

## CHAPTER 2013-31

### Committee Substitute for Senate Bill No. 444

An act relating to domestic wastewater discharged through ocean outfalls; amending s. 403.086, F.S.; revising the measurement standard for the wastewater flow; revising the requirements for installation of a functioning reuse system by a utility that had a permit for a domestic wastewater facility on a specified date to discharge through ocean outfall; revising the definition of the term “functioning reuse system”; changing the term “facility’s actual flow on an annual basis” to “baseline flow”; revising plan requirements for the elimination of ocean outfalls; providing that certain utilities that shared a common ocean outfall on a specified date are individually responsible for meeting the reuse requirement; requiring that the Department of Environmental Protection approve certain apportionment of reuse if a facility contracts with another facility to install a functioning reuse system; requiring a facility that contracts with another facility to provide a copy of the contract to the department; revising provisions authorizing the backup discharge of domestic wastewater through ocean outfalls; requiring a holder of a department permit authorizing the discharge of domestic wastewater through an ocean outfall to submit certain information; deleting an obsolete provision; requiring the Department of Environmental Protection, the South Florida Water Management District, and affected utilities to consider certain information for the purpose of adjusting reuse requirements; requiring the department to submit a report to the Legislature; providing an effective date.

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

Section 1. Subsection (9) of section 403.086, Florida Statutes, is amended to read:

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

(9) The Legislature finds that the discharge of domestic wastewater through ocean outfalls wastes valuable water supplies that should be reclaimed for beneficial purposes to meet public and natural systems demands. The Legislature also finds that discharge of domestic wastewater through ocean outfalls compromises the coastal environment, quality of life, and local economies that depend on those resources. The Legislature declares that more stringent treatment and management requirements for such domestic wastewater and the subsequent, timely elimination of ocean outfalls as a primary means of domestic wastewater discharge are in the public interest.

(a) The construction of new ocean outfalls for domestic wastewater discharge and the expansion of existing ocean outfalls for this purpose, along with associated pumping and piping systems, are prohibited. Each domestic

wastewater ocean outfall shall be limited to the discharge capacity specified in the department permit authorizing the outfall in effect on July 1, 2008, which discharge capacity shall not be increased. Maintenance of existing, department-authorized domestic wastewater ocean outfalls and associated pumping and piping systems is allowed, subject to the requirements of this section. The department is directed to work with the United States Environmental Protection Agency to ensure that the requirements of this subsection are implemented consistently for all domestic wastewater facilities in the state Florida which discharge through ocean outfalls.

(b) The discharge of domestic wastewater through ocean outfalls must ~~shall~~ meet advanced wastewater treatment and management requirements by no later than December 31, 2018. For purposes of this subsection, the term “advanced wastewater treatment and management requirements” means the advanced waste treatment requirements set forth in subsection (4), a reduction in outfall baseline loadings of total nitrogen and total phosphorus which is equivalent to that which would be achieved by the advanced waste treatment requirements in subsection (4), or a reduction in cumulative outfall loadings of total nitrogen and total phosphorus occurring between December 31, 2008, and December 31, 2025, which is equivalent to that which would be achieved if the advanced waste treatment requirements in subsection (4) were fully implemented beginning December 31, 2018, and continued through December 31, 2025. The department shall establish the average baseline loadings of total nitrogen and total phosphorus for each outfall using monitoring data available for calendar years 2003 through 2007 and ~~shall~~ establish required loading reductions based on this baseline. The baseline loadings and required loading reductions of total nitrogen and total phosphorus shall be expressed as an average annual daily loading value. The advanced wastewater treatment and management requirements of this paragraph are shall be deemed to be met for any domestic wastewater facility discharging through an ocean outfall on July 1, 2008, which has installed by no later than December 31, 2018, a fully operational reuse system comprising 100 percent of the facility’s baseline flow on an annual basis average daily flow for reuse activities authorized by the department.

(c)1. Each utility that had a permit for a domestic wastewater facility that discharged discharges through an ocean outfall on July 1, 2008, must ~~shall~~ install, or cause to be installed, a functioning reuse system within the utility’s service area or, by contract with another utility, within Miami-Dade, Broward, or Palm Beach Counties ~~by no later than~~ December 31, 2025. For purposes of this subsection, a “functioning reuse system” means an environmentally, economically, and technically feasible system that provides a minimum of 60 percent of a the facility’s baseline actual flow on an annual basis for irrigation of public access areas, residential properties, or agricultural crops; aquifer recharge; groundwater recharge; industrial cooling; or other acceptable reuse purposes authorized by the department. For purposes of this subsection, the term “baseline flow” “facility’s actual flow on an annual basis” means the annual average flow of domestic wastewater discharging through the facility’s ocean outfall, as determined by the

department, using monitoring data available for calendar years 2003 through 2007.

2. ~~Flows diverted from facilities to other facilities that provide 100 percent reuse of the diverted flows before prior to December 31, 2025, are shall be considered to contribute to meeting the 60 percent reuse requirement. For utilities operating more than one outfall, the reuse requirement may can be apportioned between the met if the combined actual reuse flows from facilities served by the outfalls is at least 60 percent of the sum of the total actual flows from the facilities, including flows diverted to other facilities for 100 percent reuse before prior to December 31, 2025. Utilities that shared a common ocean outfall for the discharge of domestic wastewater on July 1, 2008, regardless of which utility operates the ocean outfall, are individually responsible for meeting the reuse requirement and may enter into binding agreements to share or transfer such responsibility among the utilities. If In the event treatment in addition to the advanced wastewater treatment and management requirements described in paragraph (b) is needed in order to support a functioning reuse system, the such treatment must shall be fully operational by no later than December 31, 2025.~~

3. ~~If a facility that discharges through an ocean outfall contracts with another utility to install a functioning reuse system, the department must approve any apportionment of the reuse generated from the new or expanded reuse system that is intended to satisfy all or a portion of the reuse requirements pursuant to subparagraph 1. If a contract is between two utilities that have reuse requirements pursuant to subparagraph 1., the reuse apportioned to each utility's requirement may not exceed the total reuse generated by the new or expanded reuse system. A utility shall provide the department a copy of any contract with another utility that reflects an agreement between the utilities which is subject to the requirements of this subparagraph.~~

(d) ~~The discharge of domestic wastewater through ocean outfalls is prohibited after December 31, 2025, except as a backup discharge that is part of a functioning reuse system or other wastewater management system authorized by the department as provided for in paragraph (e). Except as otherwise provided in this subsection, a backup discharge may occur only during periods of reduced demand for reclaimed water in the reuse system, such as periods of wet weather, or as the result of peak flows from other wastewater management systems, and must shall comply with the advanced wastewater treatment and management requirements of paragraph (b). Peak flow backup discharges from other wastewater management systems may not cumulatively exceed 5 percent of a facility's baseline flow, measured as a 5-year rolling average, and are subject to applicable secondary waste treatment and water-quality-based effluent limitations specified in department rules. If peak flow backup discharges are in compliance with the effluent limitations, the discharges are deemed to meet the advanced wastewater treatment and management requirements of this subsection.~~

(e) The holder of a department permit authorizing the discharge of domestic wastewater through an ocean outfall as of July 1, 2008, shall submit the following to the secretary of the department ~~the following~~:

1. A detailed plan to meet the requirements of this subsection, including the identification of the technical, environmental, and economic feasibility of various reuse options; the an identification of each all land acquisition and facility facilities necessary to provide for reuse of the domestic wastewater; an analysis of the costs to meet the requirements, including the level of treatment necessary to satisfy state water quality requirements and local water quality considerations and a cost comparison of reuse using flows from ocean outfalls and flows from other domestic wastewater sources; and a financing plan for meeting the requirements, including identifying any actions necessary to implement the financing plan, such as bond issuance or other borrowing, assessments, rate increases, fees, other charges, or other financing mechanisms. The plan must evaluate reuse demand in the context of future regional water supply demands, the availability of traditional water supplies, the need for development of alternative water supplies, the degree to which various reuse options offset potable water supplies, and other factors considered in the Lower East Coast Regional Water Supply Plan of the South Florida Water Management District. The plan must ~~shall~~ include a detailed schedule for the completion of all necessary actions and ~~shall~~ be accompanied by supporting data and other documentation. The plan must ~~shall~~ be submitted by no later than July 1, 2013.

2. By No later than July 1, 2016, an update of the plan required in subparagraph 1. documenting any refinements or changes in the costs, actions, or financing necessary to eliminate the ocean outfall discharge in accordance with this subsection or a written statement that the plan is current and accurate.

(f) By December 31, 2009, and by December 31 every 5 years thereafter, the holder of a department permit authorizing the discharge of domestic wastewater through an ocean outfall shall submit to the secretary of the department a report summarizing the actions accomplished to date and the actions remaining and proposed to meet the requirements of this subsection, including progress toward meeting the specific deadlines set forth in paragraphs (b) through (e). The report shall include the detailed schedule for and status of the evaluation of reuse and disposal options, preparation of preliminary design reports, preparation and submittal of permit applications, construction initiation, construction progress milestones, construction completion, initiation of operation, and continuing operation and maintenance.

(g) By No later than July 1, 2010, and by July 1 every 5 years thereafter, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of this subsection. In the report, the department shall summarize progress to date, including the increased amount of reclaimed water provided

and potable water offsets achieved, and identify any obstacles to continued progress, including all instances of substantial noncompliance.

~~(h) By February 1, 2012, the department shall submit a report to the Governor and Legislature detailing the results and recommendations from phases 1 through 3 of its ongoing study on reclaimed water use.~~

~~(h)(i)~~ (i) The renewal of each permit that authorizes the discharge of domestic wastewater through an ocean outfall as of July 1, 2008, must shall be accompanied by an order in accordance with s. 403.088(2)(e) and (f) which establishes an enforceable compliance schedule consistent with the requirements of this subsection.

~~(i)(j)~~ (j) An entity that diverts wastewater flow from a receiving facility that discharges domestic wastewater through an ocean outfall must meet the 60 percent reuse requirement of paragraph (c). Reuse by the diverting entity of the diverted flows shall be credited to the diverting entity. The diverted flow shall also be correspondingly deducted from the receiving facility's baseline actual flow ~~on an annual basis~~ from which the required reuse is calculated pursuant to paragraph (c), and the receiving facility's reuse requirement shall be recalculated accordingly.

The department, the South Florida Water Management District, and the affected utilities must consider the information in the detailed plan in paragraph (e) for the purpose of adjusting, as necessary, the reuse requirements of this subsection. The department shall submit a report to the Legislature by February 15, 2015, containing recommendations for any changes necessary to the requirements of this subsection.

Section 2. This act shall take effect July 1, 2013.

Approved by the Governor April 24, 2013.

Filed in Office Secretary of State April 24, 2013.