

CHAPTER 98-131

Senate Bill No. 1434

An act relating to rulemaking authority with respect to environmental permitting (RAB); amending s. 161.052, F.S.; providing authority to adopt rules relating to coastal construction and excavation; amending s. 161.053, F.S.; authorizing the exemption of certain activities from permit requirements; providing authority to adopt rules relating to coastal construction and regulation on county basis; amending s. 403.813, F.S.; clarifying authority to implement certain exemptions without adoption of rules; providing an effective date.

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

Section 1. Subsection (11) is added to section 161.052, Florida Statutes, to read:

161.052 Coastal construction and excavation; regulation.—

(11) The department is authorized to adopt rules for the implementation of the following provisions of this section: excavation and construction; setback requirements; waivers or variances; exemptions; the removal of unauthorized structures or refilling of unauthorized excavations; and violations and penalties.

Section 2. Subsection (12) is amended and subsection (21) is added to section 161.053, Florida Statutes, to read:

161.053 Coastal construction and excavation; regulation on county basis.—

(12)(a) The coastal construction control requirements defined in subsection (1) and the requirements of the erosion projections pursuant to subsection (6) do not apply to any modification, maintenance, or repair to any existing structure within the limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure. Specifically excluded from this exemption are seawalls or other rigid coastal or shore protection structures and any additions or enclosures added, constructed, or installed below the first dwelling floor or lowest deck of the existing structure.

(b) Activities seaward of the coastal construction control line which are determined by the department not to cause a measurable interference with the natural functioning of the coastal system are exempt from the requirements in subsection (5).

(c) The department may establish exemptions from the requirements of this section for minor activities determined by the department not to have adverse impacts on the coastal system. Examples of such activities include, but are not limited to:

1. Boat moorings;
2. Maintenance of existing beach/dune vegetation;
3. The burial of seaweed, dead fish, whales, or other marine animals on the unvegetated beach;
4. The removal of piers or other derelict structures from the unvegetated beach or seaward of mean high water;
5. Temporary emergency vehicular access, provided any impacted area is immediately restored;
6. The removal of any existing structures or debris from the upland, provided there is no excavation or disturbance to the existing topography or beach/dune vegetation;
7. Construction of any new roof overhang extending no more than 4 feet beyond the confines of the existing foundation during modification, renovation, or reconstruction of a habitable structure within the confines of the existing foundation of that structure which does not include any additions to or modification of the existing foundation of that structure;
8. Minor and temporary excavation for the purpose of repairs to existing subgrade residential service utilities (e.g., water and sewer lines, septic tanks and drainfields, electrical and telephone cables, and gas lines), provided that there is minimal disturbance and that grade is restored with fill compatible in both coloration and grain size to the on-site material and any damaged or destroyed vegetation is restored using similar vegetation; and
9. Any other minor construction with impacts similar to the above activities.

(21) The department is authorized to adopt rules related to the following provisions of this section: establishment of coastal construction control lines; activities seaward of the coastal construction control line; exemptions; property owner agreements; delegation of the program; permitting programs; and violations and penalties.

Section 3. Paragraph (r) of subsection (2) of section 403.813, Florida Statutes, is amended to read:

403.813 Permits issued at district centers; exceptions.—

(2) No permit under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, shall be required for activities associated with the following types of projects; however, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(r) The removal of aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, or the associated removal from lakes of organic material when such planting or removal is performed and authorized by permit or exemption granted under s. 369.20 or s. 369.25, if:

1. Organic material that exists on the surface of natural mineral soil shall be allowed to be removed to a depth of 3 feet or to the natural mineral soils, whichever is less.

2. All organic material removal pursuant to this subsection shall be deposited in an upland site in a manner that will prevent the reintroduction of the material into waters in the state except when spoil material is permitted to be used to create wildlife islands in freshwater bodies of the state when a governmental entity is permitted pursuant to this section to create such islands as a part of a restoration or enhancement project.

3. All activities are performed in a manner consistent with state water quality standards.

The department may ~~is not authorized to~~ adopt implementing rules for this paragraph subsection, notwithstanding any other provision of law.

Section 4. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 22, 1998.

Filed in Office Secretary of State May 21, 1998.