

CHAPTER 99-11

House Bill No. 1515

An act relating to water pollution operation permits; amending s. 403.088, F.S.; permitting rather than requiring specified water pollution operation permits to comply with an accompanying order; authorizing the issuance of an order for the interim construction, operation, and maintenance of specified facilities under certain conditions; providing procedure; providing for hearing; specifying the time of commencement of such hearing; requiring denial or approval of such interim construction, operation, or maintenance within a specified time limit; providing for the period of effect of the order; providing an effective date.

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

Section 1. Paragraph (f) of subsection (2) of section 403.088, Florida Statutes, is amended, and a new subsection (g) is added to said subsection, to read:

403.088 Water pollution operation permits; conditions.—

(2)

(f) A permit issued, renewed, or reissued pursuant to paragraph (e) shall be accompanied by an order establishing a schedule for achieving compliance with all permit conditions. Such permit ~~may~~ shall require compliance with the accompanying order.

(g) The Legislature finds that the restoration of the Everglades Protection Area, including the construction, operation, and maintenance of storm-water treatment areas (STAs) is in the public interest. Accordingly, whenever a facility to be constructed, operated, or maintained in accordance with s. 373.4592 is subjected to permitting requirements pursuant to chapter 373 or chapter 403, and the issuance of the initial permit for a new source, a new discharger, or a recommencing discharger is subjected to a request for hearing pursuant to s. 120.569, the administrative law judge may, upon motion by the permittee, issue a recommended order to the secretary who, within 5 days, shall issue an order authorizing the interim construction, operation, and maintenance of the facility if it complies with all uncontested conditions of the proposed permit and all other conditions recommended by the administrative law judge during the period until the final agency action on the permit.

1. An order authorizing such interim construction, operation, and maintenance shall be granted if requested by motion and no party opposes it.

2. If a party to the administrative hearing pursuant to ss. 120.569 and 120.57 opposes the motion, the administrative law judge shall issue a recommended order granting the motion if the administrative law judge finds that:

- a. The facility is likely to receive the permit; and
- b. The environment will not be irreparably harmed by the construction, operation, or maintenance of the facility pending final agency action on the permit.
3. Prior to granting a contested motion for interim construction, operation, or maintenance of a facility authorized by s. 373.4592, the administrative law judge shall conduct a hearing using the summary hearing process defined in s. 120.574, which shall be mandatory for motions made pursuant to this paragraph. Notwithstanding the provisions of s. 120.574(1), summary hearing proceedings for these facilities shall begin within 30 days of the motion made by the permittee. Within 15 days of the conclusion of the summary proceeding, the administrative law judge shall issue a recommended order either denying or approving interim construction, operation, or maintenance of the facility, which shall be submitted to the secretary who shall within 5 days thereafter, enter an order granting or denying interim construction operation or maintenance of the facility. The order shall remain in effect until final agency action is taken on the permit.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor March 25, 1999.

Filed in Office Secretary of State March 25, 1999.