the provisions of~~ this act,
 862 the rules or orders of the department, or the conditions of a
 863 permit is liable to the state for any damages specified in s.
 864 403.141 and for a civil penalty of not more than \$75,000 ~~\$50,000~~
 865 for each day of continued violation or until a violation is
 866 resolved by order or judgment, except as otherwise provided
 867 herein. The department may revoke any permit issued to the
 868 violator. In any action by the department against a small
 869 hazardous waste generator for the improper disposal of hazardous
 870 wastes, a rebuttable presumption of improper disposal shall be
 871 created if the generator was notified pursuant to s. 403.7234;
 872 the generator shall then have the burden of proving that the
 873 disposal was proper. If the generator was not so notified, the
 874 burden of proving improper disposal shall be placed upon the
 875 department.

876 Section 21. Subsection (8) of section 403.93345, Florida
877 Statutes, is amended to read:

878 403.93345 Coral reef protection.—

879 (8) In addition to the compensation described in
880 subsection (5), the department may assess, per occurrence, civil
881 penalties according to the following schedule:

882 (a) For any anchoring of a vessel on a coral reef or for
883 any other damage to a coral reef totaling less than or equal to
884 an area of 1 square meter, \$225 ~~\$150~~, provided that a
885 responsible party who has anchored a recreational vessel as
886 defined in s. 327.02 which is lawfully registered or exempt from
887 registration pursuant to chapter 328 is issued, at least once, a
888 warning letter in lieu of penalty; with aggravating
889 circumstances, an additional \$225 ~~\$150~~; occurring within a state
890 park or aquatic preserve, an additional \$225 ~~\$150~~.

891 (b) For damage totaling more than an area of 1 square
892 meter but less than or equal to an area of 10 square meters,
893 \$450 ~~\$300~~ per square meter; with aggravating circumstances, an
894 additional \$450 ~~\$300~~ per square meter; occurring within a state
895 park or aquatic preserve, an additional \$450 ~~\$300~~ per square
896 meter.

897 (c) For damage exceeding an area of 10 square meters,
898 \$1,500 ~~\$1,000~~ per square meter; with aggravating circumstances,
899 an additional \$1,500 ~~\$1,000~~ per square meter; occurring within a
900 state park or aquatic preserve, an additional \$1,500 ~~\$1,000~~ per

901 square meter.

902 (d) For a second violation, the total penalty may be
903 doubled.

904 (e) For a third violation, the total penalty may be
905 tripled.

906 (f) For any violation after a third violation, the total
907 penalty may be quadrupled.

908 (g) The total of penalties levied may not exceed \$375,000
909 ~~\$250,000~~ per occurrence.

910 Section 22. For the purpose of incorporating the amendment
911 made by this act to s. 376.16, Florida Statutes, in a reference
912 thereto, subsection (5) of s. 823.11, Florida Statutes, is
913 reenacted to read:

914 823.11 Derelict vessels; relocation or removal; penalty.—

915 (5) A person, firm, or corporation violating this section
916 commits a misdemeanor of the first degree and shall be punished
917 as provided by law. A conviction under this section does not bar
918 the assessment and collection of the civil penalty provided in
919 s. 376.16 for violation of s. 376.15. The court having
920 jurisdiction over the criminal offense, notwithstanding any
921 jurisdictional limitations on the amount in controversy, may
922 order the imposition of such civil penalty in addition to any
923 sentence imposed for the first criminal offense.

924 Section 23. For the purpose of incorporating the amendment
925 made by this act to section 403.121, Florida Statutes, in a

926 reference thereto, subsection (5) of section 403.077, Florida
 927 Statutes, is reenacted to read:

928 403.077 Public notification of pollution.—

929 (5) VIOLATIONS.—Failure to provide the notification
 930 required by subsection (2) shall subject the owner or operator
 931 to the civil penalties specified in s. 403.121.

932 Section 24. For the purpose of incorporating the amendment
 933 made by this act to section 403.121, Florida Statutes, in a
 934 reference thereto, subsection (2) of section 403.131, Florida
 935 Statutes, is reenacted to read:

936 403.131 Injunctive relief, remedies.—

937 (2) All the judicial and administrative remedies to
 938 recover damages and penalties in this section and s. 403.121 are
 939 alternative and mutually exclusive.

940 Section 25. For the purpose of incorporating the amendment
 941 made by this act to section 403.121, Florida Statutes, in a
 942 reference thereto, paragraph (d) of subsection (3) of section
 943 403.4154, Florida Statutes, is reenacted to read:

944 403.4154 Phosphogypsum management program.—

945 (3) ABATEMENT OF IMMINENT HAZARD.—

946 (d) If the department determines that the failure of an
 947 owner or operator to comply with department rules requiring
 948 demonstration of financial responsibility or that the physical
 949 condition, maintenance, operation, or closure of a phosphogypsum
 950 stack system poses an imminent hazard, the department shall

951 request access to the property on which such stack system is
952 located from the owner or operator of the stack system for the
953 purposes of taking action to abate or substantially reduce the
954 imminent hazard. If the department, after reasonable effort, is
955 unable to timely obtain the necessary access to abate or
956 substantially reduce the imminent hazard, the department may
957 institute action in its own name, using the procedures and
958 remedies of s. 403.121 or s. 403.131, to abate or substantially
959 reduce an imminent hazard. Whenever serious harm to human
960 health, safety, or welfare, to the environment, or to private or
961 public property may occur prior to completion of an
962 administrative hearing or other formal proceeding that might be
963 initiated to abate the risk of serious harm, the department may
964 obtain from the court, ex parte, an injunction without paying
965 filing and service fees prior to the filing and service of
966 process.

967 Section 26. For the purpose of incorporating the amendment
968 made by this act to section 403.121, Florida Statutes, in a
969 reference thereto, subsection (5) of section 403.860, Florida
970 Statutes, is reenacted to read:

971 403.860 Penalties and remedies.—

972 (5) In addition to any judicial or administrative remedy
973 authorized by this part, the department or a county health
974 department that has received approval by the department pursuant
975 to s. 403.862(1)(c) shall assess administrative penalties for

976 | violations of this section in accordance with s. 403.121.

977 | Section 27. For the purpose of incorporating the amendment
 978 | made by this act to section 403.141, Florida Statutes, in a
 979 | reference thereto, subsection (10) of section 403.708, Florida
 980 | Statutes, is reenacted to read:

981 | 403.708 Prohibition; penalty.—

982 | (10) Violations of this part or rules, regulations,
 983 | permits, or orders issued thereunder by the department and
 984 | violations of approved local programs of counties or
 985 | municipalities or rules, regulations, or orders issued
 986 | thereunder are punishable by a civil penalty as provided in s.
 987 | 403.141.

988 | Section 28. For the purpose of incorporating the amendment
 989 | made by this act to section 403.141, Florida Statutes, in a
 990 | reference thereto, subsection (7) of section 403.7191, Florida
 991 | Statutes, is reenacted to read:

992 | 403.7191 Toxics in packaging.—

993 | (7) ENFORCEMENT.—It is unlawful for any person to:

994 | (a) Violate any provision of this section or any rule
 995 | adopted or order issued thereunder by the department.

996 | (b) Tender for sale to a purchaser any package, packaging
 997 | component, or packaged product in violation of this section or
 998 | any rule adopted or order issued thereunder.

999 (c) Furnish a certificate of compliance with respect to
 1000 any package or packaging component which does not comply with
 1001 the provisions of subsection (3).

1002 (d) Provide a certificate of compliance that contains
 1003 false information.

1004
 1005 Violations shall be punishable by a civil penalty as provided in
 1006 s. 403.141.

1007 Section 29. For the purpose of incorporating the amendment
 1008 made by this act to section 403.141, Florida Statutes, in a
 1009 reference thereto, section 403.811, Florida Statutes, is
 1010 reenacted to read:

1011 403.811 Dredge and fill permits issued pursuant to this
 1012 chapter and s. 373.414.—Permits or other orders addressing
 1013 dredging and filling in, on, or over waters of the state issued
 1014 pursuant to this chapter or s. 373.414(9) before the effective
 1015 date of rules adopted under s. 373.414(9) and permits or other
 1016 orders issued in accordance with s. 373.414(13), (14), (15), or
 1017 (16) shall remain valid through the duration specified in the
 1018 permit or order, unless revoked by the agency issuing the
 1019 permit. The agency issuing the permit or other order may seek to
 1020 enjoin the violation of, or to enforce compliance with, the
 1021 permit or other order as provided in ss. 403.121, 403.131,
 1022 403.141, and 403.161. A violation of a permit or other order
 1023 addressing dredging or filling issued pursuant to this chapter

1024 is punishable by a civil penalty as provided in s. 403.141 or a
 1025 criminal penalty as provided in s. 403.161.

1026 Section 30. For the purpose of incorporating the
 1027 amendments made by this act to sections 403.141 and 403.161,
 1028 Florida Statutes, in references thereto, subsection (8) of
 1029 section 403.7186, Florida Statutes, is reenacted to read:

1030 403.7186 Environmentally sound management of mercury-
 1031 containing devices and lamps.—

1032 (8) CIVIL PENALTY.—A person who engages in any act or
 1033 practice declared in this section to be prohibited or unlawful,
 1034 or who violates any of the rules of the department promulgated
 1035 under this section, is liable to the state for any damage caused
 1036 and for civil penalties in accordance with s. 403.141. The
 1037 provisions of s. 403.161 are not applicable to this section. The
 1038 penalty may be waived if the person previously has taken
 1039 appropriate corrective action to remedy the actual damages, if
 1040 any, caused by the unlawful act or practice or rule violation. A
 1041 civil penalty so collected shall accrue to the state and shall
 1042 be deposited as received into the Solid Waste Management Trust
 1043 Fund for the purposes specified in paragraph (5) (a).

1044 Section 31. For the purpose of incorporating the amendment
 1045 made by this act to section 403.161, Florida Statutes, in a
 1046 reference thereto, subsection (2) of section 403.7255, Florida
 1047 Statutes, is reenacted to read:

1048 403.7255 Placement of signs.—

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1049 (2) Violations of this act are punishable as provided in
1050 s. 403.161(4).
1051 Section 32. This act shall take effect July 1, 2020.