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A bill to be entitled
 An act relating to the Florida Incentive-based Permitting
 Act; creating s. 403.0874, F.S.; providing a popular name;
 providing legislative findings; providing purposes;
 providing definitions; providing for an Incentive-based
 Permitting Program; providing compliance incentives for
 certain environmental permitting activities; providing
 requirements and limitations; providing for administration
 by the Department of Environmental Protection; requiring
 the department to adopt certain rules; requiring agency
 notification of formal enforcement actions; providing
 notice requirements; amending ss. 161.041 and 373.413,
 F.S.; specifying application of Incentive-based Permitting
 Program provisions; amending s. 403.087, F.S.; revising
 criteria for department permit issuance to conform;
 providing an effective date.

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

Section 1. Section 403.0874, Florida Statutes, is created
 to read:

403.0874 Incentive-based Permitting Program.--

(1) POPULAR NAME.--This section may be cited as the
"Florida Incentive-based Permitting Act."

(2) LEGISLATIVE FINDINGS; PUBLIC PURPOSE.--

(a) The Legislature finds and declares that a permit
applicant's history of compliance with applicable permit
conditions and requirements and the environmental laws of this

29 state is a factor that should be considered by the department
30 when the department is considering whether to issue or reissue a
31 permit to an applicant, based upon compliance incentives under
32 this section.

33 (b) Permit applicants with a history of compliance with
34 applicable permit conditions and requirements and the
35 environmental laws of this state should be eligible for longer
36 permits, expedited permit reviews, short-form permit renewals,
37 and other incentives to reward and encourage such applicants.

38 (c) It is therefore declared to be the purpose of this
39 section to provide the department with clear and specific
40 authority to consider the compliance history of a permit
41 applicant who has applied for an incentive-based permit.

42 (3) DEFINITIONS.--For purposes of this section:

43 (a) "Agency" means the Department of Environmental
44 Protection.

45 (b) "Applicant" means the proposed permittee or
46 transferee, owner, or operator of a regulated activity seeking
47 an agency permit.

48 (c) "Environmental laws" means any state or federal law
49 that regulates activities for the purpose of protecting the
50 environment, or for the purpose of protecting the public health
51 from pollution or contaminants, but does not include any law
52 that regulates activities for the purpose of zoning, growth
53 management, or land use. The term includes, but is not limited
54 to, chapter 161, part IV of chapter 373, and chapter 403.

55 (d) "Regulated activity" means any activity, including,
56 but not limited to, the construction or operation of a facility,

57 installation, system, or project, for which a permit or
 58 certification is required under an agency law.

59 (e) "Site" means a single parcel, or multiple contiguous
 60 or adjacent parcels, of land on which the applicant proposes to
 61 conduct, or has conducted, a regulated activity.

62 (4) COMPLIANCE INCENTIVES.--In order to obtain compliance
 63 incentives, the applicant must affirmatively request such
 64 incentives as part of the permit application. Unless otherwise
 65 prohibited by state or federal law, agency rule, or federal
 66 regulation, and provided the applicant meets all other
 67 applicable criteria for the issuance of a permit, any applicant
 68 who meets the criteria set forth in this subsection is entitled
 69 to the following incentives:

70 (a) Level 1.--

71 1. An applicant shall be entitled to incentives pursuant
 72 to this paragraph at a site if the applicant conducted the
 73 regulated activity for at least 4 of the 5 years preceding
 74 submittal of the permit application or, if the activity is a new
 75 regulated activity, the applicant conducted a similar regulated
 76 activity under an agency permit for at least 4 of the 5 years at
 77 a different site in this state preceding submittal of the permit
 78 application. However, an applicant shall not be entitled to
 79 incentives under this paragraph if the applicant has a relevant
 80 compliance history at the subject site that includes any knowing
 81 violation that resulted in formal enforcement action and the
 82 violation resulted in significant harm to human health or the
 83 environment. The term "knowing" means awareness of the nature of
 84 a person's acts, not awareness that such acts violate the law.

85 The term does not include conduct that is the result of an act
86 of God, mechanical failure, events beyond the control of the
87 applicant, an accident, or a mistake of fact. The term "act of
88 God," which means only an unforeseeable act exclusively
89 occasioned by the violence of nature without the interference of
90 any human agency, shall not be deemed to cause any failure to
91 comply with a permit condition or requirement.

92 2. Level 1 incentives shall include:

93 a. Automatic renewal of permit.--A renewal of a permit
94 shall be issued for a period of 5 years and shall, after notice
95 and an opportunity for public comment, be automatically renewed
96 for one additional 5-year term without agency action unless the
97 agency determines, based on information submitted by the
98 applicant or resulting from the public comments or its own
99 records, that the applicant has committed violations during the
100 relevant review period that disqualify the applicant from
101 receiving the automatic or expedited renewal.

102 b. Expedited permit review.--The processing time following
103 receipt of a completed application shall be 45 days for the
104 issuance of the agency action.

105 c. Short-form renewals.--Renewals of permits not involving
106 substantial construction or expansion may be made upon a
107 shortened application form specifying only the changes in the
108 regulated activity or a certification by the applicant that no
109 changes in the regulated activity are proposed if that is the
110 case. Applicants for short-form renewals shall complete and
111 submit the prescribed compliance form with the application and
112 shall remain subject to the compliance history review of this

113 section. All other procedural requirements for renewal
 114 applications remain unchanged. This provision shall supplement
 115 any expedited review processes found in agency rules.

116 d. Rulemaking.--Within 6 months after the effective date
 117 of this section, the department shall initiate rulemaking to
 118 implement Level 1 incentives. The rule shall specify what
 119 incentives will be made available, how applicants may qualify
 120 for incentives, and how extended permits may be transferred.
 121 Until an implementing rule is adopted, Level 1 incentives shall
 122 not be available to permit applicants under this section.

123 (b) Level 2.--

124 1. An applicant shall be entitled to incentives pursuant
 125 to this paragraph if the applicant meets the requirements for
 126 Level 1 and the applicant takes any other actions not otherwise
 127 required by law that result in:

128 a. Reductions in actual or permitted discharges or
 129 emissions;

130 b. Reductions in the impacts of regulated activities on
 131 public lands or natural resources;

132 c. Waste reduction or reuse;

133 d. Implementation of a voluntary environmental management
 134 system; or

135 e. Other similar actions as determined by department rule.

136 2. Level 2 incentives may include all Level 1 incentives
 137 and shall also include:

138 a. Ten-year permits, provided the applicant has conducted
 139 a regulated activity at the site for at least 5 years.

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- b. Fewer routine inspections than other regulated activities similarly situated.
- c. Expedited review of requests for permit modifications.
- d. Agency recognition, program-specific incentives, or certifications in lieu of renewal permits.
- e. No more than two requests for additional information.

(c) Rulemaking.--Within 6 months after the effective date of this section, the department shall initiate rulemaking to implement Level 2 incentives. The rule shall specify what incentives will be made available, how applicants may qualify for incentives, and how extended permits may be transferred. Until an implementing rule is adopted, Level 2 incentives shall not be available to permit applicants under this section.

(5) NOTIFICATION.--The agency is encouraged to work with permittees and permit applicants to encourage compliance and avoid burdensome and expensive consequences of noncompliance. In each case in which the agency initiates a formal enforcement action and prior to considering incentives outlined in this section, the agency shall clearly and specifically:

- (a) Inform the alleged permittee if the provisions of this section will allow for considering incentives.
- (b) Put the alleged permittee on notice of the consequences of violations and the potential consequences of continuing noncompliance in relation to Level 1 or Level 2 incentives.

Section 2. Subsection (5) is added to section 161.041, Florida Statutes, to read:
161.041 Permits required.--

168 (5) The Incentive-based Permitting Program provisions of
 169 s. 403.0874 shall apply to all permits issued under this
 170 chapter.

171 Section 3. Subsection (6) is added to section 373.413,
 172 Florida Statutes, to read:

173 373.413 Permits for construction or alteration.--

174 (6) The Incentive-based Permitting Program provisions of
 175 s. 403.0874 shall apply to permits issued under this section.

176 Section 4. Subsection (7) of section 403.087, Florida
 177 Statutes, is amended to read:

178 403.087 Permits; general issuance; denial; revocation;
 179 prohibition; penalty.--

180 (7) A permit issued pursuant to this section shall not
 181 become a vested right in the permittee. The department may
 182 revoke any permit issued by it if it finds that the permitholder
 183 knowingly:

184 (a) Has submitted false or inaccurate information in the
 185 ~~his or her~~ application for such permit;

186 (b) Has violated law, department orders, rules, or
 187 regulations, or ~~permit~~ conditions directly related to such
 188 permit and has refused to correct or cure such violations when
 189 requested to do so;

190 (c) Has failed to submit operational reports or other
 191 information required by department rule or regulation directly
 192 related to such permit and has refused to correct or cure such
 193 violations when requested to do so; or

194 (d) Has refused lawful inspection under s. 403.091 at the
 195 facility authorized by such permit.

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Section 5. This act shall take effect upon becoming a law.