

CHAPTER 2013-92

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 999

An act relating to environmental regulation; amending s. 20.255, F.S.; authorizing the Department of Environmental Protection to adopt rules requiring or incentivizing the electronic submission of certain forms, documents, fees, and reports; amending ss. 125.022 and 166.033, F.S.; providing requirements for the review of development permit applications by counties and municipalities; amending s. 211.3103, F.S.; revising the definition of “phosphate-related expenses” to include maintenance and restoration of certain lands; amending s. 253.0345, F.S.; revising provisions for the duration of leases and letters of consent issued by the Board of Trustees of the Internal Improvement Trust Fund for special events; providing conditions for fees relating to such leases and letters of consent; creating s. 253.0346, F.S.; defining the term “first-come, first-served basis”; providing conditions for the discount and waiver of lease fees and surcharges for certain marinas, boatyards, and marine retailers; providing applicability; amending s. 253.0347, F.S.; providing exemptions from lease fees for certain lessees; amending s. 373.118, F.S.; deleting provisions requiring the department to adopt general permits for public marina facilities; deleting certain requirements under general permits for public marina facilities and mooring fields; limiting the number of vessels for mooring fields authorized under such permits; providing for the department to issue certain leases; amending s. 373.233, F.S.; clarifying conditions for competing consumptive use of water applications; amending s. 373.236, F.S.; prohibiting water management districts from reducing certain allocations as a result of seawater desalination plant activities; providing an exception; amending s. 373.246, F.S.; authorizing the department or governing board to notify permittees by electronic mail of permit changes under certain conditions; amending s. 373.308, F.S.; providing that issuance of well permits is the sole responsibility of water management districts, delegated local governments, and local county health departments; prohibiting certain counties and other government entities from imposing requirements and fees and establishing programs for installation and abandonment of groundwater wells; amending s. 373.323, F.S.; providing that licenses issued by water management districts are the only water well contractor licenses required for construction, repair, or abandonment of water wells; authorizing licensed water well contractors to install equipment for all water systems; amending s. 373.406, F.S.; exempting specified ponds, ditches, and wetlands from surface water management and storage requirements; amending s. 376.30713, F.S.; increasing the amount of funding for preapproved advanced cleanup work contracts; increasing the amount of funding a facility is eligible for in each fiscal year; amending s. 376.313, F.S.; holding harmless a person who discharges pollution pursuant to ch. 403, F.S.; amending s. 403.061, F.S.; authorizing the department to adopt

rules requiring or incentivizing the electronic submission of certain forms, documents, fees, and reports; amending s. 403.0872, F.S.; extending the payment deadline of permit fees for major sources of air pollution and conforming the date for related notice by the department; revising provisions for the calculation of such annual fees; amending s. 403.088, F.S.; revising conditions for denial of water pollution operation permit applications; amending s. 403.7046, F.S.; prohibiting local governments from using information contained in recovered materials dealer registration applications for specified purposes; providing that a recovered materials dealer may seek injunctive relief and damages for certain violations; amending s. 403.813, F.S.; revising conditions under which certain permits are not required for seawall restoration projects; creating s. 403.8141, F.S.; requiring the Department of Environmental Protection to establish general permits for special events; providing permit requirements; amending s. 403.973, F.S.; authorizing expedited permitting for natural gas pipelines, subject to specified certification; providing that natural gas pipelines are subject to certain requirements; providing that natural gas pipelines are eligible for certain review; providing for legislative ratification and approval of specified leases approved by the Board of Trustees of the Internal Improvement Trust Fund; providing legislative findings with respect to such leases; providing an effective date.

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. Except as provided in subsection (4), 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.

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

(3) As used in this section, the term “development permit” has the same meaning as in s. 163.3164, but does not include building permits.

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

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

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

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

166.033 Development permits.—

(1) When reviewing an application for a development permit that is certified by a professional listed in s. 403.0877, a municipality 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. Except as provided in subsection (4), if the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the municipality, at the applicant’s request, shall proceed to process the application for approval or denial.

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

(3) As used in this section, the term “development permit” has the same meaning as in s. 163.3164, but does not include building permits.

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

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

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

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

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

(6)

(c) For purposes of this section, “phosphate-related expenses” means those expenses that provide for infrastructure or services in support of the phosphate industry, including environmental education, reclamation or restoration of phosphate lands, maintenance and restoration of reclaimed lands and county owned environmental lands which were formerly phosphate lands, community infrastructure on such reclaimed lands and county owned environmental lands which were formerly phosphate lands, and similar expenses directly related to support of the industry.

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

253.0345 Special events; submerged land leases.—

(1) ~~The trustees may be authorized to issue leases or letters of consent consents of use or leases to riparian landowners, special and event promoters, and boat show owners~~ to allow the installation of temporary structures, including docks, moorings, pilings, and access walkways, on sovereign submerged lands solely for the purpose of facilitating boat shows and displays in, or adjacent to, established marinas or government-owned government-owned upland property. Riparian owners of adjacent uplands who are not seeking a lease or letter of consent of use shall be notified by certified mail of any request for such a lease or letter of consent of use before ~~prior to~~ approval by the trustees. The trustees shall balance the interests of

any objecting riparian owners with the economic interests of the public and the state as a factor in determining whether if a lease or letter of consent of use should be executed over the objection of adjacent riparian owners. This section does shall not apply to structures for viewing motorboat racing, high-speed motorboat contests, or high-speed displays in waters where manatees are known to frequent.

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

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

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

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

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

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

253.0346 Lease of sovereignty submerged lands for marinas, boatyards, and marine retailers.—

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

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

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

(2) For marinas that are open to the public on a first-come, first-served basis and for which at least 90 percent of the slips are open for rent to the public, a discount of 30 percent on the annual lease fee shall apply if dockage rate sheet publications and dockage advertising clearly state that slips are open for rent to the public on a first-come, first-served basis.

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

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

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

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

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

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

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

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

253.0347 Lease of sovereignty submerged lands for private residential docks and piers.—

(2)

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

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

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

373.118 General permits; delegation.—

(4) The department shall adopt by rule one or more general permits for local governments to construct, operate, and maintain ~~public marina facilities,~~ public mooring fields, public boat ramps, including associated courtesy docks, and associated parking facilities located in uplands. Such general permits adopted by rule shall include provisions to ensure compliance with part IV of this chapter, subsection (1), and the criteria necessary to include the general permits in a state programmatic general permit issued by the United States Army Corps of Engineers under s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq. A facility authorized under such general permits is exempt from review as a development of regional impact if the facility complies with the comprehensive plan of the applicable local government. Such facilities shall be consistent with the local government manatee protection plan required pursuant to chapter 379 ~~and shall obtain Clean Marina Program status prior to opening for operation and maintain that status for the life of the facility.~~ ~~Marinas and mooring fields authorized under any such general permit shall not exceed an area of 50,000 square feet over wetlands and other surface waters.~~ Mooring fields authorized under such general permits may not exceed 100 vessels. All facilities permitted under this section shall be constructed, maintained, and operated in perpetuity for the exclusive use of the general public. The department is authorized to have delegation of authority from the Board of Trustees of the Internal Improvement Trust Fund to issue leases for mooring fields that meet the requirements of such general permits. The department shall initiate the rulemaking process within 60 days after the effective date of this act.

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

373.233 Competing applications.—

(1) If two or more applications ~~that which~~ otherwise comply with the provisions of this part are pending for a quantity of water that is inadequate for both or all, or ~~that which~~ for any other reason are in conflict, and the water management district or department has deemed the applications complete, the water management district governing board or the department ~~has~~ shall have the right to approve or modify the application ~~that which~~ best serves the public interest.

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

373.236 Duration of permits; compliance reports.—

(4) Where necessary to maintain reasonable assurance that the conditions for issuance of a 20-year permit can continue to be met, the governing board or department, in addition to any conditions required pursuant to s. 373.219, may require a compliance report by the permittee every 10 years during the term of a permit. The Suwannee River Water Management District may require a compliance report by the permittee every 5 years through July 1, 2015, and thereafter every 10 years during the term of the permit. This report shall contain sufficient data to maintain reasonable assurance that the initial conditions for permit issuance are met. Following review of this report, the governing board or the department may modify the permit to ensure that the use meets the conditions for issuance. Permit modifications pursuant to this subsection shall not be subject to competing applications, provided there is no increase in the permitted allocation or permit duration, and no change in source, except for changes in source requested by the district. In order to promote the sustainability of natural systems through the diversification of water supplies through the development of seawater desalination plants, a water management district may not reduce an existing permitted allocation of water during the permit term as a result of planned future construction of, or additional water becoming available from, a new seawater desalination plant that does not receive funding from a water management district. Except as expressly provided in this subsection, this subsection does shall not alter be construed to limit the existing authority of a water management district the department or the governing board to modify or revoke a consumptive use permit pursuant to chapter 373.

Section 11. Subsection (6) of section 373.246, Florida Statutes, is amended to read:

373.246 Declaration of water shortage or emergency.—

(6) The governing board or the department shall notify each permittee in the district by electronic mail or regular mail of any change in the condition of his or her permit or any suspension of his or her permit or of any other restriction on the permittee's use of water for the duration of the water shortage.

Section 12. Subsection (1) of section 373.308, Florida Statutes, is amended to read:

373.308 Implementation of programs for regulating water wells.—

(1) The department shall authorize the governing board of a water management district to implement a program for the issuance of permits for the location, construction, repair, and abandonment of water wells. Upon authorization from the department, issuance of well permits will be the sole responsibility of the water management district, delegated local government, or local county health department. Other local governmental entities may not impose additional or duplicate requirements or fees or establish a separate program for the permitting of the location, abandonment, boring, or

other activities reasonably associated with the installation and abandonment of a groundwater well.

Section 13. Subsections (1) and (10) of section 373.323, Florida Statutes, are amended to read:

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

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

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

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

373.406 Exemptions.—The following exemptions shall apply:

(13) Nothing in this part, or in any rule, regulation, or order adopted pursuant to this part, applies to construction, alteration, operation, or maintenance of any wholly owned, manmade excavated farm ponds, as defined in s. 403.927, constructed entirely in uplands. Alteration or maintenance may not involve any work to connect the farm pond to, or expand the farm pond into, other wetlands or other surface waters. This exemption does not apply to any farm pond that covers an area greater than 15 acres and has an average depth greater than 15 feet, or is less than 50 feet from any wetlands.

(14) Nothing in this part, or in any rule, regulation, or order adopted pursuant to this part, may require a permit for activities affecting wetlands created solely by the unauthorized flooding or interference with the natural flow of surface water caused by an unaffiliated adjoining landowner. Requests to qualify for this exemption must be made within 7 years after the cause of such unauthorized flooding or unauthorized interference with the natural flow of surface water and must be submitted in writing to the district or department. Such activities may not begin without a written determination from the district or department confirming that the activity qualifies for the exemption. This exemption does not expand the jurisdiction of the department or the water management districts and does not apply to activities that discharge dredged or fill material into waters of the United

States, including wetlands, subject to federal jurisdiction under s. 404 of the federal Clean Water Act, 33 U.S.C. s. 1344.

Section 15. Subsection (4) of section 376.30713, Florida Statutes, is amended to read:

376.30713 Preapproved advanced cleanup.—

(4) The department is authorized to enter into contracts ~~contract~~ for a total of up to ~~\$15~~ \$10 million of preapproved advanced cleanup work in each fiscal year. However, ~~a~~ no facility may not ~~shall~~ be preapproved for more than \$5 million ~~\$500,000~~ of cleanup activity in each fiscal year. For the purposes of this section the term “facility” shall include, but not be limited to, multiple site facilities such as airports, port facilities, and terminal facilities even though such enterprises may be treated as separate facilities for other purposes under this chapter.

Section 16. Subsection (3) of section 376.313, Florida Statutes, is amended to read:

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

(3) Except as provided in s. 376.3078(3) and (11), nothing contained in ss. 376.30-376.317 prohibits any person from bringing a cause of action in a court of competent jurisdiction for all damages resulting from a discharge or other condition of pollution covered by ss. 376.30-376.317 and which was not authorized pursuant to chapter 403. Nothing in this chapter shall prohibit or diminish a party’s right to contribution from other parties jointly or severally liable for a prohibited discharge of pollutants or hazardous substances or other pollution conditions. Except as otherwise provided in subsection (4) or subsection (5), in any such suit, it is not necessary for such person to plead or prove negligence in any form or manner. Such person need only plead and prove the fact of the prohibited discharge or other pollutive condition and that it has occurred. The only defenses to such cause of action shall be those specified in s. 376.308.

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

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

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

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

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

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

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

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

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

only if the secretary of the department affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed \$35.

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

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

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

~~5. For any source that emits less of any regulated air pollutant than allowed by permit condition, the annual fee calculation for such pollutant must be based upon actual emissions rather than allowable emissions if the owner or operator documents the source's actual emissions by means of data from a department approved certified continuous emissions monitor or from an emissions monitoring method which has been approved by the United States Environmental Protection Agency under the regulations implementing 42 U.S.C. ss. 7651 et seq., or from a method approved by the department for purposes of this section.~~

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

~~3.7. If the department has not received the fee by March 1 February 15 of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by April March 1. If the fee is not postmarked by April March 1 of the calendar year, the department shall~~

impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and shall not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to \$50. The department may revoke any major air pollution source operation permit if it finds that the permit holder has failed to timely pay any required annual operation license fee, penalty, or interest.

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

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

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

1. Reviewing and acting upon any application for such a permit.
2. Implementing and enforcing the terms and conditions of any such permit, excluding court costs or other costs associated with any enforcement action.
3. Emissions and ambient monitoring.
4. Preparing generally applicable regulations or guidance.

5. Modeling, analyses, and demonstrations.
6. Preparing inventories and tracking emissions.
7. Implementing the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.
8. Any audits conducted under paragraph (c).

(c) An audit of the major stationary source air-operation permit program must be conducted 2 years after the United States Environmental Protection Agency has given full approval of the program to ascertain whether the annual operation license fees collected by the department are used solely to support any reasonable direct and indirect costs as listed in paragraph (b). A program audit must be performed biennially after the first audit.

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

403.088 Water pollution operation permits; conditions.—

(2)

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

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

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

403.7046 Regulation of recovered materials.—

(3) Except as otherwise provided in this section or pursuant to a special act in effect on or before January 1, 1993, a local government may not require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local

government or to a facility designated by the local government, nor may the local government restrict such a generator's right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has satisfied the requirements of this section. A local government may not enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.

(b) ~~Before~~ ~~Prior to~~ engaging in business within the jurisdiction of the local government, a recovered materials dealer must provide the local government with a copy of the certification provided for in this section. In addition, the local government may establish a registration process whereby a recovered materials dealer must register with the local government before ~~prior to~~ engaging in business within the jurisdiction of the local government. Such registration process is limited to requiring the dealer to register its name, including the owner or operator of the dealer, and, if the dealer is a business entity, its general or limited partners, its corporate officers and directors, its permanent place of business, evidence of its certification under this section, and a certification that the recovered materials will be processed at a recovered materials processing facility satisfying the requirements of this section. The local government may not use the information provided in the registration application to compete unfairly with the recovered materials dealer until 90 days after receipt of the application. All counties, and municipalities whose population exceeds 35,000 according to the population estimates determined pursuant to s. 186.901, may establish a reporting process which shall be limited to the regulations, reporting format, and reporting frequency established by the department pursuant to this section, which shall, at a minimum, include requiring the dealer to identify the types and approximate amount of recovered materials collected, recycled, or reused during the reporting period; the approximate percentage of recovered materials reused, stored, or delivered to a recovered materials processing facility or disposed of in a solid waste disposal facility; and the locations where any recovered materials were disposed of as solid waste. Information reported under this subsection which, if disclosed, would reveal a trade secret, as defined in s. 812.081(1)(c), is confidential and exempt from the provisions of s. 24(a), Art. I of the State Constitution and s. 119.07(1). The local government may charge the dealer a registration fee commensurate with and no greater than the cost incurred by the local government in operating its registration program. Registration program costs are limited to those costs associated with the activities described in this paragraph. Any reporting or registration process established by a local government with regard to recovered materials shall be governed by the provisions of this section and department rules adopted ~~promulgated~~ pursuant thereto.

(4) A recovered materials dealer or an association whose members include recovered materials dealers may initiate an action for injunctive relief or damages for alleged violations of this section. The court may award to the prevailing party or parties reasonable attorney fees and costs.

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

403.813 Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, ~~nothing in this subsection~~ does not relieve ~~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 ~~a 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:

(e) The restoration of seawalls at their previous locations or upland of, or within 18 inches ~~1 foot~~ waterward of, their previous locations. However, this shall not affect the permitting requirements of chapter 161, and department rules shall clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.

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

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

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

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)

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

(14)

(b) Projects identified in paragraph (3)(f) or paragraph (3)(g) or challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s. 288.955 are subject to the same requirements as challenges brought under paragraph (a), except that, notwithstanding s. 120.574, summary proceedings must be conducted within

30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

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

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

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

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

3. Extract natural resources.

4. Produce oil.

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

Section 24. (1) The Legislature ratifies and approves the actions of the Board of Trustees of the Internal Improvement Trust Fund regarding lease numbers 1447, 1971S, 3420, 3433, and 3543, and lease numbers 3422 and 1935/1935-S as approved on January 23, 2013, subject to the terms and conditions established by the Board of Trustees as approved on January 23, 2013.

(2) The Legislature finds that the decision to authorize the use of board of trustees-owned uplands and the use of those lands as set forth in the leases is not contrary to the public interest; that it is in the public interest to waive the competitive bid process; that the leases are not standard agricultural leases; and that such leases should be amended on the terms and conditions as approved by the Board of Trustees.

(3) Notwithstanding any other provision of law, the Legislature finds that the lease amendments and extensions approved by the Board of Trustees are necessary for Everglades restoration purposes, are in the public interest, and provide the greatest combination of benefits to the public.

Section 25. This act shall take effect July 1, 2013.

Approved by the Governor May 30, 2013.

Filed in Office Secretary of State May 30, 2013.