(LATE FILED) HOUSE AMENDMENT

Bill No. CS/SB 1528

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate	House
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Representative Sands offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 199.1055, Florida Statutes, is amended to read:

199.1055 Contaminated site rehabilitation tax credit.--

(1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

(a) A credit in the amount of 50 ~~35~~ percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is available against any tax due for a taxable year under s. 199.032, less any credit allowed by former s. 220.68 for that year:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s.

376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be granted more than $500,000 ~~$250,000~~ per year in tax credits for each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Subject to the same conditions and limitations as provided in this section, a municipality, county, or other tax credit applicant which voluntarily rehabilitates a site may receive not more than $500,000 ~~$250,000~~ per year in tax credits which it can subsequently transfer subject to the provisions in paragraph (g).

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the tax credit applicant, the unused amount may be carried forward for a period not to exceed 5 years. Five years after the date a credit is granted under this section, such credit expires and may not be used. However, if during the 5-year period the credit is transferred, in whole or in part, pursuant to paragraph (g), each transferee has 5 years after the date of transfer to use its credit.

(d) A taxpayer that receives a credit under s. 220.1845 is ineligible to receive credit under this section in a given tax year.

(e) A tax credit applicant that receives state-funded site rehabilitation pursuant to s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(f) The total amount of the tax credits which may be granted under this section and s. 220.1845 is $5 ~~$2~~ million annually.

(g)1. Tax credits that may be available under this section to an entity eligible under s. 376.30781 may be transferred after a merger or acquisition to the surviving or acquiring entity and used in the same manner with the same limitations.

2. The entity or its surviving or acquiring entity as described in subparagraph 1., may transfer any unused credit in whole or in units of no less than 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. In the event the credit provided for under this section is reduced either as a result of a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, such tax deficiency shall be recovered from the first entity, or the surviving or acquiring entity, to have claimed such credit up to the amount of credit

taken. Any subsequent deficiencies shall be assessed against any entity acquiring and claiming such credit, or in the case of multiple succeeding entities in the order of credit succession.

(h) In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 ~~10~~ percent of the total cleanup costs, not to exceed $500,000 ~~$50,000~~, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(i) In order to encourage the construction of housing that meets the definition of affordable provided in s. 420.0004(3), an applicant for the tax credit may claim an additional 25 percent of the total site-rehabilitation costs that are eligible for tax credits under this section, not to exceed $500,000. In order to receive this additional tax credit, the applicant must provide a certification letter from the Florida Housing Finance Corporation, the local housing authority, or other governmental agency that is a party to the use agreement, indicating that the construction on the brownfield site is complete, the brownfield site has received a certificate of occupancy, and the brownfield site has a properly recorded instrument that limits the use of the property to housing that meets the definition of affordable provided in s. 420.0004(3).

(2) FILING REQUIREMENTS.--Any taxpayer that wishes to obtain credit under this section must submit with its return a tax credit certificate approving partial tax credits issued by the Department of Environmental Protection under s. 376.30781.

(3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT FORFEITURE.--

(a) The Department of Revenue may adopt rules to prescribe any necessary forms required to claim a tax credit under this section and to provide the administrative guidelines and procedures required to administer this section.

(b) In addition to its existing audit and investigation authority relating to chapters 199 and 220, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, or records of the tax credit applicant, which are necessary to verify the site rehabilitation costs included in a tax credit return and to ensure compliance with this section. The Department of Environmental Protection shall provide technical assistance, when requested by the Department of Revenue, on any technical audits performed under this section.

(c) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of either an audit or information received from the Department of Environmental Protection, that a taxpayer received tax credits under this section to which the taxpayer was not entitled. In the case of fraud, the taxpayer shall be prohibited from claiming any future tax credits under this section or s. 220.1845.

1. The taxpayer is responsible for returning forfeited tax credits to the Department of Revenue, and such funds shall be paid into the General Revenue Fund of the state.

2. The taxpayer shall file with the Department of Revenue an amended tax return or such other report as the Department of

Revenue prescribes by rule and shall pay any required tax within 60 days after the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

3. A notice of deficiency may be issued by the Department of Revenue at any time within 5 years after the date the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified. If a taxpayer fails to notify the Department of Revenue of any change in its tax credit claimed, a notice of deficiency may be issued at any time. In either case, the amount of any proposed assessment set forth in such notice of deficiency shall be limited to the amount of any deficiency resulting under this section from the recomputation of the taxpayer's tax for the taxable year.

4. Any taxpayer that fails to report and timely pay any tax due as a result of the forfeiture of its tax credit is in violation of this section and is subject to applicable penalty and interest.

Section 2. Section 220.1845, Florida Statutes, is amended to read:

220.1845 Contaminated site rehabilitation tax credit.--

(1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

(a) A credit in the amount of 50 ~~35~~ percent of the costs of voluntary cleanup activity that is integral to site

rehabilitation at the following sites is available against any tax due for a taxable year under this chapter:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be granted more than $500,000 ~~$250,000~~ per year in tax credits for each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Subject to the same conditions and limitations as provided in this section, a municipality, county, or other tax credit applicant which voluntarily rehabilitates a site may receive not more than $500,000 ~~$250,000~~ per year in tax credits which it can subsequently transfer subject to the provisions in paragraph (h).

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for that year exceeds the credit for which the

corporation is eligible in that year under this section after applying the other credits and unused carryovers in the order provided by s. 220.02(8). Five years after the date a credit is granted under this section, such credit expires and may not be used. However, if during the 5-year period the credit is transferred, in whole or in part, pursuant to paragraph (h), each transferee has 5 years after the date of transfer to use its credit.

(d) A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group.

(e) A taxpayer that receives credit under s. 199.1055 is ineligible to receive credit under this section in a given tax year.

(f) A tax credit applicant that receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(g) The total amount of the tax credits which may be granted under this section and s. 199.1055 is $5 ~~$2~~ million annually.

(h)1. Tax credits that may be available under this section to an entity eligible under s. 376.30781 may be transferred after a merger or acquisition to the surviving or acquiring

entity and used in the same manner and with the same limitations.

2. The entity or its surviving or acquiring entity as described in subparagraph 1., may transfer any unused credit in whole or in units of no less than 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. In the event the credit provided for under this section is reduced either as a result of a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, such tax deficiency shall be recovered from the first entity, or the surviving or acquiring entity, to have claimed such credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against any entity acquiring and claiming such credit, or in the case of multiple succeeding entities in the order of credit succession.

(i) In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 ~~10~~ percent of the total cleanup costs, not to exceed $500,000 ~~$50,000~~, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(j) In order to encourage the construction of housing that meets the definition of affordable provided in s. 420.0004(3), an applicant for the tax credit may claim an additional 25 percent of the total site-rehabilitation costs that are eligible for tax credits under this section, not to exceed $500,000. In order to receive this additional tax credit, the applicant must provide a certification letter from the Florida Housing Finance Corporation, the local housing authority, or other governmental agency that is a party to the use agreement, indicating that the construction on the brownfield site is complete, the brownfield site has received a certificate of occupancy, and the brownfield site has a properly recorded instrument that limits the use of the property to housing that meets the definition of affordable provided in s. 420.0004(3).

(2) FILING REQUIREMENTS.--Any corporation that wishes to obtain credit under this section must submit with its return a tax credit certificate approving partial tax credits issued by the Department of Environmental Protection under s. 376.30781.

(3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT FORFEITURE.--

(a) The Department of Revenue may adopt rules to prescribe any necessary forms required to claim a tax credit under this section and to provide the administrative guidelines and procedures required to administer this section.

(b) In addition to its existing audit and investigation authority relating to chapter 199 and this chapter, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, or records of the tax credit applicant, which

are necessary to verify the site rehabilitation costs included in a tax credit return and to ensure compliance with this section. The Department of Environmental Protection shall provide technical assistance, when requested by the Department of Revenue, on any technical audits performed pursuant to this section.

(c) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of either an audit or information received from the Department of Environmental Protection, that a taxpayer received tax credits pursuant to this section to which the taxpayer was not entitled. In the case of fraud, the taxpayer shall be prohibited from claiming any future tax credits under this section or s. 199.1055.

1. The taxpayer is responsible for returning forfeited tax credits to the Department of Revenue, and such funds shall be paid into the General Revenue Fund of the state.

2. The taxpayer shall file with the Department of Revenue an amended tax return or such other report as the Department of Revenue prescribes by rule and shall pay any required tax within 60 days after the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

3. A notice of deficiency may be issued by the Department of Revenue at any time within 5 years after the date the taxpayer receives notification from the Department of

Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified. If a taxpayer fails to notify the Department of Revenue of any change in its tax credit claimed, a notice of deficiency may be issued at any time. In either case, the amount of any proposed assessment set forth in such notice of deficiency shall be limited to the amount of any deficiency resulting under this section from the recomputation of the taxpayer's tax for the taxable year.

4. Any taxpayer that fails to report and timely pay any tax due as a result of the forfeiture of its tax credit is in violation of this section and is subject to applicable penalty and interest.

Section 3. Section 376.30781, Florida Statutes, is amended to read:

376.30781 Partial tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.--

(1) The Legislature finds that:

(a) To facilitate property transactions and economic growth and development, it is in the interest of the state to encourage the cleanup, at the earliest possible time, of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas.

(b) It is the intent of the Legislature to encourage the voluntary cleanup of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas by providing a

partial tax credit for the restoration of such property in specified circumstances.

(2) Notwithstanding the requirements of subsection (5), tax credits allowed pursuant to ss. 199.1055 and 220.1845 are available for any site rehabilitation conducted during the calendar year in which the applicable voluntary cleanup agreement or brownfield site rehabilitation agreement is executed, even if the site rehabilitation is conducted prior to the execution of that agreement or the designation of the brownfield area.

(3) ~~(2)~~ (a) A credit in the amount of 50 ~~35~~ percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is allowed pursuant to ss. 199.1055 and 220.1845:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be granted more than $500,000 ~~$250,000~~ per year in tax credits for each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Tax credits

are available only for site rehabilitation conducted during the calendar year for which the tax credit application is submitted.

(c) In order to encourage completion of site rehabilitation at contaminated sites that are being voluntarily cleaned up and that are eligible for a tax credit under this section, the tax credit applicant may claim an additional 25 ~~10~~ percent of the total cleanup costs, not to exceed $500,000 ~~$50,000~~, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(d) In order to encourage the construction of housing that meets the definition of affordable provided in s. 420.0004(3), an applicant for the tax credit may claim an additional 25 percent of the total site-rehabilitation costs that are eligible for tax credits under this section, not to exceed $500,000. In order to receive this additional tax credit, the applicant must provide a certification letter from the Florida Housing Finance Corporation, the local housing authority, or other governmental agency that is a party to the use agreement, indicating that the construction on the brownfield site is complete, the brownfield site has received a certificate of occupancy, and the brownfield site has a properly recorded instrument that limits the use of the property to housing that meets the definition of affordable provided in s. 420.0004(3). Notwithstanding the limitation that only one application shall be submitted each year for each site, an application for the additional credit provided for in this paragraph shall be submitted as soon as all requirements to obtain this additional tax credit have been met.

(e) Notwithstanding the restrictions in this section that limit tax credit eligibility to costs that are integral to site rehabilitation, to encourage the redevelopment of properties in designated brownfield areas that are hindered by the presence of solid waste, as defined in s. 403.703, a tax credit applicant may also claim costs to address the solid waste, but only those costs to remove, transport, and dispose of solid waste in accordance with department rules. These costs are eligible for a tax credit provided the applicant submits an affidavit stating that, after consultation with appropriate local government officials and the department, to the best of the applicant's knowledge, the site was never operated as a landfill or dump site for monetary compensation, and submits all other documentation and certifications required by this section. In this section, where reference is made to "site rehabilitation," the department shall instead consider whether the costs claimed are for removal, transportation, and disposal of solid waste. Tax credit applications claiming costs pursuant to this paragraph shall not be subject to the calendar-year limitation and January 15 annual application deadline, and the department shall accept a one-time application filed subsequent to the completion by the tax credit applicant of the applicable requirements listed in this paragraph.

(4) ~~(3)~~ The Department of Environmental Protection shall be responsible for allocating the tax credits provided for in ss. 199.1055 and 220.1845, not to exceed a total of $5 ~~$2~~ million in tax credits annually.

(5) ~~(4)~~ To claim the credit for site rehabilitation conducted during the current calendar year, each tax credit

applicant must apply to the Department of Environmental Protection for an allocation of the $5 ~~$2~~ million annual credit by January 15 of the following year on a form developed by the Department of Environmental Protection in cooperation with the Department of Revenue. The form shall include an affidavit from each tax credit applicant certifying that all information contained in the application, including all records of costs incurred and claimed in the tax credit application, are true and correct. If the application is submitted pursuant to subparagraph (3)~~(2)~~(a)2., the form must include an affidavit signed by the real property owner stating that it is not, and has never been, the owner or operator of the drycleaning facility where the contamination exists. Approval of partial tax credits must be accomplished on a first-come, first-served basis based upon the date complete applications are received by the Division of Waste Management. A tax credit applicant shall submit only one complete application per site for each calendar year's site rehabilitation costs. Incomplete placeholder applications shall not be accepted and will not secure a place in the first-come, first-served application line. To be eligible for a tax credit, the tax credit applicant must:

(a) Have entered into a voluntary cleanup agreement with the Department of Environmental Protection for a drycleaning-solvent-contaminated site or a Brownfield Site Rehabilitation Agreement, as applicable; and

(b) Have paid all deductibles pursuant to s. 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program sites.

(6)~~(5)~~ To obtain the tax credit certificate, a tax credit applicant must annually file an application for certification, which must be received by the Division of Waste Management of the Department of Environmental Protection by January 15 of the year following the calendar year for which site rehabilitation costs are being claimed in a tax credit application. The tax credit applicant must provide all pertinent information requested on the tax credit application form, including, at a minimum, the name and address of the tax credit applicant and the address and tracking identification number of the eligible site. Along with the tax credit application form, the tax credit applicant must submit the following:

(a) A nonrefundable review fee of $250 made payable to the Water Quality Assurance Trust Fund to cover the administrative costs associated with the department's review of the tax credit application;

(b) Copies of contracts and documentation of contract negotiations, accounts, invoices, sales tickets, or other payment records from purchases, sales, leases, or other transactions involving actual costs incurred for that tax year related to site rehabilitation, as that term is defined in ss. 376.301 and 376.79;

(c) Proof that the documentation submitted pursuant to paragraph (b) has been reviewed and verified by an independent certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants. Specifically, the certified public accountant must attest to the accuracy and validity of the costs incurred and paid by conducting an independent review of the data presented

by the tax credit applicant. Accuracy and validity of costs incurred and paid would be determined once the level of effort was certified by an appropriate professional registered in this state in each contributing technical discipline. The certified public accountant's report would also attest that the costs included in the application form are not duplicated within the application. A copy of the accountant's report shall be submitted to the Department of Environmental Protection with the tax credit application; and

(d) A certification form stating that site rehabilitation activities associated with the documentation submitted pursuant to paragraph (b) have been conducted under the observation of, and related technical documents have been signed and sealed by, an appropriate professional registered in this state in each contributing technical discipline. The certification form shall be signed and sealed by the appropriate registered professionals stating that the costs incurred were integral, necessary, and required for site rehabilitation, as that term is defined in ss. 376.301 and 376.79.

(7) ~~(6)~~ The certified public accountant and appropriate registered professionals submitting forms as part of a tax credit application must verify such forms. Verification must be accomplished as provided in s. 92.525(1)(b) and subject to the provisions of s. 92.525(3).

(8) ~~(7)~~ The Department of Environmental Protection shall review the tax credit application and any supplemental documentation that the tax credit applicant may submit prior to the annual application deadline in order to have the application considered complete, for the purpose of verifying that the tax

credit applicant has met the qualifying criteria in subsections (3) ~~(2)~~ and (5) ~~(4)~~ and has submitted all required documentation listed in subsection (6) ~~(5)~~. Upon verification that the tax credit applicant has met these requirements, the department shall issue a written decision granting eligibility for partial tax credits (a tax credit certificate) in the amount of 50 ~~35~~ percent of the total costs claimed, subject to the $500,000 ~~$250,000~~ limitation, for the calendar year for which the tax credit application is submitted based on the report of the certified public accountant and the certifications from the appropriate registered technical professionals.

(9) ~~(8)~~ On or before March 1, the Department of Environmental Protection shall inform each eligible tax credit applicant of the amount of its partial tax credit and provide each eligible tax credit applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s. 199.1055(1)(g) or s. 220.1845(1)(h). Credits will not result in the payment of refunds if total credits exceed the amount of tax owed.

(10) ~~(9)~~ If a tax credit applicant does not receive a tax credit allocation due to an exhaustion of the $5 ~~$2~~ million annual tax credit authorization, such application will then be included in the same first-come, first-served order in the next year's annual tax credit allocation, if any, based on the prior year application.

(11) ~~(10)~~ The Department of Environmental Protection may adopt rules to prescribe the necessary forms required to claim

tax credits under this section and to provide the administrative guidelines and procedures required to administer this section.

(12)~~(11)~~ The Department of Environmental Protection may revoke or modify any written decision granting eligibility for partial tax credits under this section if it is discovered that the tax credit applicant submitted any false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive partial tax credits under this section. The Department of Environmental Protection shall immediately notify the Department of Revenue of any revoked or modified orders affecting previously granted partial tax credits. Additionally, the tax credit applicant must notify the Department of Revenue of any change in its tax credit claimed.

(13)~~(12)~~ A tax credit applicant who receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive a tax credit under s. 199.1055 or s. 220.1845 for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

Section 4. Subsections (15) and (16) of section 196.012, Florida Statutes, are amended to read:

196.012 Definitions.--For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(15) "New business" means:

(a)1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, which manufactures,

processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant;

2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; or

3. An office space in this state owned and used by a corporation newly domiciled in this state; provided such office space houses 50 or more full-time employees of such corporation; provided that such business or office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

(b) Any business located in an enterprise zone or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

(c) A business that is situated on property annexed into a municipality and that, at the time of the annexation, is receiving an economic development ad valorem tax exemption from the county under s. 196.1995.

(16) "Expansion of an existing business" means:

(a)1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or

2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; provided that such business increases operations on a site colocated with a commercial or industrial operation owned by the same business, resulting in a net increase in employment of not less than 10 percent or an increase in productive output of not less than 10 percent.

(b) Any business located in an enterprise zone or brownfield area that increases operations on a site colocated with a commercial or industrial operation owned by the same business.

Section 5. Section 196.1995, Florida Statutes, is amended to read:

196.1995 Economic development ad valorem tax exemption.--

(1) The board of county commissioners of any county or the governing authority of any municipality shall call a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad valorem tax exemptions under s. 3, Art. VII of the State Constitution if:

(a) The board of county commissioners of the county or the governing authority of the municipality votes to hold such referendum; or

(b) The board of county commissioners of the county or the governing authority of the municipality receives a petition signed by 10 percent of the registered electors of its

respective jurisdiction, which petition calls for the holding of such referendum.

(2) The ballot question in such referendum shall be in substantially the following form:

Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions to new businesses and expansions of existing businesses?

____ Yes--For authority to grant exemptions.

____ No--Against authority to grant exemptions.

(3) The board of county commissioners or the governing authority of the municipality that ~~which~~ calls a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad valorem tax exemptions may vote to limit the effect of the referendum to authority to grant economic development tax exemptions for new businesses and expansions of existing businesses located in an enterprise zone or a brownfield area, as defined in s. 376.79(4). If ~~In the event that~~ an area nominated to be an enterprise zone pursuant to s. 290.0055 has not yet been designated pursuant to s. 290.0065, the board of county commissioners or the governing authority of the municipality may call such referendum prior to such designation; however, the authority to grant economic development ad valorem tax exemptions does ~~will~~ not apply until such area is designated pursuant to s. 290.0065. The ballot question in such referendum

shall be in substantially the following form and shall be used in lieu of the ballot question prescribed in subsection (2):

Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions for new businesses and expansions of existing businesses which are located in an enterprise zone or a brownfield area?

_____Yes--For authority to grant exemptions.

_____No--Against authority to grant exemptions.

(4) A referendum pursuant to this section may be called only once in any 12-month period.

(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business, provided that the improvements to real property are made or the tangible personal property is added or increased on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum

in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that ~~which~~ are located in an enterprise zone or brownfield area. Property acquired to replace existing property shall not be considered to facilitate a business expansion. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, regardless of any change in the authority of the county or municipality to grant such exemptions. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(6) With respect to a new business as defined by s. 196.012(15)(c), the municipality annexing the property on which the business is situated may grant an economic development ad valorem tax exemption under this section to that business for a period that will expire upon the expiration of the exemption granted by the county. If the county renews the exemption under subsection (7), the municipality may also extend its exemption. A municipal economic development ad valorem tax exemption granted under this subsection may not extend beyond the duration of the county exemption.

(7) The authority to grant exemptions under this section will expire 10 years after the date such authority was approved in an election, but such authority may be renewed for another 10-year period in a referendum called and held pursuant to this section.

(8) Any person, firm, or corporation which desires an economic development ad valorem tax exemption shall, in the year the exemption is desired to take effect, file a written application on a form prescribed by the department with the board of county commissioners or the governing authority of the municipality, or both. The application shall request the adoption of an ordinance granting the applicant an exemption pursuant to this section and shall include the following information:

(a) The name and location of the new business or the expansion of an existing business;

(b) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements;

(c) A description of the tangible personal property for which an exemption is requested and the dates when such property was or is to be purchased;

(d) Proof, to the satisfaction of the board of county commissioners or the governing authority of the municipality, that the applicant is a new business or an expansion of an existing business, as defined in s. 196.012(15) or (16); and

(e) Other information deemed necessary by the department.

(9) Before it takes action on the application, the board of county commissioners or the governing authority of the

municipality shall deliver a copy of the application to the property appraiser of the county. After careful consideration, the property appraiser shall report the following information to the board of county commissioners or the governing authority of the municipality:

(a) The total revenue available to the county or municipality for the current fiscal year from ad valorem tax sources, or an estimate of such revenue if the actual total revenue available cannot be determined;

(b) Any revenue lost to the county or municipality for the current fiscal year by virtue of exemptions previously granted under this section, or an estimate of such revenue if the actual revenue lost cannot be determined;

(c) An estimate of the revenue which would be lost to the county or municipality during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise been subject to taxation; and

(d) A determination as to whether the property for which an exemption is requested is to be incorporated into a new business or the expansion of an existing business, as defined in s. 196.012(15) or (16), or into neither, which determination the property appraiser shall also affix to the face of the application. Upon the request of the property appraiser, the department shall provide to him or her such information as it may have available to assist in making such determination.

(10) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(15) or (16).

Section 6. Subsection (2) of section 288.9015, Florida Statutes, is amended to read:

288.9015 Enterprise Florida, Inc.; purpose; duties.--

(2) It shall be the responsibility of Enterprise Florida, Inc., to aggressively market Florida's rural communities, distressed urban communities, <u>brownfields,</u> and enterprise zones as locations for potential new investment, to aggressively assist in the retention and expansion of existing businesses in these communities, and to aggressively assist these communities in the identification and development of new economic development opportunities for job creation, fully marketing state incentive programs such as the Qualified Target Industry Tax Refund Program under s. 288.106 and the Quick Action Closing Fund under s. 288.1088 in economically distressed areas.

Section 7. Section 376.80, Florida Statutes, is amended to read:

376.80 Brownfield program administration process.--

(1) A local government with jurisdiction over the brownfield area must notify the department of its decision to designate a brownfield area for rehabilitation for the purposes of ss. 376.77-376.85. The notification must include a resolution, by the local government body, to which is attached a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. 166.041, except that the notice for the public hearings on the proposed resolution must be in the form established in s. 166.041(3)(c)2. For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. 125.66, except that the notice for the public hearings on the proposed resolution shall be in the form established in s. 125.66(4)(b)2.

(2)(a) If a local government proposes to designate a brownfield area that is outside community redevelopment areas, enterprise zones, empowerment zones, closed military bases, or designated brownfield pilot project areas, the local government must conduct at least one public hearing in the area to be designated to provide an opportunity for public input on the

size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns. Notice of the public hearing must be made in a newspaper of general circulation in the area and the notice must be at least 16 square inches in size, must be in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing. In determining the areas to be designated, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;

2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;

3. Whether the area has potential to interest the private sector in participating in rehabilitation; and

4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) A local government shall designate a brownfield area under the provisions of this act provided that:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site;

2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 ~~10~~ new permanent

jobs at the brownfield site~~, whether full time or part time,~~ which are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and which are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment agreement required under paragraph (5)(i). However, the job-creation requirement shall not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004(3) or the creation of recreational areas, conservation areas, or parks;

3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations;

4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be made in a newspaper of general circulation in the area, at least 16 square inches in size, and the notice must be posted in the affected area; and

5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.

(c) The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to

negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(3) When there is a person responsible for brownfield site rehabilitation, the local government must notify the department of the identity of that person. If the agency or person who will be responsible for the coordination changes during the approval process specified in subsections (4), (5), and (6), the department or the affected approved local pollution control program must notify the affected local government when the change occurs.

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The

advisory committee shall review the proposed redevelopment agreement required pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(a) A brownfield site rehabilitation schedule, including milestones for completion of site rehabilitation tasks and submittal of technical reports and rehabilitation plans as agreed upon by the parties to the agreement;

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers or geologists who are registered in accordance with the requirements of chapter 471 or chapter 492, respectively. Submittals provided by the person responsible for brownfield site rehabilitation must

be signed and sealed by a professional engineer registered under chapter 471, or a professional geologist registered under chapter 492, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial action, the department shall require a professional engineer registered under chapter 471 or a professional geologist registered under chapter 492 to certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the department;

(c) A commitment to conduct site rehabilitation in accordance with department quality assurance rules;

(d) A commitment to conduct site rehabilitation consistent with state, federal, and local laws and consistent with the brownfield site contamination cleanup criteria in s. 376.81, including any applicable requirements for risk-based corrective action;

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents;

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation;

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon,

that are consistent with ss. 376.77-376.85, and that will improve or enhance the brownfield site rehabilitation process;

(h) A commitment to consider appropriate pollution prevention measures and to implement those that the person responsible for brownfield site rehabilitation determines are reasonable and cost-effective, taking into account the ultimate use or uses of the brownfield site. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include goals for the reduction of releases of toxic materials; and

(i) Certification that an agreement exists between the person responsible for brownfield site rehabilitation and the local government with jurisdiction over the brownfield area. Such agreement shall contain terms for the redevelopment of the brownfield area.

(6) Any contractor performing site rehabilitation program tasks must demonstrate to the department that the contractor:

(a) Meets all certification and license requirements imposed by law; and

(b) Has obtained the necessary approvals for conducting sample collection and analyses pursuant to department rules.

(7) The contractor who is performing the majority of the site rehabilitation program tasks pursuant to a brownfield site rehabilitation agreement or supervising the performance of such tasks by licensed subcontractors in accordance with the provisions of s. 489.113(9) must certify to the department that the contractor:

(a) Complies with applicable OSHA regulations.

(b) Maintains workers' compensation insurance for all employees as required by the Florida Workers' Compensation Law.

(c) Maintains comprehensive general liability coverage with limits of not less than $1 million per occurrence and $2 million general aggregate for bodily injury and property damage and comprehensive automobile liability coverage with limits of not less than $2 million combined single limit. The contractor shall also maintain pollution liability coverage with limits of not less than $3 million aggregate for personal injury or death, $1 million per occurrence for personal injury or death, and $1 million per occurrence for property damage. The contractor's certificate of insurance shall name the state as an additional insured party.

(d) Maintains professional liability insurance of at least $1 million per claim and $1 million annual aggregate.

(8) Any professional engineer or geologist providing professional services relating to site rehabilitation program tasks must carry professional liability insurance with a coverage limit of at least $1 million.

(9) During the cleanup process, if the department or local program fails to complete review of a technical document within the timeframe specified in the brownfield site rehabilitation agreement, the person responsible for brownfield site rehabilitation may proceed to the next site rehabilitation task. However, the person responsible for brownfield site rehabilitation does so at its own risk and may be required by the department or local program to complete additional work on a previous task. Exceptions to this subsection include requests for "no further action," "monitoring only proposals," and

feasibility studies, which must be approved prior to implementation.

(10) If the person responsible for brownfield site rehabilitation fails to comply with the brownfield site rehabilitation agreement, the department shall allow 90 days for the person responsible for brownfield site rehabilitation to return to compliance with the provision at issue or to negotiate a modification to the brownfield site rehabilitation agreement with the department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with the brownfield site rehabilitation agreement and a modification cannot be negotiated, the immunity provisions of s. 376.82 are revoked.

(11) The department is specifically authorized and encouraged to enter into delegation agreements with local pollution control programs approved under s. 403.182 to administer the brownfield program within their jurisdictions, thereby maximizing the integration of this process with the other local development processes needed to facilitate redevelopment of a brownfield area. When determining whether a delegation pursuant to this subsection of all or part of the brownfields program to a local pollution control program is appropriate, the department shall consider the following. The local pollution control program must:

(a) Have and maintain the administrative organization, staff, and financial and other resources to effectively and efficiently implement and enforce the statutory requirements of the delegated brownfields program; and

(b) Provide for the enforcement of the requirements of the delegated brownfields program, and for notice and a right to challenge governmental action, by appropriate administrative and judicial process, which shall be specified in the delegation.

The local pollution control program shall not be delegated authority to take action on or to make decisions regarding any brownfield site on land owned by the local government. Any delegation agreement entered into pursuant to this subsection shall contain such terms and conditions necessary to ensure the effective and efficient administration and enforcement of the statutory requirements of the brownfields program as established by the act and the relevant rules and other criteria of the department.

(12) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas, to help eliminate the public health and environmental hazards, and to promote the creation of jobs and economic development in these previously run-down, blighted, and underutilized areas.

Section 8. Subsection (1) of section 376.86, Florida Statutes, is amended to read:

376.86 Brownfield Areas Loan Guarantee Program.--

(1) The Brownfield Areas Loan Guarantee Council is created to review and approve or deny by a majority vote of its membership, the situations and circumstances for participation in partnerships by agreements with local governments, financial institutions, and others associated with the redevelopment of brownfield areas pursuant to the Brownfields Redevelopment Act

for a limited state guaranty of up to 5 years of loan guarantees or loan loss reserves issued pursuant to law. The limited state loan guaranty applies only to 50 ~~10~~ percent of the primary lenders loans for redevelopment projects in brownfield areas. If the redevelopment project is for affordable housing, as defined in s. 420.0004(3), in a brownfield area, the limited state loan guaranty applies to 75 percent of the primary lender's loan. A limited state guaranty of private loans or a loan loss reserve is authorized for lenders licensed to operate in the state upon a determination by the council that such an arrangement would be in the public interest and the likelihood of the success of the loan is great.

Section 9. Sections 376.87 and 376.875, Florida Statutes, are repealed.

Section 10. Paragraph (f) of subsection (2) of section 14.2015, Florida Statutes, is amended to read:

14.2015 Office of Tourism, Trade, and Economic Development; creation; powers and duties.--

(2) The purpose of the Office of Tourism, Trade, and Economic Development is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish such purposes, the Office of Tourism, Trade, and Economic Development shall:

(f)1. Administer the Florida Enterprise Zone Act under ss. 290.001-290.016, the community contribution tax credit program under ss. 220.183 and 624.5105, the tax refund program for

qualified target industry businesses under s. 288.106, the tax-refund program for qualified defense contractors under s. 288.1045, contracts for transportation projects under s. 288.063, the sports franchise facility program under s. 288.1162, the professional golf hall of fame facility program under s. 288.1168, the expedited permitting process under s. 403.973, the Rural Community Development Revolving Loan Fund under s. 288.065, the Regional Rural Development Grants Program under s. 288.018, the Certified Capital Company Act under s. 288.99, the Florida State Rural Development Council, the Rural Economic Development Initiative, and other programs that are specifically assigned to the office by law, by the appropriations process, or by the Governor. Notwithstanding any other provisions of law, the office may expend interest earned from the investment of program funds deposited in the Grants and Donations Trust Fund ~~and the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund~~ to contract for the administration of the programs, or portions of the programs, enumerated in this paragraph or assigned to the office by law, by the appropriations process, or by the Governor. Such expenditures shall be subject to review under chapter 216.

2. The office may enter into contracts in connection with the fulfillment of its duties concerning the Florida First Business Bond Pool under chapter 159, tax incentives under chapters 212 and 220, tax incentives under the Certified Capital Company Act in chapter 288, foreign offices under chapter 288, the Enterprise Zone program under chapter 290, the Seaport Employment Training program under chapter 311, the Florida Professional Sports Team License Plates under chapter 320,

Spaceport Florida under chapter 331, Expedited Permitting under chapter 403, and in carrying out other functions that are specifically assigned to the office by law, by the appropriations process, or by the Governor.

Section 11. Subsection (4) of section 403.413, Florida Statutes, is amended to read:

403.413 Florida Litter Law.--

(4) DUMPING LITTER PROHIBITED.--Unless otherwise authorized by law or permit, it is unlawful for any person to dump litter in any manner or amount:

(a) In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor. When any litter is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this section;

(b) In or on any freshwater lake, river, canal, or stream or tidal or coastal water of the state, including canals. When any litter is thrown or discarded from a boat, the operator or owner of the boat, or both, shall be deemed in violation of this section; or

(c) In or on any private property, unless prior consent of the owner has been given and unless the dumping of such litter by such person will not cause a public nuisance or otherwise be in violation of any other state or local law, rule, or regulation.

Section 12. Section 403.4131, Florida Statutes, is amended to read:

403.4131 Litter control ~~"Keep Florida Beautiful, Incorporated"; placement of signs~~.--

~~(1) It is the intent of the Legislature that a coordinated effort of interested businesses, environmental and civic organizations, and state and local agencies of government be developed to plan for and assist in implementing solutions to the litter and solid waste problems in this state and that the state provide financial assistance for the establishment of a nonprofit organization with the name of "Keep Florida Beautiful, Incorporated," which shall be registered, incorporated, and operated in compliance with chapter 617. This nonprofit organization shall coordinate the statewide campaign and operate as the grassroots arm of the state's effort and shall serve as an umbrella organization for volunteer based community programs. The organization shall be dedicated to helping Florida and its local communities solve solid waste problems, to developing and implementing a sustained litter prevention campaign, and to act as a working public-private partnership in helping to implement the state's Solid Waste Management Act. As part of this effort, Keep Florida Beautiful, Incorporated, in cooperation with the Environmental Education Foundation, shall strive to educate citizens, visitors, and businesses about the important relationship between the state's environment and economy. Keep Florida Beautiful, Incorporated, is encouraged to explore and identify economic incentives to improve environmental initiatives in the area of solid waste management. The membership of the board of directors of this nonprofit organization may include representatives of the following organizations: the Florida League of Cities, the Florida~~

~~Association of Counties, the Governor's Office, the Florida Chapter of the National Solid Waste Management Association, the Florida Recyclers Association, the Center for Marine Conservation, Chapter of the Sierra Club, the Associated Industries of Florida, the Florida Soft Drink Association, the Florida Petroleum Council, the Retail Grocers Association of Florida, the Florida Retail Federation, the Pulp and Paper Association, the Florida Automobile Dealers Association, the Beer Industries of Florida, the Florida Beer Wholesalers Association, and the Distilled Spirits Wholesalers.~~

~~(2) As a partner working with government, business, civic, environmental, and other organizations, Keep Florida Beautiful, Incorporated, shall strive to assist the state and its local communities by contracting for the development of a highly visible antilitter campaign that, at a minimum, includes:~~

~~(a) Coordinating with the Center for Marine Conservation and the Center for Solid and Hazardous Waste Management to identify components of the marine debris and litter stream and groups that habitually litter.~~

~~(b) Designing appropriate advertising to promote the proper management of solid waste, with emphasis on educating groups that habitually litter.~~

~~(c) Fostering public awareness and striving to build an environmental ethic in this state through the development of educational programs that result in an understanding and in action on the part of individuals and organizations about the role they must play in preventing litter and protecting Florida's environment.~~

~~(d) Developing educational programs and materials that promote the proper management of solid waste, including the proper disposal of litter.~~

~~(e) Administering grants provided by the state. Grants authorized under this section shall be subject to normal department audit procedures and review.~~

(1)~~(3)~~ The Department of Transportation shall establish an "adopt-a-highway" program to allow local organizations to be identified with specific highway cleanup and highway beautification projects authorized under s. 339.2405 ~~and shall coordinate such efforts with Keep Florida Beautiful, Inc~~. The department shall report to the Governor and the Legislature on the progress achieved and the savings incurred by the "adopt-a-highway" program. The department shall also monitor and report on compliance with provisions of the adopt-a-highway program to ensure that organizations that participate in the program comply with the goals identified by the department.

(2)~~(4)~~ The Department of Transportation shall place signs discouraging litter at all off-ramps of the interstate highway system in the state. The department shall place other highway signs as necessary to discourage littering ~~through use of the antilitter program developed by Keep Florida Beautiful, Incorporated~~.

(3)~~(5)~~ Each county is encouraged to initiate a litter control and prevention program or to expand upon its existing program. The department shall establish a system of grants for municipalities and counties to implement litter control and prevention programs. In addition to the activities described in subsection (1), such grants shall at a minimum be used for

litter cleanup, grassroots educational programs involving litter removal and prevention, and the placement of litter and recycling receptacles. Counties are encouraged to form working public private partnerships as authorized under this section to implement litter control and prevention programs at the community level. The grants authorized pursuant to this section shall be incorporated as part of the recycling and education grants. Counties that have a population under 100,000 ~~75,000~~ are encouraged to develop a regional approach to administering and coordinating their litter control and prevention programs.

~~(6) The department may contract with Keep Florida Beautiful, Incorporated, to help carry out the provisions of this section. All contracts authorized under this section are subject to normal department audit procedures and review.~~

~~(7) In order to establish continuity for the statewide program, those local governments and community programs receiving grants for litter prevention and control must use the official State of Florida litter control or campaign symbol adopted by Keep Florida Beautiful, Incorporated, for use on various receptacles and program material.~~

~~(8) The Legislature establishes a litter reduction goal of 50 percent reduction from the period January 1, 1994, to January 1, 1997. The method of determination used to measure the reduction in litter is the survey conducted by the Center for Solid and Hazardous Waste Management. The center shall consider existing litter survey methodologies.~~

~~(9) The Department of Environmental Protection shall contract with the Center for Solid and Hazardous Waste Management for an ongoing annual litter survey, the first of~~

~~which is to be conducted by January 1, 1994. The center shall appoint a broad-based work group not to exceed seven members to assist in the development and implementation of the survey. Representatives from the university system, business, government, and the environmental community shall be considered by the center to serve on the work group. Final authority on implementing and conducting the survey rests with the center. The first survey is to be designed to serve as a baseline by measuring the amount of current litter and marine debris, and is to include a methodology for measuring the reduction in the amount of litter and marine debris to determine the progress toward the litter reduction goal established in subsection (8). Annually thereafter, additional surveys are to be conducted and must also include a methodology for measuring the reduction in the amount of litter and for determining progress toward the litter reduction goal established in subsection (8).~~

~~(10)(a) There is created within Keep Florida Beautiful, Inc., the Wildflower Advisory Council, consisting of a maximum of nine members to direct and oversee the expenditure of the Wildflower Account. The Wildflower Advisory Council shall include a representative from the University of Florida Institute of Food and Agricultural Sciences, the Florida Department of Transportation, and the Florida Department of Environmental Protection, the Florida League of Cities, and the Florida Association of Counties. Other members of the committee may include representatives from the Florida Federation of Garden Clubs, Inc., Think Beauty Foundation, the Florida Chapter of the American Society of Landscape Architects, Inc., and a representative of the Master Gardener's Program.~~

~~(b) The Wildflower Advisory Council shall develop procedures of operation, research contracts, educational programs, and wildflower planting grants for Florida native wildflowers, plants, and grasses. The council shall also make the final determination of what constitutes acceptable species of wildflowers and other plantings supported by these programs.~~

Section 13. Section 403.41315, Florida Statutes, is amended to read:

403.41315 Comprehensive illegal dumping, litter, and marine debris control and prevention.--

(1) The Legislature finds that a comprehensive illegal dumping, litter, and marine debris control and prevention program is necessary to protect the beauty and the environment of Florida. The Legislature also recognizes that a comprehensive illegal dumping, litter, and marine debris control and prevention program will have a positive effect on the state's economy. The Legislature finds that the state's rapid population growth, the ever-increasing mobility of its population, and the large number of tourists contribute to the need for a comprehensive illegal dumping, litter, and marine debris control and prevention program. The Legislature further finds that the program must be coordinated and capable of having statewide identity and grassroots community support.

(2) The comprehensive illegal dumping, litter, and marine debris control and prevention program at a minimum must include the following:

(a) A local ~~statewide~~ public awareness and educational campaign~~, coordinated by Keep Florida Beautiful, Incorporated,~~ to educate individuals, government, businesses, and other

organizations concerning the role they must assume in preventing and controlling litter.

(b) Enforcement provisions authorized under s. 403.413.

(c) Enforcement officers whose responsibilities include grassroots education along with enforcing litter and illegal dumping violations.

(d) Local illegal dumping, litter, and marine debris control and prevention programs operated at the county level with emphasis placed on grassroots educational programs designed to prevent and remove litter and marine debris.

(e) A statewide adopt-a-highway program as authorized under s. 403.4131.

(f) The highway beautification program authorized under s. 339.2405.

(g) A statewide Adopt-a-Shore program that includes beach, river, and lake shorelines and emphasizes litter and marine debris cleanup and prevention.

(h) The prohibition of balloon releases as authorized under s. 372.995.

(i) The placement of approved identifiable litter and recycling receptacles.

(j) Other educational programs that are implemented at the grassroots level ~~coordinated through Keep Florida Beautiful, Inc.,~~ involving volunteers and community programs that clean up and prevent litter, including Youth Conservation Corps activities.

Section 14. Section 403.4133, Florida Statutes, is amended to read:

403.4133 Adopt-a-Shore Program.--

(1) The Legislature finds that litter and illegal dumping present a threat to the state's wildlife, environment, and shorelines. The Legislature further finds that public awareness and education will assist in preventing litter from being illegally deposited along the state's shorelines.

(2) The Adopt-a-Shore Program shall be created within the Department of Environmental Protection ~~nonprofit organization referred to in s. 403.4131(1), named Keep Florida Beautiful, Incorporated~~. The program shall be designed to educate the state's citizens and visitors about the importance of litter prevention and shall include approaches and techniques to remove litter from the state's shorelines.

(3) For the purposes of this section, the term "shoreline" includes, but is not limited to, beaches, rivershores, and lakeshores.

Section 15. Subsection (28) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.--

(28) FLORIDA WILDFLOWER LICENSE PLATES.--

(a) The department shall develop a Florida Wildflower license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "State Wildflower" and "coreopsis" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to the Wildflower Foundation, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code ~~Wildflower Account established by Keep Florida Beautiful, Inc., created by s. 403.4131~~. The proceeds must be used to establish native Florida

wildflower research programs, wildflower educational programs, and wildflower grant programs to municipal, county, and community-based groups in this state.

1. The Wildflower Foundation, Inc., shall develop procedures of operation, research contracts, education and marketing programs, and wildflower planting grants for Florida native wildflowers, plants, and grasses.

2. A maximum of 15 ~~10~~ percent of the proceeds from the sale of such plates may be used for administrative and marketing costs.

3. In the event the Wildflower Foundation, Inc., ceases to be an active nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, the proceeds from the annual use fee shall be deposited into the General Inspection Trust Fund created within the Department of Agriculture and Consumer Services. Any funds held by the Wildflower Foundation, Inc., must be promptly transferred to the General Inspection Trust Fund. The Department of Agriculture and Consumer Services shall use and administer the proceeds from the use fee in the manner specified in this subsection.

Section 16. All unexpended proceeds of fees paid for Wildflower license plates which are held by Keep Florida Beautiful, Inc., must be transferred to the Department of Agriculture and Consumer Services promptly after the effective date of this act.

Section 17. Section 403.703, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 403.703, F.S., for present text.)

403.703 Definitions.--As used in this part, the term:

(1) "Ash residue" has the same meaning as in the department rule governing solid waste combustors which defines the term.

(2) "Biological waste" means solid waste that causes or has the capability of causing disease or infection and includes, but is not limited to, biomedical waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals. The term does not include human remains that are disposed of by persons licensed under chapter 497.

(3) "Biomedical waste" means any solid waste or liquid waste that may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste that contains human-disease-causing agents; discarded disposable sharps; human blood and human blood products and body fluids; and other materials that in the opinion of the Department of Health represent a significant risk of infection to persons outside the generating facility. The term does not include human remains that are disposed of by persons licensed under chapter 497.

(4) "Clean debris" means any solid waste that is virtually inert, that is not a pollution threat to groundwater or surface waters, that is not a fire hazard, and that is likely to retain its physical and chemical structure under expected conditions of disposal or use. The term includes uncontaminated concrete, including embedded pipe or steel, brick, glass, ceramics, and other wastes designated by the department.

(5) "Closure" means the cessation of operation of a solid waste management facility and the act of securing such facility

so that it will pose no significant threat to human health or the environment and includes long-term monitoring and maintenance of a facility if required by department rule.

(6) "Construction and demolition debris" means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and includes rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land-development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause the resulting mixture to be classified as other than construction and demolition debris. The term also includes:

(a) Clean cardboard, paper, plastic, wood, and metal scraps from a construction project.

(b) Except as provided in s. 403.707(9)(j), yard trash and unpainted, nontreated wood scraps from sources other than construction or demolition projects.

(c) Scrap from manufacturing facilities which is the type of material generally used in construction projects and which would meet the definition of construction and demolition debris if it were generated as part of a construction or demolition project. This includes debris from the construction of manufactured homes and scrap shingles, wallboard, siding

concrete, and similar materials from industrial or commercial facilities.

(d) De minimis amounts of other nonhazardous wastes that are generated at construction or destruction projects, provided such amounts are consistent with best management practices of the industry.

(7) "County," or any like term, means a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution and, when s. 403.706(19) applies, means a special district or other entity.

(8) "Department" means the Department of Environmental Protection or any successor agency performing a like function.

(9) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or upon any land or water so that such solid waste or hazardous waste or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment.

(10) "Generation" means the act or process of producing solid or hazardous waste.

(11) "Guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this part.

(12) "Hazardous substance" means any substance that is defined as a hazardous substance in the United States Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 94 Stat. 2767.

(13) "Hazardous waste" means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. The term does not include human remains that are disposed of by persons licensed under chapter 497.

(14) "Hazardous waste facility" means any building, site, structure, or equipment at or by which hazardous waste is disposed of, stored, or treated.

(15) "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, recycling, and disposal of hazardous wastes.

(16) "Land disposal" means any placement of hazardous waste in or on the land and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt bed formation, salt dome formation, or underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes.

(17) "Landfill" means any solid waste land disposal area for which a permit, other than a general permit, is required by s. 403.707 and which receives solid waste for disposal in or upon land. The term does not include a landspreading site, an injection well, a surface impoundment, or a facility for the disposal of construction and demolition debris.

(18) "Manifest" means the recordkeeping system used for identifying the concentration, quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, storage, or treatment.

(19) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

(20) "Municipality," or any like term, means a municipality created pursuant to general or special law authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution and, when s. 403.706(19) applies, means a special district or other entity.

(21) "Operation," with respect to any solid waste management facility, means the disposal, storage, or processing of solid waste at and by the facility.

(22) "Person" means any and all persons, natural or artificial, including any individual, firm, or association; any municipal or private corporation organized or existing under the laws of this state or any other state; any county of this state; and any governmental agency of this state or the Federal Government.

(23) "Processing" means any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport; amenable to recovery, storage, or recycling; safe for disposal; or reduced in volume or concentration.

(24) "Recovered materials" means metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but the term does not include materials destined for any use that constitutes disposal. Recovered materials as described in this subsection are not solid waste.

(25) "Recovered materials processing facility" means a facility engaged solely in the storage, processing, resale, or reuse of recovered materials. Such a facility is not a solid waste management facility if it meets the conditions of s. 403.7045(1)(e).

(26) "Recyclable material" means those materials that are capable of being recycled and that would otherwise be processed or disposed of as solid waste.

(27) "Recycling" means any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

(28) "Resource recovery" means the process of recovering materials or energy from solid waste, excluding those materials or solid waste under the control of the Nuclear Regulatory Commission.

(29) "Resource recovery equipment" means equipment or machinery exclusively and integrally used in the actual process of recovering material or energy resources from solid waste.

(30) "Sludge" includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water-supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.

(31) "Solid waste" means sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recovered materials as defined in subsection (24) are not solid waste.

(32) "Solid waste disposal facility" means any solid waste management facility that is the final resting place for solid waste, including landfills and incineration facilities that produce ash from the process of incinerating municipal solid waste.

(33) "Solid waste management" means the process by which solid waste is collected, transported, stored, separated, processed, or disposed of in any other way according to an orderly, purposeful, and planned program, which includes closure.

(34) "Solid waste management facility" means any solid waste disposal area, volume-reduction plant, transfer station, materials recovery facility, or other facility, the purpose of which is resource recovery or the disposal, recycling,

processing, or storage of solid waste. The term does not include recovered materials processing facilities that meet the requirements of s. 403.7046, except the portion of such facilities, if any, which is used for the management of solid waste.

(35) "Source separated" means that the recovered materials are separated from solid waste at the location where the recovered materials and solid waste are generated. The term does not require that various types of recovered materials be separated from each other, and recognizes de minimis solid waste, in accordance with industry standards and practices, may be included in the recovered materials. Materials are not considered source-separated when two or more types of recovered materials are deposited in combination with each other in a commercial collection container located where the materials are generated and when such materials contain more than 10 percent solid waste by volume or weight. For purposes of this subsection, the term "various types of recovered materials" means metals, paper, glass, plastic, textiles, and rubber.

(36) "Special wastes" means solid wastes that can require special handling and management, including, but not limited to, white goods, waste tires, used oil, lead-acid batteries, construction and demolition debris, ash residue, yard trash, and biological wastes.

(37) "Storage" means the containment or holding of a hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

(38) "Transfer station" means a site the primary purpose of which is to store or hold solid waste for transport to a processing or disposal facility.

(39) "Transport" means the movement of hazardous waste from the point of generation or point of entry into the state to any offsite intermediate points and to the point of offsite ultimate disposal, storage, treatment, or exit from the state.

(40) "Treatment," when used in connection with hazardous waste, means any method, technique, or process, including neutralization, which is designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize it or render it nonhazardous, safe for transport, amenable to recovery, amenable to storage or disposal, or reduced in volume or concentration. The term includes any activity or processing that is designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(41) "Volume reduction plant" includes incinerators, pulverizers, compactors, shredding and baling plants, composting plants, and other plants that accept and process solid waste for recycling or disposal.

(42) "White goods" includes inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

(43) "Yard trash" means vegetative matter resulting from landscaping maintenance and land clearing operations and includes associated rocks and soils.

Section 18. Subsection (69) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.--The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(69) HAZARDOUS MATERIAL.--Any substance or material which has been determined by the secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety, and property. This term includes hazardous waste as defined in s. 403.703(13) ~~s. 403.703(21)~~.

Section 19. Paragraph (f) of subsection (2) of section 377.709, Florida Statutes, is amended to read:

377.709 Funding by electric utilities of local governmental solid waste facilities that generate electricity.--

(2) DEFINITIONS.--As used in this section, the term:

(f) "Solid waste facility" means a facility owned or operated by, or on behalf of, a local government for the purpose of disposing of solid waste, as that term is defined in s. 403.703(31) ~~s. 403.703(13)~~, by any process that produces heat and incorporates, as a part of the facility, the means of converting heat to electrical energy in amounts greater than actually required for the operation of the facility.

Section 20. Subsection (1) of section 487.048, Florida Statutes, is amended to read:

487.048 Dealer's license; records.--

(1) Each person holding or offering for sale, selling, or distributing restricted-use pesticides shall obtain a dealer's license from the department. Application for the license shall be made on a form prescribed by the department. The license must

be obtained before entering into business or transferring ownership of a business. The department may require examination or other proof of competency of individuals to whom licenses are issued or of individuals employed by persons to whom licenses are issued. Demonstration of continued competency may be required for license renewal, as set by rule. The license shall be renewed annually as provided by rule. An annual license fee not exceeding $250 shall be established by rule. However, a user of a restricted-use pesticide may distribute unopened containers of a properly labeled pesticide to another user who is legally entitled to use that restricted-use pesticide without obtaining a pesticide dealer's license. The exclusive purpose of distribution of the restricted-use pesticide is to keep it from becoming a hazardous waste as defined in s. 403.703(13) ~~s. 403.703(21)~~.

Section 21. Section 403.704, Florida Statutes, is amended to read:

403.704 Powers and duties of the department.--The department shall have responsibility for the implementation and enforcement of the provisions of this act. In addition to other powers and duties, the department shall:

(1) Develop and implement, in consultation with local governments, a state solid waste management program, as defined in s. 403.705~~, and update the program at least every 3 years~~. ~~In developing rules to implement the state solid waste management program, the department shall hold public hearings around the state and shall give notice of such public hearings to all local governments and regional planning agencies.~~

(2) Provide technical assistance to counties, municipalities, and other persons, and cooperate with appropriate federal agencies and private organizations in carrying out the provisions of this act.

(3) Promote the planning and application of recycling and resource recovery systems which preserve and enhance the quality of the air, water, and other natural resources of the state and assist in and encourage, where appropriate, the development of regional solid waste management facilities.

(4) Serve as the official state representative for all purposes of the federal Solid Waste Disposal Act, as amended by Pub. L. No. 91-512, or as subsequently amended.

(5) Use private industry or the State University System through contractual arrangements for implementation of some or all of the requirements of the state solid waste management program and for such other activities as may be considered necessary, desirable, or convenient.

(6) Encourage recycling and resource recovery as a source of energy and materials.

(7) Assist in and encourage, as much as possible, the development within the state of industries and commercial enterprises which are based upon resource recovery, recycling, and reuse of solid waste.

~~(8) Charge reasonable fees for any services it performs pursuant to this act, provided user fees shall apply uniformly within each municipality or county to all users who are provided with solid waste management services.~~

~~(9) Acquire, at its discretion, personal or real property or any interest therein by gift, lease, or purchase for the~~

~~purpose of providing sites for solid waste management facilities.~~

~~(10) Acquire, construct, reconstruct, improve, maintain, equip, furnish, and operate, at its discretion, such solid waste management facilities as are called for by the state solid waste management program.~~

~~(11) Receive funds or revenues from the sale of products, materials, fuels, or energy in any form derived from processing of solid waste by state owned or state operated facilities, which funds or revenues shall be deposited into the Solid Waste Management Trust Fund.~~

(8) ~~(12)~~ Determine by rule the facilities, equipment, personnel, and number of monitoring wells to be provided at each ~~Class I~~ solid waste disposal area.

~~(13) Encourage, but not require, as part of a Class II solid waste disposal area, a potable water supply; an employee shelter; handwashing and toilet facilities; equipment washout facilities; electric service for operations and repairs; equipment shelter for maintenance and storage of parts, equipment, and tools; scales for weighing solid waste received at the disposal area; a trained equipment operator in full-time attendance during operating hours; and communication facilities for use in emergencies. The department may require an attendant at a Class II solid waste disposal area during the hours of operation if the department affirmatively demonstrates that such a requirement is necessary to prevent unlawful fires, unauthorized dumping, or littering of nearby property.~~

~~(14) Require a Class II solid waste disposal area to have at least one monitoring well which shall be placed adjacent to~~

~~the site in the direction of groundwater flow unless otherwise exempted by the department. The department may require additional monitoring wells not farther than 1 mile from the site if it is affirmatively demonstrated by the department that a significant change in the initial quality of the water has occurred in the downstream monitoring well which adversely affects the beneficial uses of the water. These wells may be public or private water supply wells if they are suitable for use in determining background water quality levels.~~

(9) ~~(15)~~ Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this act, including requirements for the classification, construction, operation, maintenance, and closure of solid waste management facilities and requirements for, and conditions on, solid waste disposal in this state, whether such solid waste is generated within this state or outside this state as long as such requirements and conditions are not based on the out-of-state origin of the waste and are consistent with applicable provisions of law. When classifying solid waste management facilities, the department shall consider the hydrogeology of the site for the facility, the types of wastes to be handled by the facility, and methods used to control the types of waste to be handled by the facility and shall seek to minimize the adverse effects of solid waste management on the environment. Whenever the department adopts any rule stricter or more stringent than one which has been set by the United States Environmental Protection Agency, the procedures set forth in s. 403.804(2) shall be followed. The department shall not, however, adopt hazardous waste rules for solid waste for which special studies were required prior to

October 1, 1988, under s. 8002 of the Resource Conservation and Recovery Act, 42 U.S.C. s. 6982, as amended, until the studies are completed by the United States Environmental Protection Agency and the information is available to the department for consideration in adopting its own rule.

(10) ~~(16)~~ Issue or modify permits on such conditions as are necessary to effect the intent and purposes of this act, and may deny or revoke permits.

~~(17) Conduct research, using the State University System, solid waste professionals from local governments, private enterprise, and other organizations, on alternative, economically feasible, cost-effective, and environmentally safe solid waste management and landfill closure methods which protect the health, safety, and welfare of the public and the environment and which may assist in developing markets and provide economic benefits to local governments, the state, and its citizens, and solicit public participation during the research process. The department shall incorporate such cost-effective landfill closure methods in the appropriate department rule as alternative closure requirements.~~

(11) ~~(18)~~ Develop and implement or contract for services to develop information on recovered materials markets and strategies for market development and expansion for use of these materials. Additionally, the department shall maintain a directory of recycling businesses operating in the state and shall serve as a coordinator to match recovered materials with markets. Such directory shall be made available to the public and to local governments to assist with their solid waste management activities.

~~(19) Authorize variances from solid waste closure rules adopted pursuant to this part, provided such variances are applied for and approved in accordance with s. 403.201 and will not result in significant threats to human health or the environment.~~

(12)~~(20)~~ Establish accounts and deposit to the Solid Waste Management Trust Fund and control and administer moneys it may withdraw from the fund.

(13)~~(21)~~ Manage a program of grants, using funds from the Solid Waste Management Trust Fund and funds provided by the Legislature for solid waste management, for programs for recycling, composting, litter control, and special waste management and for programs which provide for the safe and proper management of solid waste.

(14)~~(22)~~ Budget and receive appropriated funds and accept, receive, and administer grants or other funds or gifts from public or private agencies, including the state and the Federal Government, for the purpose of carrying out the provisions of this act.

(15)~~(23)~~ Delegate its powers, enter into contracts, or take such other actions as may be necessary to implement this act.

(16)~~(24)~~ Receive and administer funds appropriated for county hazardous waste management assessments.

(17)~~(25)~~ Provide technical assistance to local governments and regional agencies to ensure consistency between county hazardous waste management assessments; coordinate the development of such assessments with the assistance of the appropriate regional planning councils; and review and make

recommendations to the Legislature relative to the sufficiency of the assessments to meet state hazardous waste management needs.

(18)~~(26)~~ Increase public education and public awareness of solid and hazardous waste issues by developing and promoting statewide programs of litter control, recycling, volume reduction, and proper methods of solid waste and hazardous waste management.

(19)~~(27)~~ Assist the hazardous waste storage, treatment, or disposal industry by providing to the industry any data produced on the types and quantities of hazardous waste generated.

(20)~~(28)~~ Institute a hazardous waste emergency response program which would include emergency telecommunication capabilities and coordination with appropriate agencies.

(21)~~(29)~~ Promulgate rules necessary to accept delegation of the hazardous waste management program from the Environmental Protection Agency under the Hazardous and Solid Waste Amendments of 1984, Pub. L. No. 98-616.

(22)~~(30)~~ Adopt rules, if necessary, to address the incineration and disposal of biomedical waste and the management of biological waste within the state, whether such waste is generated within this state or outside this state, as long as such requirements and conditions are not based on the out-of-state origin of the waste and are consistent with applicable provisions of law.

Section 22. Section 403.7043, Florida Statutes, is amended to read:

403.7043 Compost standards and applications.--

(1) In order to protect the state's land and water resources, compost produced, utilized, or disposed of by the composting process at solid waste management facilities in the state must meet criteria established by the department.

(2) The department shall ~~Within 6 months after October 1, 1988, the department shall initiate rulemaking to~~ establish and maintain rules addressing standards for the production of compost ~~and shall complete and promulgate those rules within 12 months after initiating the process of rulemaking~~, including rules establishing:

(a) Requirements necessary to produce hygienically safe compost products for varying applications.

(b) A classification scheme for compost based on~~:~~ the types of waste composted, ~~including at least one type containing only yard trash;~~ the maturity of the compost, ~~including at least three degrees of decomposition for fresh, semimature, and mature;~~ and the levels of organic and inorganic constituents in the compost. This scheme shall address:

1. Methods for measurement of the compost maturity.

2. Particle sizes.

3. Moisture content.

4. Average levels of organic and inorganic constituents, including heavy metals, for such classes of compost as the department establishes, and the analytical methods to determine those levels.

~~(3) Within 6 months after October 1, 1988, the department shall initiate rulemaking to prescribe the allowable uses and application rates of compost and shall complete and promulgate~~

~~those rules within 12 months after initiating the process of rulemaking, based on the following criteria:~~

~~(a) The total quantity of organic and inorganic constituents, including heavy metals, allowed to be applied through the addition of compost to the soil per acre per year.~~

~~(b) The allowable uses of compost based on maturity and type of compost.~~

~~(4) If compost is produced which does not meet the criteria prescribed by the department for agricultural and other use, the compost must be reprocessed or disposed of in a manner approved by the department, unless a different application is specifically permitted by the department.~~

~~(5) The provisions of s. 403.706 shall not prohibit any county or municipality which has in place a memorandum of understanding or other written agreement as of October 1, 1988, from proceeding with plans to build a compost facility.~~

Section 23. Subsections (1), (2), and (3) of section 403.7045, Florida Statutes, are amended to read:

403.7045 Application of act and integration with other acts.--

(1) The following wastes or activities shall not be regulated pursuant to this act:

(a) Byproduct material, source material, and special nuclear material, the generation, transportation, disposal, storage, or treatment of which is regulated under chapter 404 or under the federal Atomic Energy Act of 1954, ch. 1073, 68 Stat. 923, as amended;

(b) Suspended solids and dissolved materials in domestic sewage effluent or irrigation return flows or other discharges

which are point sources subject to permits pursuant to provisions of this chapter or pursuant to s. 402 of the Clean Water Act, Pub. L. No. 95-217;

(c) Emissions to the air from a stationary installation or source regulated under provisions of this chapter or under the Clean Air Act, Pub. L. No. 95-95;

(d) Drilling fluids, produced waters, and other wastes associated with the exploration for, or development and production of, crude oil or natural gas which are regulated under chapter 377; or

(e) Recovered materials or recovered materials processing facilities shall not be regulated pursuant to this act, except as provided in s. 403.7046, if:

1. A majority of the recovered materials at the facility are demonstrated to be sold, used, or reused within 1 year.

2. The recovered materials handled by the facility or the products or byproducts of operations that process recovered materials are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water by the owner or operator of such facility so that such recovered materials, products or byproducts, or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment such that a threat of contamination in excess of applicable department standards and criteria is caused.

3. The recovered materials handled by the facility are not hazardous wastes as defined under s. 403.703, and rules promulgated pursuant thereto.

4. The facility is registered as required in s. 403.7046.

(f) Industrial byproducts, if:

1. A majority of the industrial byproducts are demonstrated to be sold, used, or reused within 1 year.

2. The industrial byproducts are not discharged, deposited, injected, dumped, spilled, leaked, or placed upon any land or water so that such industrial byproducts, or any constituent thereof, may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment such that a threat of contamination in excess of applicable department standards and criteria or a significant threat to public health is caused.

3. The industrial byproducts are not hazardous wastes as defined under s. 403.703 and rules adopted under this section.

(2) Except as provided in s. 403.704(9) ~~s. 403.704(15)~~, the following wastes shall not be regulated as a hazardous waste pursuant to this act, except when determined by the United States Environmental Protection Agency to be a hazardous waste:

(a) Ashes and scrubber sludges generated from the burning of boiler fuel for generation of electricity or steam.

(b) Agricultural and silvicultural byproduct material and agricultural and silvicultural process waste from normal farming or processing.

(c) Discarded material generated by the mining and beneficiation and chemical or thermal processing of phosphate rock, and precipitates resulting from neutralization of phosphate chemical plant process and nonprocess waters.

(3) The following wastes or activities shall be regulated pursuant to this act in the following manner:

(a) Dredged material that is generated as part of a project permitted under part IV of chapter 373 or chapter 161, or that is authorized to be removed from sovereign submerged lands under chapter 253, ~~Dredge spoil or fill material~~ shall be managed in accordance with the conditions of that permit or authorization unless the dredged material is regulated as hazardous waste pursuant to this part ~~disposed of pursuant to a dredge and fill permit, but whenever hazardous components are disposed of within the dredge or fill material, the dredge and fill permits shall specify the specific hazardous wastes contained and the concentration of each such waste~~. If the dredged material contains hazardous substances, the department may further ~~then~~ limit or restrict the sale or use of the dredged ~~dredge and fill~~ material and may specify such other conditions relative to this material as are reasonably necessary to protect the public from the potential hazards.

(b) Hazardous wastes that ~~which~~ are contained in artificial recharge waters or other waters intentionally introduced into any underground formation and that ~~which~~ are permitted pursuant to s. 373.106 shall also be handled in compliance with the requirements and standards for disposal, storage, and treatment of hazardous waste under this act.

(c) Solid waste or hazardous waste facilities that ~~which~~ are operated as a part of the normal operation of a power generating facility and which are licensed by certification pursuant to the Florida Electrical Power Plant Siting Act, ss. 403.501-403.518, shall undergo such certification subject to the substantive provisions of this act.

(d) Biomedical waste and biological waste shall be disposed of only as authorized by the department. However, any person who unknowingly disposes into a sanitary landfill or waste-to-energy facility any such waste that ~~which~~ has not been properly segregated or separated from other solid wastes by the generating facility is not guilty of a violation under this act. ~~Nothing in~~ This paragraph does not ~~shall be construed to~~ prohibit the department from seeking injunctive relief pursuant to s. 403.131 to prohibit the unauthorized disposal of biomedical waste or biological waste.

Section 24. Section 403.707, Florida Statutes, is amended to read:

403.707 Permits.--

(1) A ~~No~~ solid waste management facility may not be operated, maintained, constructed, expanded, modified, or closed without an appropriate and currently valid permit issued by the department. The department may by rule exempt specified types of facilities from the requirement for a permit if it determines that construction for operation of the facility is not expected to create any significant threat to the environment or public health. For purposes of this part, and only when specified by department rule, a permit may include registrations as well as other forms of licenses as defined in s. 120.52. Solid waste construction permits issued under this section may include any permit conditions necessary to achieve compliance with the recycling requirements of this act. The department shall pursue reasonable timeframes for closure and construction requirements, considering pending federal requirements and implementation costs to the permittee. The department shall adopt a rule

establishing performance standards for construction and closure of solid waste management facilities. The standards shall allow flexibility in design and consideration for site-specific characteristics.

(2) Except as provided in s. 403.722(6), no permit under this section is required for the following, provided that the activity shall not create a public nuisance or any condition adversely affecting the environment or public health and shall not violate other state or local laws, ordinances, rules, regulations, or orders:

(a) Disposal by persons of solid waste resulting from their own activities on their own property, provided such waste is either ordinary household waste from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter that ~~which~~ normally result from land development operations. Disposal of materials that ~~which~~ could create a public nuisance or adversely affect the environment or public health, such as: white goods; automotive materials, such as batteries and tires; petroleum products; pesticides; solvents; or hazardous substances, is not covered under this exemption.

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

(c) Disposal by persons of solid waste resulting from their own activities on their property, provided the

environmental effects of such disposal on groundwater and surface waters are:

1. Addressed or authorized by a site certification order issued under part II or a permit issued by the department pursuant to this chapter or rules adopted pursuant thereto; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department.

(d) Disposal by persons of solid waste resulting from their own activities on their own property, provided that such disposal occurred prior to October 1, 1988.

(e) Disposal of solid waste resulting from normal farming operations as defined by department rule. Polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled, which are used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, may be disposed of by open burning, provided that no public nuisance or any condition adversely affecting the environment or the public health is created thereby and that state or federal ambient air quality standards are not violated.

(f) The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from obtaining any other required permits, nor does it affect a person's responsibility to dispose of clean debris appropriately if it is not to be used as fill material.

(g) Compost operations that produce less than 50 cubic yards of compost per year when the compost produced is used on the property where the compost operation is located.

(3) All applicable provisions of ss. 403.087 and 403.088, relating to permits, apply to the control of solid waste management facilities.

(4) When application for a construction permit for a Class I ~~or Class II~~ solid waste disposal area is made, it is the duty of the department to provide a copy of the application, within 7 days after filing, to the water management district having jurisdiction where the area is to be located. The water management district may prepare an advisory report as to the impact on water resources. This report shall contain the district's recommendations as to the disposition of the application and shall be submitted to the department no later than 30 days prior to the deadline for final agency action by the department. However, the failure of the department or the water management district to comply with the provisions of this subsection shall not be the basis for the denial, revocation, or remand of any permit or order issued by the department.

(5) The department may not issue a construction permit pursuant to this part for a new solid waste landfill within 3,000 feet of Class I surface waters.

(6) The department may issue a construction permit pursuant to this part only to a solid waste management facility that provides the conditions necessary to control the safe movement of wastes or waste constituents into surface or ground waters or the atmosphere and that will be operated, maintained, and closed by qualified and properly trained personnel. Such facility must if necessary:

(a) Use natural or artificial barriers which are capable of controlling lateral or vertical movement of wastes or waste constituents into surface or ground waters.

(b) Have a foundation or base that is capable of providing support for structures and waste deposits and capable of preventing foundation or base failure due to settlement, compression, or uplift.

(c) Provide for the most economically feasible, cost-effective, and environmentally safe control of leachate, gas, stormwater, and disease vectors and prevent the endangerment of public health and the environment.

Open fires, air-curtain incinerators, or trench burning may not be used as a means of disposal at a solid waste management facility, unless permitted by the department under s. 403.087.

(7) Prior to application for a construction permit, an applicant shall designate to the department temporary backup disposal areas or processes for the resource recovery facility. Failure to designate temporary backup disposal areas or processes shall result in a denial of the construction permit.

(8) The department may refuse to issue a permit to an applicant who by past conduct in this state has repeatedly violated pertinent statutes, rules, or orders or permit terms or conditions relating to any solid waste management facility and who is deemed to be irresponsible as defined by department rule. For the purposes of this subsection, an applicant includes the owner or operator of the facility, or if the owner or operator is a business entity, a parent of a subsidiary corporation, a

partner, a corporate officer or director, or a stockholder holding more than 50 percent of the stock of the corporation.

~~(9) Before or on the same day of filing with the department of an application for any construction permit for the incineration of biomedical waste which the department may require by rule, the applicant shall notify each city and county within 1 mile of the facility of the filing of the application and shall publish notice of the filing of the application. The applicant shall publish a second notice of the filing within 14 days after the date of filing. Each notice shall be published in a newspaper of general circulation in the county in which the facility is located or is proposed to be located.~~

~~Notwithstanding the provisions of chapter 50, for purposes of this section, a "newspaper of general circulation" shall be the newspaper within the county in which the installation or facility is proposed which has the largest daily circulation in that county and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, the notice shall appear in both the newspaper with the largest daily circulation in that county, and a newspaper authorized to publish legal notices in that county.~~ ~~The notice shall contain:~~

~~(a) The name of the applicant and a brief description of the facility and its location.~~

~~(b) The location of the application file and when it is available for public inspection.~~

~~The notice shall be prepared by the applicant and shall comply with the following format:~~

~~Notice of Application~~

~~The Department of Environmental Protection announces receipt of an application for a permit from (name of applicant) to (brief description of project). This proposed project will be located at (location) in (county) (city).~~

~~This application is being processed and is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at (name and address of office).~~

~~(10) A permit, which the department may require by rule, for the incineration of biomedical waste, may not be transferred by the permittee to any other entity, except in conformity with the requirements of this subsection.~~

~~(a) Within 30 days after the sale or legal transfer of a permitted facility, the permittee shall file with the department an application for transfer of the permits on such form as the department shall establish by rule. The form must be completed with the notarized signatures of both the transferring permittee and the proposed permittee.~~

~~(b) The department shall approve the transfer of a permit unless it determines that the proposed permittee has not provided reasonable assurances that the proposed permittee has the administrative, technical, and financial capability to properly satisfy the requirements and conditions of the permit, as determined by department rule. The determination shall be~~

~~limited solely to the ability of the proposed permittee to comply with the conditions of the existing permit, and it shall not concern the adequacy of the permit conditions. If the department proposes to deny the transfer, it shall provide both the transferring permittee and the proposed permittee a written objection to such transfer together with notice of a right to request a proceeding on such determination under chapter 120.~~

~~(c) Within 90 days after receiving a properly completed application for transfer of a permit, the department shall issue a final determination. The department may toll the time for making a determination on the transfer by notifying both the transferring permittee and the proposed permittee that additional information is required to adequately review the transfer request. Such notification shall be provided within 30 days after receipt of an application for transfer of the permit, completed pursuant to paragraph (a). If the department fails to take action to approve or deny the transfer within 90 days after receipt of the completed application or within 90 days after receipt of the last item of timely requested additional information, the transfer shall be deemed approved.~~

~~(d) The transferring permittee is encouraged to apply for a permit transfer well in advance of the sale or legal transfer of a permitted facility. However, the transfer of the permit shall not be effective prior to the sale or legal transfer of the facility.~~

~~(e) Until the transfer of the permit is approved by the department, the transferring permittee and any other person constructing, operating, or maintaining the permitted facility shall be liable for compliance with the terms of the permit.~~

~~Nothing in this section shall relieve the transferring permittee of liability for corrective actions that may be required as a result of any violations occurring prior to the legal transfer of the permit.~~

~~(11) The department shall review all permit applications for any designated Class I solid waste disposal facility. As used in this subsection, the term "designated Class I solid waste disposal facility" means any facility that is, as of May 12, 1993, a solid waste disposal facility classified as an active Class I landfill by the department, that is located in whole or in part within 1,000 feet of the boundary of any municipality, but that is not located within any county with an approved charter or consolidated municipal government, is not located within any municipality, and is not operated by a municipality. The department shall not permit vertical expansion or horizontal expansion of any designated Class I solid waste disposal facility unless the application for such permit was filed before January 1, 1993, and no solid waste management facility may be operated which is a vertical expansion or horizontal expansion of a designated Class I solid waste disposal facility. As used in this subsection, the term "vertical expansion" means any activity that will result in an increase in the height of a designated Class I solid waste disposal facility above 100 feet National Geodetic Vertical Datum, except solely for closure, and the term "horizontal expansion" means any activity that will result in an increase in the ground area covered by a designated Class I solid waste disposal facility, or if within 1 mile of a designated Class I solid waste disposal facility, any new or expanded operation of~~

~~any solid waste disposal facility or area, or of incineration of solid waste, or of storage of solid waste for more than 1 year, or of composting of solid waste other than yard trash.~~

(9) ~~(12)~~ The department shall establish a separate category for solid waste management facilities which accept only construction and demolition debris for disposal or recycling. The department shall establish a reasonable schedule for existing facilities to comply with this section to avoid undue hardship to such facilities. However, a permitted solid waste disposal unit that ~~which~~ receives a significant amount of waste prior to the compliance deadline established in this schedule shall not be required to be retrofitted with liners or leachate control systems. Facilities accepting materials defined in s. 403.703(6)(b) ~~s. 403.703(17)(b)~~ must implement a groundwater monitoring system adequate to detect contaminants that may reasonably be expected to result from such disposal prior to the acceptance of those materials.

(a) The department shall establish reasonable construction, operation, monitoring, recordkeeping, financial assurance, and closure requirements for such facilities. The department shall take into account the nature of the waste accepted at various facilities when establishing these requirements, and may impose less stringent requirements, including a system of general permits or registration requirements, for facilities that accept only a segregated waste stream which is expected to pose a minimal risk to the environment and public health, such as clean debris. The Legislature recognizes that incidental amounts of other types of solid waste are commonly generated at construction or demolition

projects. In any enforcement action taken pursuant to this section, the department shall consider the difficulty of removing these incidental amounts from the waste stream.

(b) The department shall not require liners and leachate collection systems at individual facilities unless it demonstrates, based upon the types of waste received, the methods for controlling types of waste disposed of, the proximity of groundwater and surface water, and the results of the hydrogeological and geotechnical investigations, that the facility is reasonably expected to result in violations of groundwater standards and criteria otherwise.

(c) The owner or operator shall provide financial assurance for closing of the facility in accordance with the requirements of s. 403.7125. The financial assurance shall cover the cost of closing the facility and 5 years of long-term care after closing, unless the department determines, based upon hydrogeologic conditions, the types of wastes received, or the groundwater monitoring results, that a different long-term care period is appropriate. However, unless the owner or operator of the facility is a local government, the escrow account described in s. 403.7125(2) ~~s. 403.7125(3)~~ may not be used as a financial assurance mechanism.

(d) The department shall establish training requirements for operators of facilities, and shall work with the State University System or other providers to assure that adequate training courses are available. The department shall also assist the Florida Home Builders Association in establishing a component of its continuing education program to address proper handling of construction and demolition debris, including best

management practices for reducing contamination of the construction and demolition debris waste stream.

(e) The issuance of a permit under this subsection does not obviate the need to comply with all applicable zoning and land use regulations.

(f) A permit is not required under this section for the disposal of construction and demolition debris on the property where it is generated, but such property must be covered, graded, and vegetated as necessary when disposal is complete.

(g) It is the policy of the Legislature to encourage facilities to recycle. The department shall establish criteria and guidelines that encourage recycling where practical and provide for the use of recycled materials in a manner that protects the public health and the environment. Facilities are authorized to recycle, provided such activities do not conflict with such criteria and guidelines.

(h) The department shall ensure that the requirements of this section are applied and interpreted consistently throughout the state. In accordance with s. 20.255, the Division of Waste Management shall direct the district offices and bureaus on matters relating to the interpretation and applicability of this section.

(i) The department shall provide notice of receipt of a permit application for the initial construction of a construction and demolition debris disposal facility to the local governments having jurisdiction where the facility is to be located.

(j) The Legislature recognizes that recycling, waste reduction, and resource recovery are important aspects of an

integrated solid waste management program and as such are necessary to protect the public health and the environment. If necessary to promote such an integrated program, the county may determine, after providing notice and an opportunity for a hearing prior to December 31, 2006 ~~1996~~, that some or all of the wood material described in s. 403.703(6)(b) ~~s. 403.703(17)(b)~~ shall be excluded from the definition of "construction and demolition debris" in s. 403.703(6) ~~s. 403.703(17)~~ within the jurisdiction of such county. The county may make such a determination only if it finds that, prior to June 1, 2006 ~~1996~~, the county has established an adequate method for the use or recycling of such wood material at an existing or proposed solid waste management facility that is permitted or authorized by the department on June 1, 2006 ~~1996~~. The county shall not be required to hold a hearing if the county represents that it previously has held a hearing for such purpose, nor shall the county be required to hold a hearing if the county represents that it previously has held a public meeting or hearing that authorized such method for the use or recycling of trash or other nonputrescible waste materials and if the county further represents that such materials include those materials described in s. 403.703(6)(b) ~~s. 403.703(17)(b)~~. The county shall provide written notice of its determination to the department by no later than December 31, 2006 ~~1996~~; thereafter, the wood materials described in s. 403.703(6)(b) ~~s. 403.703(17)(b)~~ shall be excluded from the definition of "construction and demolition debris" in s. 403.703(6) ~~s. 403.703(17)~~ within the jurisdiction of such county. The county may withdraw or revoke its

determination at any time by providing written notice to the department.

(k) Brazilian pepper and other invasive exotic plant species as designated by the department resulting from eradication projects may be processed at permitted construction and demolition debris recycling facilities or disposed of at permitted construction and demolition debris disposal facilities or Class III facilities. The department may adopt rules to implement this paragraph.

(10) ~~(13)~~ If the department and a local government independently require financial assurance for the closure of a privately owned solid waste management facility, the department and that local government shall enter into an interagency agreement that will allow the owner or operator to provide a single financial mechanism to cover the costs of closure ~~and any required long term care~~. The financial mechanism may provide for the department and local government to be cobeneficiaries or copayees, but shall not impose duplicative financial requirements on the owner or operator. These closure costs must include at least the minimum required by department rules and must also include any additional costs required by local ordinance or regulation.

(11) ~~(14)~~ Before or on the same day of filing with the department of an application for a permit to construct or substantially modify a solid waste management facility, the applicant shall notify the local government having jurisdiction over the facility of the filing of the application. The applicant also shall publish notice of the filing of the application in a newspaper of general circulation in the area

where the facility will be located. Notice shall be given and published in accordance with applicable department rules. The department shall not issue the requested permit until the applicant has provided the department with proof that the notices required by this subsection have been given. Issuance of a permit does not relieve an applicant from compliance with local zoning or land use ordinances, or with any other law, rules, or ordinances.

(12) ~~(15)~~ Construction and demolition debris must be separated from the solid waste stream and segregated in separate locations at a solid waste disposal facility or other permitted site.

(13) ~~(16)~~ No facility, solely by virtue of the fact that it uses processed yard trash or clean wood or paper waste as a fuel source, shall be considered to be a solid waste disposal facility.

Section 25. Section 403.7071, Florida Statutes, is created to read:

403.7071 Management of storm-generated debris.--Solid waste generated as a result of a storm event that is the subject of an emergency order issued by the department may be managed as follows:

(1) The Department of Environmental Protection may issue field authorizations for staging areas in those counties affected by a storm event. Such staging areas may be used for the temporary storage and management of storm-generated debris, including the chipping, grinding, or burning of vegetative debris. Field authorizations may be requested by providing a notice to the local office of the department containing a

description of the design and operation of the staging area; the location of the staging area; and the name, address, and telephone number of the site manager. Field authorizations also may be issued by the department staff without prior notice. Written records of all field authorizations shall be created and maintained by department staff. Field authorizations may include specific conditions for the operation and closure of the staging area and shall include a required closure date. A local government shall avoid locating a staging area in wetlands and other surface waters to the greatest extent possible, and the area that is used or affected by a staging area must be fully restored upon cessation of use of the area.

(2) Storm-generated vegetative debris managed at a staging area may be disposed of in a permitted lined or unlined landfill, a permitted land clearing debris facility, or a permitted construction and demolition debris disposal facility. Vegetative debris may also be managed at a permitted waste processing facility or a registered yard trash processing facility.

(3) Construction and demolition debris that is mixed with other storm-generated debris need not be segregated from other solid waste prior to disposal in a lined landfill. Construction and demolition debris that is source-separated or is separated from other hurricane-generated debris at an authorized staging area, or at another area specifically authorized by the department, may be managed at a permitted construction and demolition debris disposal or recycling facility upon approval by the department of the methods and operational practices used to inspect the waste during segregation.

(4) Unsalvageable refrigerators and freezers containing solid waste, such as rotting food, which may create a sanitary nuisance may be disposed of in a permitted lined landfill; however, chlorofluorocarbons and capacitors must be removed and recycled to the greatest extent practicable using techniques and personnel meeting relevant federal requirements.

(5) Local governments may conduct the burning of storm-generated yard trash and other vegetative debris in air-curtain incinerators without prior notice to the department. Demolition debris may also be burned in air-curtain incinerators if the material is limited to untreated wood. Within 10 days after commencing such burning, the local government shall notify the department in writing describing the general nature of the materials burned; the location and method of burning; and the name, address, and telephone number of the representative of the local government to contact concerning the work. The operator of the air-curtain incinerator is subject to any requirement to obtain an open-burning authorization from the Division of Forestry or any other agency empowered to grant such authorization.

Section 26. Section 403.708, Florida Statutes, is amended to read:

403.708 Prohibition; penalty.--

(1) No person shall:

(a) Place or deposit any solid waste in or on the land or waters located within the state except in a manner approved by the department and consistent with applicable approved programs of counties or municipalities. However, nothing in this act

shall be construed to prohibit the disposal of solid waste without a permit as provided in s. 403.707(2).

(b) Burn solid waste except in a manner prescribed by the department and consistent with applicable approved programs of counties or municipalities.

(c) Construct, alter, modify, or operate a solid waste management facility or site without first having obtained from the department any permit required by s. 403.707.

(2) No beverage shall be sold or offered for sale within the state in a beverage container designed and constructed so that the container is opened by detaching a metal ring or tab.

(3) For purposes of subsections (2), (9), and (10):

~~(a) "Degradable," with respect to any material, means that such material, after being discarded, is capable of decomposing to components other than heavy metals or other toxic substances, after exposure to bacteria, light, or outdoor elements.~~

(a)~~(b)~~ "Beverage" means soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drinks; soft drinks, whether or not carbonated; beer, ale, or other malt drink of whatever alcoholic content; or a mixed wine drink or a mixed spirit drink.

(b)~~(c)~~ "Beverage container" means an airtight container which at the time of sale contains 1 gallon or less of a beverage, or the metric equivalent of 1 gallon or less, and which is composed of metal, plastic, or glass or a combination thereof.

(4) The Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation may impose a fine of not more than $100 on any person currently licensed

pursuant to s. 561.14 for each violation of the provisions of subsection (2). If the violation is of a continuing nature, each day during which such violation occurs shall constitute a separate and distinct offense and shall be subject to a separate fine.

(5) The Department of Agriculture and Consumer Services may impose a fine of not more than $100 on any person not currently licensed pursuant to s. 561.14 for each violation of the provisions of subsection (2). If the violation is of a continuing nature, each day during which such violation occurs shall constitute a separate and distinct offense and shall be subject to a separate fine.

(6) Fifty percent of each fine collected pursuant to subsections (4) and (5) shall be deposited into the Solid Waste Management Trust Fund. The balance of fines collected pursuant to subsection (4) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund for the use of the division for inspection and enforcement of the provisions of this section. The balance of fines collected pursuant to subsection (5) shall be deposited into the General Inspection Trust Fund for the use of the Department of Agriculture and Consumer Services for inspection and enforcement of the provisions of this section.

(7) The Division of Alcoholic Beverages and Tobacco and the Department of Agriculture and Consumer Services shall coordinate their responsibilities under the provisions of this section to ensure that inspections and enforcement are accomplished in an efficient, cost-effective manner.

(8) A person may not distribute, sell, or expose for sale in this state any plastic bottle or rigid container intended for

single use unless such container has a molded label indicating the plastic resin used to produce the plastic container. The label must appear on or near the bottom of the plastic container product and be clearly visible. This label must consist of a number placed inside a triangle and letters placed below the triangle. The triangle must be equilateral and must be formed by three arrows, and, in the middle of each arrow, there must be a rounded bend that forms one apex of the triangle. The pointer, or arrowhead, of each arrow must be at the midpoint of a side of the triangle, and a short gap must separate each pointer from the base of the adjacent arrow. The three curved arrows that form the triangle must depict a clockwise path around the code number. Plastic bottles of less than 16 ounces, rigid plastic containers of less than 8 ounces, and plastic casings on lead-acid storage batteries are not required to be labeled under this section. The numbers and letters must be as follows:

(a) For polyethylene terephthalate, the letters "PETE" and the number 1.

(b) For high-density polyethylene, the letters "HDPE" and the number 2.

(c) For vinyl, the letter "V" and the number 3.

(d) For low-density polyethylene, the letters "LDPE" and the number 4.

(e) For polypropylene, the letters "PP" and the number 5.

(f) For polystyrene, the letters "PS" and the number 6.

(g) For any other, the letters "OTHER" and the number 7.

(9) No person shall distribute, sell, or expose for sale in this state any product packaged in a container or packing material manufactured with fully halogenated chlorofluorocarbons

(CFC). Producers of containers or packing material manufactured with chlorofluorocarbons (CFC) are urged to introduce alternative packaging materials which are environmentally compatible.

(10) The packaging of products manufactured or sold in the state may not be controlled by governmental rule, regulation, or ordinance adopted after March 1, 1974, other than as expressly provided in this act.

(11) Violations of this part or rules, regulations, permits, or orders issued thereunder by the department and violations of approved local programs of counties or municipalities or rules, regulations, or orders issued thereunder shall be punishable by a civil penalty as provided in s. 403.141.

(12) The department or any county or municipality may also seek to enjoin the violation of, or enforce compliance with, this part or any program adopted hereunder as provided in s. 403.131.

(13) In accordance with the following schedule, no person who knows or who should know of the nature of such solid waste shall dispose of such solid waste in landfills:

(a) Lead-acid batteries~~, after January 1, 1989~~. Lead-acid batteries also may ~~shall~~ not be disposed of in any waste-to-energy facility ~~after January 1, 1989~~. To encourage proper collection and recycling, all persons who sell lead-acid batteries at retail shall accept used lead-acid batteries as trade-ins for new lead-acid batteries.

(b) Used oil~~, after October 1, 1988~~.

(c) Yard trash~~, after January 1, 1992,~~ except in lined ~~unlined~~ landfills classified by department rule as Class I landfills. Yard trash that is source separated from solid waste may be accepted at a solid waste disposal area where the area provides and maintains separate yard trash composting facilities. The department recognizes that incidental amounts of yard trash may be disposed of in Class I ~~lined~~ landfills. In any enforcement action taken pursuant to this paragraph, the department shall consider the difficulty of removing incidental amounts of yard trash from a mixed solid waste stream.

(d) White goods~~, after January 1, 1990~~.

~~Prior to the effective dates specified in paragraphs (a) (d), the department shall identify and assist in developing alternative disposal, processing, or recycling options for the solid wastes identified in paragraphs (a) (d).~~

Section 27. Section 403.709, Florida Statutes, is amended to read:

403.709 Solid Waste Management Trust Fund; use of waste tire fees.--There is created the Solid Waste Management Trust Fund, to be administered by the department.

(1) ~~From~~ The annual revenues deposited in the trust fund, unless otherwise specified in the General Appropriations Act, shall be used for the following purposes:

(a)~~(1) Up to 40 percent shall be used for~~ Funding solid waste activities of the department and other state agencies, such as providing technical assistance to local governments and the private sector, performing solid waste regulatory and

enforcement functions, preparing solid waste documents, and implementing solid waste education programs.

(b) ~~(2) Up to 4.5 percent shall be used for~~ Funding research and training programs relating to solid waste management through the Center for Solid and Hazardous Waste Management and other organizations which can reasonably demonstrate the capability to carry out such projects.

(c) ~~(3) Up to 11 percent shall be used for~~ Funding to supplement any other funds provided to the Department of Agriculture and Consumer Services for mosquito control. This distribution shall be annually transferred to the General Inspection Trust Fund in the Department of Agriculture and Consumer Services to be used for mosquito control, especially control of West Nile Virus.

(d) ~~(4) Up to 4.5 percent shall be used for~~ Funding to the Department of Transportation for litter prevention and control programs ~~coordinated by Keep Florida Beautiful, Inc~~.

(e) ~~(5) A minimum of 40 percent shall be used for~~ Funding a competitive and innovative grant program pursuant to s. 403.7095 for activities relating to recycling and reducing the volume of municipal solid waste, including waste tires requiring final disposal.

(2) ~~(6)~~ The department shall recover to the use of the fund from the site owner or the person responsible for the accumulation of tires at the site, jointly and severally, all sums expended from the fund pursuant to this section to manage tires at an illegal waste tire site, except that the department may decline to pursue such recovery if it finds the amount involved too small or the likelihood of recovery too uncertain.

If a court determines that the owner is unable or unwilling to comply with the rules adopted pursuant to this section or s. 403.717, the court may authorize the department to take possession and control of the waste tire site in order to protect the health, safety, and welfare of the community and the environment.

(3) ~~(7)~~ The department may impose a lien on the real property on which the waste tire site is located and the waste tires equal to the estimated cost to bring the tire site into compliance, including attorney's fees and court costs. Any owner whose property has such a lien imposed may release her or his property from any lien claimed under this subsection by filing with the clerk of the circuit court a cash or surety bond, payable to the department in the amount of the estimated cost of bringing the tire site into compliance with department rules, including attorney's fees and court costs, or the value of the property after the abatement action is complete, whichever is less. No lien provided by this subsection shall continue for a period longer than 4 years after the completion of the abatement action unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. The department may take action to enforce the lien in the same manner used for construction liens under part I of chapter 713.

(4) ~~(8)~~ This section does not limit the use of other remedies available to the department.

Section 28. Subsection (5) of section 403.7095, Florida Statutes, is amended to read:

403.7095 Solid waste management grant program.--

(5) From the funds made available pursuant to s. 403.709(1)(e) ~~s. 403.709(5)~~ for the grant program created by this section, the following distributions shall be made:

(a) Up to 15 percent for the program described in subsection (1);

(b) Up to 35 percent for the program described in subsection (3); and

(c) Up to 50 percent for the program described in subsection (4).

Section 29. Section 403.7125, Florida Statutes, is amended to read:

403.7125 Financial assurance for closure ~~Landfill management escrow account~~.--

~~(1) As used in this section:~~

~~(a) "Landfill" means any solid waste land disposal area for which a permit, other than a general permit, is required by s. 403.707 that receives solid waste for disposal in or upon land other than a land-spreading site, injection well, or a surface impoundment.~~

~~(b) "Closure" means the ceasing operation of a landfill and securing such landfill so that it does not pose a significant threat to public health or the environment and includes long-term monitoring and maintenance of a landfill.~~

~~(c) "Owner or operator" means, in addition to the usual meanings of the term, any owner of record of any interest in land whereon a landfill is or has been located and any person or corporation which owns a majority interest in any other corporation which is the owner or operator of a landfill.~~

(1)~~(2)~~ Every owner or operator of a landfill is jointly and severally liable for the improper operation and closure of the landfill, as provided by law. As used in this section, the term "owner or operator" means any owner of record of any interest in land wherein a landfill is or has been located and any person or corporation that owns a majority interest in any other corporation that is the owner or operator of a landfill.

(2)~~(3)~~ The owner or operator of a landfill owned or operated by a local or state government or the Federal Government shall establish a fee, or a surcharge on existing fees or other appropriate revenue-producing mechanism, to ensure the availability of financial resources for the proper closure of the landfill. However, the disposal of solid waste by persons on their own property, as described in s. 403.707(2), is exempt from the provisions of this section.

(a) The revenue-producing mechanism must produce revenue at a rate sufficient to generate funds to meet state and federal landfill closure requirements.

(b) The revenue shall be deposited in an interest-bearing escrow account to be held and administered by the owner or operator. The owner or operator shall file with the department an annual audit of the account. The audit shall be conducted by an independent certified public accountant. Failure to collect or report such revenue, except as allowed in subsection (3) ~~(4)~~, is a noncriminal violation punishable by a fine of not more than $5,000 for each offense. The owner or operator may make expenditures from the account and its accumulated interest only for the purpose of landfill closure and, if such expenditures do not deplete the fund to the detriment of eventual closure, for

planning and construction of resource recovery or landfill facilities. Any moneys remaining in the account after paying for proper and complete closure, as determined by the department, shall, if the owner or operator does not operate a landfill, be deposited by the owner or operator into the general fund or the appropriate solid waste fund of the local government of jurisdiction.

(c) The revenue generated under this subsection and any accumulated interest thereon may be applied to the payment of, or pledged as security for, the payment of revenue bonds issued in whole or in part for the purpose of complying with state and federal landfill closure requirements. Such application or pledge may be made directly in the proceedings authorizing such bonds or in an agreement with an insurer of bonds to assure such insurer of additional security therefor.

(d) The provisions of s. 212.055 that relate to raising of revenues for landfill closure or long-term maintenance do not relieve a landfill owner or operator from the obligations of this section.

(e) The owner or operator of any landfill that had established an escrow account in accordance with this section and the conditions of its permit prior to January 1, 2006, may continue to use that escrow account to provide financial assurance for closure of that landfill, even if that landfill is not owned or operated by a local or state government or the Federal Government.

(3) ~~(4)~~ An owner or operator of a landfill owned or operated by a local or state government or by the Federal Government may provide financial assurance to ~~establish proof of~~

~~financial responsibility with~~ the department in lieu of the requirements of subsection (2) ~~(3)~~. An owner or operator of any other landfill, or any other solid waste management facility designated by department rule, shall provide financial assurance to the department for the closure of the facility. Such financial assurance ~~proof~~ may include surety bonds, certificates of deposit, securities, letters of credit, or other documents showing that the owner or operator has sufficient financial resources to cover, at a minimum, the costs of complying with applicable ~~landfill~~ closure requirements. The owner or operator shall estimate such costs to the satisfaction of the department.

(4)~~(5)~~ This section does not repeal, limit, or abrogate any other law authorizing local governments to fix, levy, or charge rates, fees, or charges for the purpose of complying with state and federal landfill closure requirements.

(5)~~(6)~~ The department shall adopt rules to implement this section.

Section 30. Section 403.716, Florida Statutes, is amended to read:

403.716 Training of operators of solid waste management and other facilities.--

(1) The department shall establish qualifications for, and encourage the development of training programs for, operators of landfills, coordinators of local recycling programs, ~~operators of waste-to-energy facilities, biomedical waste incinerators, and mobile soil thermal treatment units or facilities,~~ and operators of other solid waste management facilities.

(2) The department shall work with accredited community colleges, career centers, state universities, and private

institutions in developing educational materials, courses of study, and other such information to be made available for persons seeking to be trained as operators of solid waste management facilities.

(3) A person may not perform the duties of an operator of a landfill~~, or perform the duties of an operator of a waste-to-energy facility, biomedical waste incinerator, or mobile soil thermal treatment unit or facility,~~ unless she or he has completed an operator training course approved by the department or she or he has qualified as an interim operator in compliance with requirements established by the department by rule. An owner of a landfill~~, waste-to-energy facility, biomedical waste incinerator, or mobile soil thermal treatment unit or facility~~ may not employ any person to perform the duties of an operator unless such person has completed an approved landfill~~, waste-to-energy facility, biomedical waste incinerator, or mobile soil thermal treatment unit or facility~~ operator training course, as appropriate, or has qualified as an interim operator in compliance with requirements established by the department by rule. The department may establish by rule operator training requirements for other solid waste management facilities and facility operators.

(4) The department has authority to adopt minimum standards and other rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section. The department shall ensure the safe, healthy, and lawful operation of solid waste management facilities in this state. The department may establish by rule various classifications for operators to cover the need for differing levels of training required to operate

various types of solid waste management facilities due to different operating requirements at such facilities.

(5) For purposes of this section, the term "operator" means any person, including the owner, who is principally engaged in, and is in charge of, the actual operation, supervision, and maintenance of a solid waste management facility and includes the person in charge of a shift or period of operation during any part of the day.

Section 31. Section 403.717, Florida Statutes, is amended to read:

403.717 Waste tire and lead-acid battery requirements.--

(1) For purposes of this section and ss. 403.718 and 403.7185:

(a) "Department" means the Department of Environmental Protection.

(b) "Motor vehicle" means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated in this state, used to transport persons or property and propelled by power other than muscular power, but the term does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles, mopeds, or farm tractors and trailers.

(c) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.

(d) "Waste tire" means a tire that has been removed from a motor vehicle and has not been retreaded or regrooved. "Waste tire" includes, but is not limited to, used tires and processed tires. <u>The term does not include solid rubber tires and tires that are inseparable from the rim.</u>

(e) "Waste tire collection center" means a site where waste tires are collected from the public prior to being offered for recycling and where fewer than 1,500 tires are kept on the site on any given day.

(f) "Waste tire processing facility" means a site where equipment is used to treat waste tires mechanically, chemically, or thermally so that the resulting material is a marketable product or is suitable for proper disposal ~~recapture reusable byproducts from waste tires or to cut, burn, or otherwise alter waste tires so that they are no longer whole~~. The term includes mobile waste tire processing equipment.

(g) "Waste tire site" means a site at which 1,500 or more waste tires are accumulated.

(h) "Lead-acid battery" means a ~~those~~ lead-acid battery ~~batteries~~ designed for use in motor vehicles, vessels, and aircraft, and includes such batteries when sold new as a component part of a motor vehicle, vessel, or aircraft, but not when sold to recycle components.

(i) "Indoor" means within a structure that ~~which~~ excludes rain and public access and would control air flows in the event of a fire.

(j) "Processed tire" means a tire that has been treated mechanically, chemically, or thermally so that the resulting material is a marketable product or is suitable for proper disposal.

(k) "Used tire" means a waste tire which has a minimum tread depth of 3/32 inch or greater and is suitable for use on a motor vehicle.

(2) The owner or operator of any waste tire site shall provide the department with information concerning the site's location, size, and the approximate number of waste tires that are accumulated at the site and shall initiate steps to comply with subsection (3).

(3)(a) A person may not maintain a waste tire site unless such site is:

1. An integral part of the person's permitted waste tire processing facility; or

2. Used for the storage of waste tires prior to processing and is located at a permitted solid waste management facility.

(b) It is unlawful for any person to dispose of waste tires or processed tires in the state except at a permitted solid waste management facility. Collection or storage of waste tires at a permitted waste tire processing facility or waste tire collection center prior to processing or use does not constitute disposal, provided that the collection and storage complies with rules established by the department.

(c) Whole waste tires may not be deposited in a landfill as a method of ultimate disposal.

(d) A person may not contract with a waste tire collector for the transportation, disposal, or processing of waste tires unless the collector is registered with the department or exempt from requirements provided under this section. Any person who contracts with a waste tire collector for the transportation of more than 25 waste tires per month from a single business location must maintain records for that location and make them available for review by the department or by law enforcement officers, which records must contain the date when the tires

were transported, the quantity of tires, the registration number of the collector, and the name of the driver.

(4) The department shall adopt rules to carry out the provisions of this section and s. 403.718. Such rules shall:

(a) Provide for the administration or revocation of waste tire processing facility permits, including mobile processor permits;

(b) Provide for the administration or revocation of waste tire collector registrations, the fees for which may not exceed $50 per vehicle registered annually;

(c) Provide for the administration or revocation of waste tire collection center permits, the fee for which may not exceed $250 annually;

(d) Set standards, including financial assurance standards, for waste tire processing facilities and associated waste tire sites, waste tire collection centers, waste tire collectors, and for the storage of waste tires and processed tires, including storage indoors;

(e) The department may by rule exempt not-for-hire waste tire collectors and processing facilities from financial assurance requirements;

(f) Authorize the final disposal of waste tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal; and

(g) Allow waste tire material which has been cut into sufficiently small parts to be used as daily cover material for a landfill.

~~(5) A permit is not required for tire storage at:~~

~~(a) A tire retreading business where fewer than 1,500 waste tires are kept on the business premises;~~

~~(b) A business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,500 of these tires are kept on the business premises; or~~

~~(c) A retail tire selling business which is serving as a waste tire collection center if fewer than 1,500 waste tires are kept on the business premises.~~

(5)~~(6)~~(a) The department shall encourage the voluntary establishment of waste tire collection centers at retail tire-selling businesses, waste tire processing facilities, and solid waste disposal facilities, to be open to the public for the deposit of waste tires.

(b) The department is authorized to establish an incentives program for individuals to encourage them to return their waste tires to a waste tire collection center. The incentives used by the department may involve the use of discount or prize coupons, prize drawings, promotional giveaways, or other activities the department determines will promote collection, reuse, volume reduction, and proper disposal of waste tires.

(c) The department may contract with a promotion company to administer the incentives program.

Section 32. Section 403.7221, Florida Statutes, is transferred, renumbered as section 403.70715, Florida Statutes, and amended to read:

403.70715 ~~403.7221~~ Research, development, and demonstration permits.--

(1) The department may issue a research, development, and demonstration permit to the owner or operator of any solid waste management facility, including any hazardous waste management facility, who proposes to utilize an innovative and experimental solid waste treatment technology or process for which permit standards have not been promulgated. Permits shall:

(a) Provide for construction and operation of the facility for not longer than 3 years ~~1 year~~, renewable no more than 3 times.

(b) Provide for the receipt and treatment by the facility of only those types and quantities of solid waste which the department deems necessary for purposes of determining the performance capabilities of the technology or process and the effects of such technology or process on human health and the environment.

(c) Include requirements the department deems necessary which may include monitoring, operation, testing, financial responsibility, closure, and remedial action.

(2) The department may apply the criteria set forth in this section in establishing the conditions of each permit without separate establishment of rules implementing such criteria.

(3) For the purpose of expediting review and issuance of permits under this section, the department may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements, except that there shall be no modification or waiver of regulations regarding financial responsibility or of procedures established regarding public participation.

(4) The department may order an immediate termination of all operations at the facility at any time upon a determination that termination is necessary to protect human health and the environment.

Section 33. Subsection (2) of section 403.201, Florida Statutes, is amended to read:

403.201 Variances.--

(2) No variance shall be granted from any provision or requirement concerning discharges of waste into waters of the state or hazardous waste management which would result in the provision or requirement being less stringent than a comparable federal provision or requirement, except as provided in s. 403.70715 ~~s. 403.7221~~.

Section 34. Section 403.722, Florida Statutes, is amended to read:

403.722 Permits; hazardous waste disposal, storage, and treatment facilities.--

(1) Each person who intends to or is required to construct, modify, operate, or close a hazardous waste disposal, storage, or treatment facility shall obtain a construction permit, operation permit, postclosure permit, clean closure plan approval, or corrective action permit from the department prior to constructing, modifying, operating, or closing the facility. By rule, the department may provide for the issuance of a single permit instead of any two or more hazardous waste facility permits.

(2) Any owner or operator of a hazardous waste facility in operation on the effective date of the department rule listing and identifying hazardous wastes shall file an application for a

temporary operation permit within 6 months after the effective date of such rule. The department, upon receipt of a properly completed application, shall identify any department rules which are being violated by the facility and shall establish a compliance schedule. However, if the department determines that an imminent hazard exists, the department may take any necessary action pursuant to s. 403.726 to abate the hazard. The department shall issue a temporary operation permit to such facility within the time constraints of s. 120.60 upon submission of a properly completed application which is in conformance with this subsection. Temporary operation permits for such facilities shall be issued for up to 3 years only. Upon termination of the temporary operation permit and upon proper application by the facility owner or operator, the department shall issue an operation permit for such existing facilities if the applicant has corrected all of the deficiencies identified in the temporary operation permit and is in compliance with all other rules adopted pursuant to this act.

(3) ~~Permit~~ Applicants shall provide any information that ~~which~~ will enable the department to determine that the proposed construction, modification, operation, ~~or~~ closure, or corrective action will comply with this act and any applicable rules. In no instance shall any person construct, modify, operate, or close a facility or perform corrective actions at a facility in contravention of the standards, requirements, or criteria for a hazardous waste facility. Authorizations ~~Permits~~ issued under this section may include any permit conditions necessary to achieve compliance with applicable hazardous waste rules and necessary to protect human health and the environment.

(4) The department may require, in an ~~a permit~~ application, submission of information concerning matters specified in s. 403.721(6) as well as information respecting:

(a) Estimates of the composition, quantity, and concentration of any hazardous waste identified or listed under this act or combinations of any such waste and any other solid waste~~,~~ proposed to be disposed of, treated, transported, or stored and the time, frequency, or rate at which such waste is proposed to be disposed of, treated, transported, or stored; and

(b) The site to which such hazardous waste or the products of treatment of such hazardous waste will be transported and at which it will be disposed of, treated, or stored.

(5) An authorization ~~A permit~~ issued pursuant to this section is not a vested right. The department may revoke or modify any such authorization ~~permit~~.

(a) Authorizations ~~Permits~~ may be revoked for failure of the holder to comply with the provisions of this act, the terms of the authorization ~~permit~~, the standards, requirements, or criteria adopted pursuant to this act, or an order of the department; for refusal by the holder to allow lawful inspection; for submission by the holder of false or inaccurate information in the permit application; or if necessary to protect the public health or the environment.

(b) Authorizations ~~Permits~~ may be modified, upon request of the holder ~~permittee~~, if such modification is not in violation of this act or department rules or if the department finds the modification necessary to enable the facility to remain in compliance with this act and department rules.

(c) An owner or operator of a hazardous waste facility in existence on the effective date of a department rule changing an exemption or listing and identifying the hazardous wastes that ~~which~~ require that facility to be permitted who notifies the department pursuant to s. 403.72, and who has applied for a permit pursuant to subsection (2), may continue to operate until ~~be~~ issued a temporary operation permit. If such owner or operator intends to or is required to discontinue operation, the temporary operation permit must include final closure conditions.

(6) A hazardous waste facility permit issued pursuant to this section shall satisfy the permit requirements of s. 403.707(1). The permit exemptions provided in s. 403.707(2) shall not apply to hazardous waste.

(7) The department may establish ~~permit~~ application procedures for hazardous waste facilities, which procedures may vary based on differences in amounts, types, and concentrations of hazardous waste and on differences in the size and location of facilities and which procedures may take into account permitting procedures of other laws not in conflict with this act.

(8) For authorizations ~~permits~~ required by this section, the department may require that a fee be paid and may establish, by rule, a fee schedule based on the degree of hazard and the amount and type of hazardous waste disposed of, stored, or treated at the facility.

(9) It shall not be a requirement for the issuance of ~~such~~ a hazardous waste authorization ~~permit~~ that the facility complies with an adopted local government comprehensive plan,

local land use ordinances, zoning ordinances or regulations, or other local ordinances. However, such an authorization ~~a permit~~ issued by the department shall not override adopted local government comprehensive plans, local land use ordinances, zoning ordinances or regulations, or other local ordinances.

(10) Notwithstanding ss. 120.60(1) and 403.815:

(a) The time specified by law for permit review shall be tolled by the request of the department for publication of notice of proposed agency action to issue a permit for a hazardous waste treatment, storage, or disposal facility and shall resume 45 days after receipt by the department of proof of publication. If, within 45 days after publication of the notice of the proposed agency action, the department receives written notice of opposition to the intention of the agency to issue such permit and receives a request for a hearing, the department shall provide for a hearing pursuant to ss. 120.569 and 120.57, if requested by a substantially affected party, or an informal public meeting, if requested by any other person. The failure to request a hearing within 45 days after publication of the notice of the proposed agency action constitutes a waiver of the right to a hearing under ss. 120.569 and 120.57. The permit review time period shall continue to be tolled until the completion of such hearing or meeting and shall resume within 15 days after conclusion of a public hearing held on the application or within 45 days after the recommended order is submitted to the agency and the parties, whichever is later.

(b) Within 60 days after receipt of an application for a hazardous waste facility permit, the department shall examine the application, notify the applicant of any apparent errors or

omissions, and request any additional information the department is permitted by law to require. The failure to correct an error or omission or to supply additional information shall not be grounds for denial of the permit unless the department timely notified the applicant within the 60-day period, except that this paragraph does not prevent the department from denying an application if the department does not possess sufficient information to ensure that the facility is in compliance with applicable statutes and rules.

(c) The department shall approve or deny each hazardous waste facility permit within 135 days after receipt of the original application or after receipt of the requested additional information or correction of errors or omissions. However, the failure of the department to approve or deny within the 135-day time period does not result in the automatic approval or denial of the permit and does not prevent the inclusion of specific permit conditions which are necessary to ensure compliance with applicable statutes and rules. If the department fails to approve or deny the permit within the 135-day period, the applicant may petition for a writ of mandamus to compel the department to act consistently with applicable regulatory requirements.

(11) Hazardous waste facility operation permits shall be issued for no more than 5 years.

(12) On the same day of filing with the department of an application for a permit for the construction modification, or operation of a hazardous waste facility, the applicant shall notify each city and county within 1 mile of the facility of the filing of the application and shall publish notice of the filing

of the application. The applicant shall publish a second notice of the filing within 14 days after the date of filing. Each notice shall be published in a newspaper of general circulation in the county in which the facility is located or is proposed to be located. Notwithstanding the provisions of chapter 50, for purposes of this section, a "newspaper of general circulation" shall be the newspaper within the county in which the installation or facility is proposed which has the largest daily circulation in that county and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, the notice shall appear in both the newspaper with the largest daily circulation in that county, and a newspaper authorized to publish legal notices in that county. The notice shall contain:

(a) The name of the applicant and a brief description of the project and its location.

(b) The location of the application file and when it is available for public inspection.

The notice shall be prepared by the applicant and shall comply with the following format:

Notice of Application

The Department of Environmental Protection announces receipt of an application for a permit from (name of applicant) to (brief description of project). This proposed project will be located at (location) in (county) (city).

This application is being processed and is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at (name and address of office).

(13) A permit for the construction, modification, or operation of a hazardous waste facility which initially was issued under authority of this section, may not be transferred by the permittee to any other entity, except in conformity with the requirements of this subsection.

(a) At least 30 days prior to the sale or legal transfer of a permitted facility, the permittee shall file with the department an application for transfer of the permits on such form as the department shall establish by rule. The form must be completed with the notarized signatures of both the transferring permittee and the proposed permittee.

(b) The department shall approve the transfer of a permit unless it determines that the proposed permittee has not provided reasonable assurances that the proposed permittee has the administrative, technical, and financial capability to properly satisfy the requirements and conditions of the permit, as determined by department rule. The determination shall be limited solely to the ability of the proposed permittee to comply with the conditions of the existing permit, and it shall not concern the adequacy of the permit conditions. If the department proposes to deny the transfer, it shall provide both the transferring permittee and the proposed permittee a written objection to such transfer together with notice of a right to request a proceeding on such determination under chapter 120.

(c) Within 90 days after receiving a properly completed application for transfer of permit, the department shall issue a final determination. The department may toll the time for making a determination on the transfer by notifying both the transferring permittee and the proposed permittee that additional information is required to adequately review the transfer request. Such notification shall be served within 30 days after receipt of an application for transfer of permit, completed pursuant to paragraph (a). However, the failure of the department to approve or deny within the 90-day time period does not result in the automatic approval or denial of the transfer. If the department fails to approve or deny the transfer within the 90-day period, the applicant may petition for a writ of mandamus to compel the department to act consistently with applicable regulatory requirements.

(d) The transferring permittee is encouraged to apply for a permit transfer well in advance of the sale or legal transfer of a permitted facility. However, the transfer or the permit shall not be effective prior to the sale or legal transfer of the facility.

(e) Until the transfer of the permit is approved by the department, the transferring permittee and any other person constructing, operating, or maintaining the permitted facility shall be liable for compliance with the terms of the permit. Nothing in this section shall relieve the transferring permittee of liability for corrective actions that may be required as a result of any violations occurring prior to the legal transfer of the permit.

Section 35. Subsection (2) of section 403.7226, Florida Statutes, is amended to read:

403.7226 Technical assistance by the department.--The department shall:

(2) Identify short-term needs and long-term needs for hazardous waste management for the state on the basis of the information gathered through the local hazardous waste management assessments and other information from state and federal regulatory agencies and sources. The state needs assessment must be ongoing and must be updated when new data concerning waste generation and waste management technologies become available. ~~The department shall annually send a copy of this assessment to the Governor and to the Legislature.~~

Section 36. Subsection (3) of section 403.724, Florida Statutes, is amended to read:

403.724 Financial responsibility.--

(3) The amount of financial responsibility required shall be approved by the department upon each issuance, renewal, or modification of a hazardous waste facility authorization ~~permit~~. Such factors as inflation rates and changes in operation may be considered when approving financial responsibility for the duration of the authorization ~~permit~~. The Office of Insurance Regulation of the Department of Financial Services ~~Commission~~ shall be available to assist the department in making this determination. In approving or modifying the amount of financial responsibility, the department shall consider:

(a) The amount and type of hazardous waste involved;

(b) The probable damage to human health and the environment;

(c) The danger and probable damage to private and public property near the facility;

(d) The probable time that the hazardous waste and facility involved will endanger the public health, safety, and welfare or the environment; and

(e) The probable costs of properly closing the facility and performing corrective action.

Section 37. Section 403.7255, Florida Statutes, is amended to read:

403.7255 Placement of signs ~~Department to adopt rules~~.--

(1) ~~The department shall adopt rules which establish requirements and procedures for the placement of~~ Signs must be placed by the owner or operator at ~~sites which may have been contaminated by hazardous wastes. Sites shall include~~ any site in the state which ~~that~~ is listed or proposed for listing on the Superfund Site List of the United States Environmental Protection Agency or any site identified by the department as a ~~suspected or confirmed contaminated~~ site contaminated by hazardous waste where there is ~~may be~~ a risk of exposure to the public. The requirements of this section shall not apply to sites reported under ss. 376.3071 and 376.3072. The department shall establish requirements and procedures for the placement of signs, and may do so in rules, permits, orders, or other authorizations. The authorization ~~rules~~ shall establish the appropriate size for such signs, which size shall be no smaller than 2 feet by 2 feet, and shall provide in clearly legible print appropriate warning language for the waste or other materials at the site and a telephone number which may be called for further information.

(2) Violations of this act are punishable as provided in s. 403.161(4).

(3) The provisions of this act are independent of and cumulative to any other requirements and remedies in this chapter or chapter 376, or any rules promulgated thereunder.

Section 38. Subsection (5) of section 403.726, Florida Statutes, is amended to read:

403.726 Abatement of imminent hazard caused by hazardous substance.--

(5) The department may issue a permit or order requiring prompt abatement of an imminent hazard.

Section 39. Subsection (8) of section 403.7265, Florida Statutes, is amended to read:

403.7265 Local hazardous waste collection program.--

(8) The department has the authority to establish an additional local project grant program enabling a local hazardous waste collection center grantee to receive funding for unique projects that improve the collection and lower the incidence of improper management of conditionally exempt or household hazardous waste. Eligible local governments may receive up to $50,000 in grant funds for these unique and innovative projects, provided they match 25 percent of the grant amount. If the department finds that the project has statewide applicability and immediate benefits to other local hazardous waste collection programs in the state, matching funds are not required. This grant will not count toward the $100,000 maximum grant amount for development of a collection center.

Section 40. Section 403.885, Florida Statutes, is amended to read:

403.885 ~~Stormwater management; wastewater management; and Water Restoration~~ Water Projects Grant Program.--

(1) The Department of Environmental Protection shall administer a grant program to use funds transferred pursuant to s. 212.20 to the Ecosystem Management and Restoration Trust Fund or other moneys as appropriated by the Legislature for stormwater management, wastewater management, ~~and~~ water restoration and other water projects as specifically appropriated by the Legislature ~~project grants~~. Eligible recipients of such grants include counties, municipalities, water management districts, and special districts that have legal responsibilities for water quality improvement, storm water management, wastewater management, ~~and~~ lake and river water restoration projects~~.~~, and drinking water projects ~~are not eligible for funding~~ pursuant to this section.

(2) The grant program shall provide for the evaluation of annual grant proposals. The department shall evaluate such proposals to determine if they:

(a) Protect public health and the environment.

(b) Implement plans developed pursuant to the Surface Water Improvement and Management Act created in part IV of chapter 373, other water restoration plans required by law, management plans prepared pursuant to s. 403.067, or other plans adopted by local government for water quality improvement and water restoration.

~~(3) In addition to meeting the criteria in subsection (2), annual grant proposals must also meet the following requirements:~~

~~(a) An application for a stormwater management project may be funded only if the application is approved by the water management district with jurisdiction in the project area. District approval must be based on a determination that the project provides a benefit to a priority water body.~~

~~(b) Except as provided in paragraph (c), an application for a wastewater management project may be funded only if:~~

~~1. The project has been funded previously through a line item in the General Appropriations Act; and~~

~~2. The project is under construction.~~

~~(c) An application for a wastewater management project that would qualify as a water pollution control project and activity in s. 403.1838 may be funded only if the project sponsor has submitted an application to the department for funding pursuant to that section.~~

~~(4) All project applicants must provide local matching funds as follows:~~

~~(a) An applicant for state funding of a stormwater management project shall provide local matching funds equal to at least 50 percent of the total cost of the project; and~~

~~(b) An applicant for state funding of a wastewater management project shall provide matching funds equal to at least 25 percent of the total cost of the project.~~

~~The requirement for matching funds may be waived if the applicant is a financially disadvantaged small local government as defined in subsection (5).~~

~~(5) Each fiscal year, at least 20 percent of the funds available pursuant to this section shall be used for projects to~~

~~assist financially disadvantaged small local governments. For purposes of this section, the term "financially disadvantaged small local government" means a municipality having a population of 7,500 or less, a county having a population of 35,000 or less, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce, or a county in an area designated by the Governor as a rural area of critical economic concern pursuant to s. 288.0656. Grants made to these eligible local governments shall not require matching local funds.~~

~~(6) Each year, stormwater management and wastewater management projects submitted for funding through the legislative process shall be submitted to the department by the appropriate fiscal committees of the House of Representatives and the Senate. The department shall review the projects and must provide each fiscal committee with a list of projects that appear to meet the eligibility requirements under this grant program.~~

Section 41. Paragraph (e) of subsection (3) of section 373.1961, Florida Statutes, is amended to read:

373.1961 Water production; general powers and duties; identification of needs; funding criteria; economic incentives; reuse funding.--

(3) FUNDING.--

(e) Applicants for projects that may receive funding assistance pursuant to the Water Protection and Sustainability Program shall, at a minimum, be required to pay 60 percent of the project's construction costs. The water management districts

may, at their discretion, totally or partially waive this requirement for projects sponsored by financially disadvantaged small local governments ~~as defined in s. 403.885(4)~~. The water management districts or basin boards may, at their discretion, use ad valorem or federal revenues to assist a project applicant in meeting the requirements of this paragraph.

Section 42. Paragraph (b) of subsection (1) of section 206.606, Florida Statutes, is amended to read:

206.606 Distribution of certain proceeds.--

(1) Moneys collected pursuant to ss. 206.41(1)(g) and 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust Fund. Such moneys, after deducting the service charges imposed by s. 215.20, the refunds granted pursuant to s. 206.41, and the administrative costs incurred by the department in collecting, administering, enforcing, and distributing the tax, which administrative costs may not exceed 2 percent of collections, shall be distributed monthly to the State Transportation Trust Fund, except that:

(b) $2.5 million shall be transferred to the State Game Trust Fund in the Fish and Wildlife Conservation Commission in each fiscal year and used for recreational boating activities, and freshwater fisheries management and research. The transfers must be made in equal monthly amounts beginning on July 1 of each fiscal year. The commission shall annually determine where unmet needs exist for boating-related activities, and may fund such activities in counties where, due to the number of vessel registrations, sufficient financial resources are unavailable.

1. A minimum of $1.25 million shall be used to fund local projects to provide recreational channel marking and other

uniform waterway markers, public boat ramps, lifts, and hoists, marine railways, and other public launching facilities, derelict vessel removal ~~aquatic plant control~~, and other local boating related activities. In funding the projects, the commission shall give priority consideration as follows:

a. Unmet needs in counties with populations of 100,000 or less.

b. Unmet needs in coastal counties with a high level of boating related activities from individuals residing in other counties.

2. The remaining $1.25 million may be used for recreational boating activities and freshwater fisheries management and research.

3. The commission is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement a Florida Boating Improvement Program ~~similar to the program administered by the Department of Environmental Protection and established in rules 62D-5.031 - 62D-5.036, Florida Administrative Code, to determine projects eligible for funding under this subsection~~.

On February 1 of each year, the commission shall file an annual report with the President of the Senate and the Speaker of the House of Representatives outlining the status of its Florida Boating Improvement Program, including the projects funded, and a list of counties whose needs are unmet due to insufficient financial resources from vessel registration fees.

Section 43. Section 327.59, Florida Statutes, is amended to read:

327.59 Marina evacuations.--

(1) After June 1, 1994, marinas may not adopt, maintain, or enforce policies pertaining to evacuation of vessels which require vessels to be removed from marinas following the issuance of a hurricane watch or warning, in order to ensure that protecting the lives and safety of vessel owners is placed before interests of protecting property.

(2) Nothing in this section may be construed to restrict the ability of an owner of a vessel or the owner's authorized representative to remove a vessel voluntarily from a marina at any time or to restrict a marina owner from dictating the kind of cleats, ropes, fenders, and other measures that must be used on vessels as a condition of use of a marina. After a tropical storm or hurricane watch has been issued, a marina owner or operator, or an employee or agent of such owner or operator, may take reasonable actions to further secure any vessel within the marina to minimize damage to a vessel and to protect marina property, private property, and the environment and may charge a reasonable fee for such services.

(3) Notwithstanding any other provisions of this section, in order to minimize damage to a vessel and to protect marina property, private property, and the environment, a marina owner may provide by contract that in the event a vessel owner fails to promptly remove a vessel from a marina after a tropical storm or hurricane watch has been issued, the marina owner, operator, employee, or agent may remove the vessel, if reasonable, from its slip or take whatever reasonable actions are deemed necessary to properly secure a vessel to minimize damage to a vessel and to protect marina property, private property, and the environment and may charge the vessel owner a reasonable fee for

any such services rendered. In order to add such a provision to a contract, the marina owner must provide notice to the vessel owner in any such contract in a font size of at least 10 points and in substantially the following form:

NOTICE TO VESSEL OWNER

The undersigned hereby informs you that in the event you fail to remove your vessel from the marina promptly (timeframe to be determined between the marina owner or operator and the vessel owner) after the issuance of a tropical storm or hurricane watch for (insert geographic area), Florida, under Florida law, the undersigned or his or her employees or agents are authorized to remove your vessel, if reasonable, from its slip or take any and all other reasonable actions deemed appropriate by the undersigned or his or her employees or agents in order to better secure your vessel and to protect marina property, private property, and the environment. You are further notified that you may be charged a reasonable fee for any such action.

(4) A marina owner, operator, employee, or agent shall not be held liable for any damage incurred to a vessel from storms or hurricanes and is held harmless as a result of such actions. Nothing in this section may be construed to provide immunity to a marina operator, employee, or agent for any damage caused by intentional acts or negligence when removing or securing a vessel as permitted under this section.

Section 44. Subsection (2) of section 327.60, Florida Statutes, is amended to read:

327.60 Local regulations; limitations.--

(2) Nothing contained in the provisions of this section shall be construed to prohibit local governmental authorities from the enactment or enforcement of regulations which prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions or of any vessels within the marked boundaries of mooring fields permitted as provided in s. 327.40. However, local governmental authorities are prohibited from regulating the anchoring outside of such mooring fields ~~anchorage~~ of non-live-aboard vessels ~~engaged~~ in ~~the exercise of rights of~~ navigation.

Section 45. Section 328.64, Florida Statutes, is amended to read:

328.64 Change of interest and address.--

(1) The owner shall furnish the Department of Highway Safety and Motor Vehicles notice of the transfer of all or any part of his or her interest in a vessel registered or titled in this state pursuant to this chapter or chapter 328 or of the destruction or abandonment of such vessel, within 30 days thereof, on a form prescribed by the department. Such transfer, destruction, or abandonment shall terminate the certificate for such vessel, except that in the case of a transfer of a part interest which does not affect the owner's right to operate such vessel, such transfer shall not terminate the certificate. The department shall provide the form for such notice and shall attach the form to every vessel title issued or reissued.

(2) Any holder of a certificate of registration shall notify the Department of Highway Safety and Motor Vehicles or the county tax collector within 30 days, if his or her address no longer conforms to the address appearing on the certificate

and shall, as a part of such notification, furnish the department or such county tax collector with the new address. The department shall ~~may~~ provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.

Section 46. Subsection (15) of section 328.72, Florida Statutes, is amended to read:

328.72 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.--

(15) DISTRIBUTION OF FEES.--Except for the first $2, $1 of which shall be remitted to the state for deposit into the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission and $1 of which shall be remitted to the state for deposit into the Marine Resources Conservation Trust Fund to fund a grant program for public launching facilities, pursuant to s. 206.606 ~~327.47~~, giving priority consideration to counties with more than 35,000 registered vessels, moneys designated for the use of the counties, as specified in subsection (1), shall be distributed by the tax collector to the board of county commissioners for use only as provided in this section. Such moneys to be returned to the counties are for the sole purposes of providing recreational channel marking and other uniform waterway markers, public boat ramps, lifts, and hoists, marine railways, and other public launching facilities, derelict vessel removal, and ~~other boating related activities, for~~ removal of vessels and floating structures deemed a hazard to public safety and health for failure to comply with s.

327.53~~, and for manatee and marine mammal protection and recovery~~. Counties shall ~~that~~ demonstrate through an annual detailed accounting report of vessel registration revenues that ~~at least $1 of~~ the registration fees were spent as provided in this subsection ~~on boating infrastructure shall only be required to transfer the first $1 of the fees to the Save the Manatee Trust Fund~~. This report shall be provided to the Fish and Wildlife Conservation Commission no later than November 1 of each year. If, prior to January 1 of each calendar year, the annual detailed accounting report meeting the prescribed criteria has still not been provided to the commission, the tax collector of that county shall not distribute the moneys designated for the use of counties, as specified in subsection (1), to the board of county commissioners but shall, instead, for the next calendar year, remit such moneys to the state for deposit into the Marine Resources Conservation Trust Fund. The commission shall return those moneys to the county if the county fully complies with this section within that calendar year. If the county does not fully comply with this section within that calendar year, the moneys shall remain within the Marine Resources Trust Fund and may be appropriated for the purposes specified in this subsection ~~The commission shall provide an exemption letter to the department by December 15 of each year for qualifying counties~~.

Section 47. Paragraph (g) of subsection (4) of section 376.11, Florida Statutes, is amended to read:

376.11 Florida Coastal Protection Trust Fund.--

(4) Moneys in the Florida Coastal Protection Trust Fund shall be disbursed for the following purposes and no others:

(g) The funding of a grant program to ~~coastal~~ local governments, pursuant to s. 376.15(2)(b) and (c), for the removal of derelict vessels from the public waters of the state.

Section 48. Section 376.15, Florida Statutes, is amended to read:

376.15 Derelict vessels; removal from public waters.--

(1) It is unlawful for any person, firm, or corporation to store, leave, or abandon any derelict vessel as defined in s. 823.11(1) in this state ~~or leave any vessel in a wrecked, junked, or substantially dismantled condition or abandoned upon any public waters or at any port in this state without the consent of the agency having jurisdiction thereof or docked at any private property without the consent of the owner of the private property~~.

(2)(a) The Fish and Wildlife Conservation Commission and its officers and all law enforcement officers as specified in s. 327.70 are ~~is hereby designated as the agency of the state~~ authorized and empowered to remove any derelict vessel as defined in s. 823.11(1) ~~described in subsection (1)~~ from public waters. All costs incurred by the commission or other law enforcement agency in the removal of any abandoned or derelict vessel shall be recoverable against the owner of the vessel. The Department of Legal Affairs shall represent the commission in such actions.

(b) The commission may establish a program to provide grants to ~~coastal~~ local governments for the removal of derelict vessels from the public waters of the state. The program shall be funded from the Florida Coastal Protection Trust Fund. Notwithstanding the provisions in s. 216.181(11), funds

available for grants may only be authorized by appropriations acts of the Legislature.

(c) The commission shall adopt by rule procedures for submitting a grant application and criteria for allocating available funds. Such criteria shall include, but not be limited to, the following:

1. The number of derelict vessels within the jurisdiction of the applicant.

2. The threat posed by such vessels to public health or safety, the environment, navigation, or the aesthetic condition of the general vicinity.

3. The degree of commitment of the local government to maintain waters free of abandoned and derelict vessels and to seek legal action against those who abandon vessels in the waters of the state.

(d) This section shall constitute the authority ~~of the commission~~ for such removal, but is not intended to be in contravention of any applicable federal act.

~~(e) The Department of Legal Affairs shall represent the Fish and Wildlife Conservation Commission in such actions.~~

Section 49. Paragraph (s) of subsection (2) of section 403.813, Florida Statutes, is amended to read:

403.813 Permits issued at district centers; exceptions.--

(2) 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 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:

(s) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:

1. Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;

2. Are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure~~, do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water~~;

3. Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners, as defined in s. 253.141;

4. Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic

plant and animal species, and other biological communities, including locating such structures in areas where ~~no~~ seagrasses are least dense ~~exist if such areas are present~~ adjacent to the dock or bulkhead; and

5. Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and, with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure, shall not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government. Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations. Local governments may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in this section or address subjects other than subjects addressed by the exemption criteria in this

section; and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane watch of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure. The exemption provided in this paragraph shall be in addition to the exemption provided in paragraph (b). ~~By January 1, 2003,~~ The department shall adopt a general permit by rule for the construction, installation, operation, or maintenance of those floating vessel platforms or floating boat lifts that do not qualify for the exemption provided in this paragraph but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of such general permit shall also constitute permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund. ~~Upon the adoption of the rule creating such general permit,~~ No local government shall impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. Local governments may require either permitting or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure ~~on floating vessel platforms or floating boat lifts covered by such general permit~~.

Section 50. Subsection (3) of section 705.101, Florida Statutes, is amended to read:

705.101 Definitions.--As used in this chapter:

(3) "Abandoned property" means all tangible personal property that does not have an identifiable owner and that has been disposed on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the rightful owner. The term includes derelict vessels as defined in s. 823.11(1) ~~Vessels determined to be derelict by the Fish and Wildlife Conservation Commission or a county or municipality in accordance with the provisions of s. 823.11 are included within this definition~~.

Section 51. Subsection (4) of section 705.103, Florida Statutes, is amended to read:

705.103 Procedure for abandoned or lost property.--

(4) The owner of any abandoned or lost property who, after notice as provided in this section, does not remove such property within the specified period shall be liable to the law enforcement agency for all costs of removal, storage, and destruction of such property, less any salvage value obtained by disposal of the property. Upon final disposition of the property, the law enforcement officer shall notify the owner, if known, of the amount owed. In the case of an abandoned vessel ~~boat~~ or motor vehicle, any person who neglects or refuses to pay such amount is not entitled to be issued a certificate of registration for such vessel ~~boat~~ or motor vehicle, or any other vessel ~~boat~~ or motor vehicle, until such costs have been paid. The law enforcement officer shall supply the Department of Highway Safety and Motor Vehicles with a list of persons whose

vessel ~~boat~~ registration privileges or whose motor vehicle privileges have been revoked under this subsection. Neither the department nor any other person acting as agent thereof shall issue a certificate of registration to a person whose vessel ~~boat~~ or motor vehicle registration privileges have been revoked, as provided by this subsection, until such costs have been paid.

Section 52. Section 823.11, Florida Statutes, is amended to read:

823.11 Abandoned and derelict vessels; removal; penalty.--

(1) "Derelict vessel" means any vessel, as defined in s. 327.02, that is left, stored, or abandoned:

(a) In a wrecked, junked, or substantially dismantled condition upon any public waters of this state.

(b) At any port in this state without the consent of the agency having jurisdiction thereof.

(c) Docked or grounded at or beached upon the property of another without the consent of the owner of the property.

(2) It is unlawful for any person, firm, or corporation to store, leave, or abandon any derelict vessel as defined in this section in this state ~~or leave any vessel as defined by maritime law in a wrecked, junked, or substantially dismantled condition or abandoned upon or in any public water or at any port in this state without the consent of the agency having jurisdiction thereof, or docked at any private property without the consent of the owner of such property~~.

(3)(a) ~~(2)~~ The Fish and Wildlife Conservation Commission and its officers and all law enforcement officers as specified in s. 327.70 are ~~is designated as the agency of the state~~ authorized and empowered to remove or cause to be removed any

abandoned or derelict vessel from public waters in any instance when the same obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment. Removal of vessels pursuant to this section may be funded by grants provided in ss. 206.606 and 376.15. The Fish and Wildlife Conservation Commission is directed to implement a plan for the procurement of any available federal disaster funds and to use such funds for the removal of derelict vessels. All costs incurred by the commission or other law enforcement agency in the removal of any abandoned or derelict vessel as set out above shall be recoverable against the owner thereof. The Department of Legal Affairs shall represent the commission in such actions. As provided in s. 705.103(4), any person who neglects or refuses to pay such amount is not entitled to be issued a certificate of registration for such vessel or for any other vessel or motor vehicle until the costs have been paid.

(b) When a derelict vessel is docked or grounded at or beached upon private property without the consent of the owner of the property, the owner of the property may remove the vessel at the vessel owner's expense 60 days after compliance with the notice requirements specified in s. 328.17(5). The private property owner may not hinder reasonable efforts by the vessel owner or agent to remove the vessel. Any notice given pursuant to this paragraph shall be presumed delivered when it is deposited with the United States Postal Service, certified, and properly addressed with prepaid postage. ~~Pursuant to an agreement with the governing body of a county or municipality, and upon a finding by the commission that the county or municipality is competent to undertake said responsibilities,~~

~~the commission may delegate to the county or municipality its authority to remove or cause to be removed an abandoned or derelict vessel from public waters within the county or municipality.~~

(4)~~(3)~~ Any person, firm, or corporation violating this act commits ~~is guilty of~~ a misdemeanor of the first degree and shall be punished as provided by law. Conviction under this section shall not bar the assessment and collection of the civil penalty provided in s. 376.16 for violation of s. 376.15. The court having jurisdiction over the criminal offense, notwithstanding any jurisdictional limitations on the amount in controversy, may order the imposition of such civil penalty in addition to any sentence imposed for the first criminal offense.

Section 53. For upland properties bordering on navigable waters, notwithstanding any other provision of Florida Statutes, rules, or local ordinances, riparian rights shall include the right to moor a vessel of a length that is less than the width of the property, provided the dock runs adjacent and parallel to a seawall, does not interfere with navigation as defined by International Navigational Rules Act of 1977 (Public Law 95-75, 91 Stat. 308, or 33 U.S.C. 1601-1608), or the Inland Navigation Rules Act of 1980 (Public Law 96-591, 94 Stat. 3415, 33 U.S.C. 2001-2038), the vessel is registered in the name of the owner of the upland property, the owner of the upland property has designated the property homestead pursuant to s. 222.01, Florida Statutes, and provided no dredging or alteration of the submerged land is needed to accommodate the vessel.

Section 54. Section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.--The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a person or animal.

(2) "Analog" or "chemical analog" means a structural derivative of a parent compound that is a controlled substance.

(3) "Cannabis" means all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

(4) "Clandestine laboratory" means any location and proximate areas set aside or used that are likely to be contaminated as a result of manufacturing, processing, cooking, disposing, or storing, either temporarily or permanently, any substances in violation of this chapter, except as such activities are authorized in chapter 499.

(5) "Contaminated" or "contamination" means containing levels of chemicals at or above the levels defined by the department pursuant to s. 893.123(1) as a result of clandestine laboratory activity.

(6) "Contamination assessment specialist" or "contamination assessor" means a person responsible for assessing the extent of contamination and decontamination by determining the indoor air quality in a residential property based on the standards defined by the department. Upon the

conclusion of decontamination, a residential property must successfully test less than or equal to the values defined by the department. The person must have specialized training that provides him or her with the knowledge, skills, and abilities to use quantitative measurement techniques in collecting and assessing specified contamination levels that have the ability to impair human health and well-being.

(7) ~~(4)~~ "Controlled substance" means any substance named or described in Schedules I-V of s. 893.03. Laws controlling the manufacture, distribution, preparation, dispensing, or administration of such substances are drug abuse laws.

(8) "Decontamination" means the process of reducing the levels of contaminants to the levels defined by the department pursuant to s. 893.123(1) that allow human reoccupancy using currently available methods and processes.

(9) "Decontamination specialist" means a person responsible for the cleanup, treatment, repair, removal, and decontamination of contaminated materials located in a residential property where clandestine laboratory activities occurred. The person must have the knowledge, skills, and ability to prescribe methods to eliminate, control, or reduce contamination; and must have been trained in the removal, storage, transport, and disposal of hazardous chemicals or chemical residues commonly associated with clandestine laboratory activities.

(10) ~~(5)~~ "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(11)~~(9)~~ "Department" means the Department of Health.

(12)~~(6)~~ "Dispense" means the transfer of possession of one or more doses of a medicinal drug by a pharmacist or other licensed practitioner to the ultimate consumer thereof or to one who represents that it is his or her intention not to consume or use the same but to transfer the same to the ultimate consumer or user for consumption by the ultimate consumer or user.

(13)~~(7)~~ "Distribute" means to deliver, other than by administering or dispensing, a controlled substance.

(14)~~(8)~~ "Distributor" means a person who distributes.

(15)~~(10)~~ "Hospital" means an institution for the care and treatment of the sick and injured, licensed pursuant to the provisions of chapter 395 or owned or operated by the state or Federal Government.

(16)~~(11)~~ "Laboratory" means a laboratory approved by the Drug Enforcement Administration as proper to be entrusted with the custody of controlled substances for scientific, medical, or instructional purposes or to aid law enforcement officers and prosecuting attorneys in the enforcement of this chapter.

(17)~~(12)~~ "Listed chemical" means any precursor chemical or essential chemical named or described in s. 893.033.

(18)~~(13)~~(a) "Manufacture" means the production, preparation, propagation, compounding, cultivating, growing, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging of the substance or labeling or relabeling of its container, except that this term does not include the

preparation, compounding, packaging, or labeling of a controlled substance by:

1. A practitioner or pharmacist as an incident to his or her administering or delivering of a controlled substance in the course of his or her professional practice.

2. A practitioner, or by his or her authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis, and not for sale.

(b) "Manufacturer" means and includes every person who prepares, derives, produces, compounds, or repackages any drug as defined by the Florida Drug and Cosmetic Act. However, this definition does not apply to manufacturers of patent or proprietary preparations as defined in the Florida Pharmacy Act. Pharmacies, and pharmacists employed thereby, are specifically excluded from this definition.

(19) ~~(14)~~ "Mixture" means any physical combination of two or more substances.

(20) ~~(15)~~ "Patient" means an individual to whom a controlled substance is lawfully dispensed or administered pursuant to the provisions of this chapter.

(21) ~~(16)~~ "Pharmacist" means a person who is licensed pursuant to chapter 465 to practice the profession of pharmacy in this state.

(22) ~~(17)~~ "Possession" includes temporary possession for the purpose of verification or testing, irrespective of dominion or control.

(23) ~~(18)~~ "Potential for abuse" means that a substance has properties of a central nervous system stimulant or depressant

or an hallucinogen that create a substantial likelihood of its being:

(a) Used in amounts that create a hazard to the user's health or the safety of the community;

(b) Diverted from legal channels and distributed through illegal channels; or

(c) Taken on the user's own initiative rather than on the basis of professional medical advice.

Proof of potential for abuse can be based upon a showing that these activities are already taking place, or upon a showing that the nature and properties of the substance make it reasonable to assume that there is a substantial likelihood that such activities will take place, in other than isolated or occasional instances.

(24) ~~(19)~~ "Practitioner" means a physician licensed pursuant to chapter 458, a dentist licensed pursuant to chapter 466, a veterinarian licensed pursuant to chapter 474, an osteopathic physician licensed pursuant to chapter 459, a naturopath licensed pursuant to chapter 462, or a podiatric physician licensed pursuant to chapter 461, provided such practitioner holds a valid federal controlled substance registry number.

(25) ~~(20)~~ "Prescription" means and includes an order for drugs or medicinal supplies written, signed, or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed practitioner licensed by the laws of the state to prescribe such drugs or medicinal supplies, issued in good faith and in the course of professional practice,

intended to be filled, compounded, or dispensed by another person licensed by the laws of the state to do so, and meeting the requirements of s. 893.04. The term also includes an order for drugs or medicinal supplies so transmitted or written by a physician, dentist, veterinarian, or other practitioner licensed to practice in a state other than Florida, but only if the pharmacist called upon to fill such an order determines, in the exercise of his or her professional judgment, that the order was issued pursuant to a valid patient-physician relationship, that it is authentic, and that the drugs or medicinal supplies so ordered are considered necessary for the continuation of treatment of a chronic or recurrent illness. However, if the physician writing the prescription is not known to the pharmacist, the pharmacist shall obtain proof to a reasonable certainty of the validity of said prescription. A prescription order for a controlled substance shall not be issued on the same prescription blank with another prescription order for a controlled substance which is named or described in a different schedule, nor shall any prescription order for a controlled substance be issued on the same prescription blank as a prescription order for a medicinal drug, as defined in s. 465.031(5), which does not fall within the definition of a controlled substance as defined in this act.

(26) "Residential property" means a dwelling unit used, or intended for use, by an individual or individuals as a permanent residence. The term includes improved real property of between one and four dwellings; a condominium unit, as defined in s. 718.103(27); a cooperative unit, as defined in s. 719.103(24); or a mobile home or manufactured home, as defined in s.

320.01(2). The term does not include a hotel, motel, campground, marina, or timeshare unit.

(27)~~(21)~~ "Wholesaler" means any person who acts as a jobber, wholesale merchant, or broker, or an agent thereof, who sells or distributes for resale any drug as defined by the Florida Drug and Cosmetic Act. However, this definition does not apply to persons who sell only patent or proprietary preparations as defined in the Florida Pharmacy Act. Pharmacies, and pharmacists employed thereby, are specifically excluded from this definition.

Section 55. Section 893.121, Florida Statutes, is created to read:

893.121 Quarantine of a clandestine laboratory.--

(1) The purpose of the quarantine provided for in this section is to prevent exposure of any person to the hazards associated with clandestine laboratory activities and provide protection from unsafe conditions that pose a threat to the public health, safety, and welfare. The department has the authority to quarantine residential property under s. 381.0011.

(2) Whenever a sheriff, police officer, or other law enforcement entity secures evidence from a residential property in which illegal clandestine laboratory activities occurred, the department must quarantine the property. The local law enforcement entity securing evidence shall enforce a quarantine on the residential property as part of its duty to assist the department under s. 381.0012(5). Enforcement does not require the 24-hour posting of law enforcement personnel. The residential property shall remain quarantined until the department receives a certificate of fitness documenting that

the property was decontaminated as defined by the department pursuant to s. 893.123 or demolished in accordance with s. 893.122(1), or a court order is presented requiring the quarantine to be lifted.

(3) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to establish a uniform notice to post at the site of a quarantined clandestine laboratory and a uniform letter of notification of the quarantine to be sent to the residential property owner or manager. It is the responsibility of local law enforcement to post the notice of a quarantine on the residential property, and it is the responsibility of the department to mail the letter of notification. The material in the letter and notice shall include, but not be limited to:

(a) That the residential property has been quarantined and a clandestine laboratory was seized on or inside the residential property.

(b) The date of the quarantine.

(c) The name and contact telephone number of the law enforcement entity posting the quarantine.

(d) A statement specifying that hazardous substances, toxic chemicals, or other hazardous waste products may have been present and may remain on or inside the residential property and that exposure to the substances may be harmful and may pose a threat to public health and the environment.

(e) A statement that it is unlawful for an unauthorized person to enter the contaminated residential property and that the removal of any notice of the quarantine is a second degree misdemeanor under s. 381.0025(1).

(f) A statement, in the notification letter, explaining how to have the quarantine lifted.

(4) Upon securing evidence from a residential property in which illegal clandestine laboratory activities occurred, the local law enforcement entity shall immediately notify the local health officer and the department's Division of Environmental Health that a residential property is quarantined and shall provide the name and contact information of the law enforcement entity, the name of the residential property owner or residential property manager, and the address of the property.

(5) To the extent possible, the department shall mail the letter of notification to the residential property owner or the manager of the residential property within 5 working days from the date of quarantine notifying the owner or manager that a clandestine laboratory was found on the property and that the property has been quarantined. The department shall also include a list of contamination assessment specialists and decontamination specialists and any other information deemed appropriate by the department to the residential property owner or manager.

(6) Any person who has an interest in a residential property that is quarantined pursuant to this section may file a petition in the circuit court in which the residential property is located to request a court order that the quarantine of the residential property be lifted for one of the following reasons:

(a) The residential property was wrongfully quarantined; or

(b) The residential property has been properly decontaminated as defined by the department pursuant to s.

893.123 or demolished pursuant to s. 893.122(1) and may be reoccupied for habitation, but the department refuses or fails to lift the quarantine.

(7) No person shall inhabit a quarantined residential property, offer the residential property to the public for temporary or indefinite habitation, or remove any notice of the quarantine. Any person who willfully violates a provision of this subsection commits a second degree misdemeanor under s. 381.0025(1).

Section 56. Section 893.122, Florida Statutes, is created to read:

893.122 Option of demolition; immunity from liability from health-based civil actions.--

(1) A residential property owner shall, upon notification from the department that clandestine laboratory activities have occurred in a property owned by that owner and that the property is quarantined, meet the decontamination standards as defined by the department pursuant to s. 893.123 unless the property owner, at the owner's discretion, elects to demolish the contaminated residential property. The demolition and removal of materials must meet the requirements of the Occupational Safety and Health Administration and the United States Environmental Protection Agency regulations pertaining to the generation, storage, transport, and disposal of hazardous wastes and any state or local requirements.

(2) A residential property owner who has met the decontamination standards, as evidenced by a certificate of fitness and a letter of reoccupancy pursuant to s.893.123, or has demolished the residential property in compliance with

subsection (1), shall have immunity from health-based civil actions brought by any future owner, renter, or other person who occupies such residential property, or a neighbor of such residential property, in which the alleged cause of the injury or loss is the existence of the clandestine laboratory. However, a person with a conviction, as defined in s. 944.607, for the manufacture of any substance regulated under this chapter on the residential property where clandestine laboratory activities occurred shall not have the immunity provided in this subsection.

Section 57. Section 893.123, Florida Statutes, is created to read:

893.123 Clandestine laboratory decontamination standards, certificate of fitness, and letter of reoccupancy.--

(1) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 that establish:

(a) Standards for indoor air quality regarding levels of contaminants produced by clandestine laboratory activities to include methamphetamine, lead, mercury, and volatile organic compounds. These standards must be consistent with values commonly used by other states or comply with national standards.

(b) Standards for the cleanup and testing of clandestine laboratories.

(c) A certificate of fitness that shall act as appropriate documentation that a residential property has been decontaminated in accordance with specified standards. The certificate of fitness shall be submitted to the department by a contamination assessment specialist. The certificate of fitness shall include, but is not limited to:

1. The name of the residential property owner, the mailing and street address of the residential property owner, and, if applicable, the parcel identification of the residential property.

2. The dates the residential property was quarantined and cleanup was completed.

3. A summary of the indoor air quality test results, findings, and conclusions as determined by a contamination assessment specialist.

4. The name and address of the contamination assessment specialist.

5. The name and address of the decontamination specialist.

6. The method of repair, replacement, or decontamination of the residential property.

(d) A letter of reoccupancy that will notify the residential property owner that the property may be reoccupied for habitation.

(2) Upon receipt of the certificate of fitness, the department shall send a letter of reoccupancy to the residential property owner or manager and to the local law enforcement entity that enforced the quarantine and posted the notice. The letter of reoccupancy must include the address of the residential property, a statement that the quarantine is lifted, and a statement that the residential property may be reoccupied for habitation.

(3) In the case of demolition, the department shall lift the quarantine on a residential property upon receipt of a letter presented by a demolition company stating that the quarantined property was demolished. The letter must include the

address of the residential property and a statement that the demolition was performed in accordance to the requirements in s. 893.122(1).

Section 58. Section 893.124, Florida Statutes, is created to read:

893.124 Decontamination and contamination assessment specialists.--

(1)(a) The department shall compile and maintain lists of decontamination and contamination assessment specialists. The lists shall be posted on the department's Internet website. The department shall indicate on the website whether the specialists are bonded and insured.

(b) Persons authorized to perform decontamination or contamination assessments must have knowledge and skill in the handling of toxic substances. The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 specifying the requirements for persons authorized to perform decontamination and contamination assessments. Decontamination specialists shall be responsible for ensuring that all hazardous substances, toxic chemicals, or other hazardous waste products that may have been present are removed from the residential property and disposed of in accordance with federal, state, and local laws and regulations.

(2) In determining the level of contamination in a clandestine laboratory, the decontamination or contamination assessment specialist may request copies of any available law enforcement reports or information relating to the following:

(a) The length of time the residential property was used as a clandestine laboratory.

(b) The extent to which the residential property was exposed to chemicals used in clandestine laboratory activities.

(c) The chemical processes that were involved in the clandestine laboratory activities.

(d) The chemicals that were removed from the residential property.

(e) The location of the clandestine laboratory activities in relation to the habitable areas of the residential property.

(3) If the contamination assessment specialist determines that the residential property is not contaminated, the contamination assessment specialist shall prepare a certificate of fitness and submit the certificate to the department.

Section 59. Paragraph (s) of subsection (1) of section 465.016, Florida Statutes, is amended to read:

465.016 Disciplinary actions.--

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(s) Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined by s. 465.003(14) or s. 893.02~~(20)~~ when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship.

Section 60. Paragraph (e) of subsection (1) of section 465.023, Florida Statutes, is amended to read:

465.023 Pharmacy permittee; disciplinary action.--

(1) The department or the board may revoke or suspend the permit of any pharmacy permittee, and may fine, place on probation, or otherwise discipline any pharmacy permittee who has:

(e) Dispensed any medicinal drug based upon a communication that purports to be a prescription as defined by s. 465.003(14) or s. 893.02~~(20)~~ when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship that includes a documented patient evaluation, including history and a physical examination adequate to establish the diagnosis for which any drug is prescribed and any other requirement established by board rule under chapter 458, chapter 459, chapter 461, chapter 463, chapter 464, or chapter 466.

Section 61. Paragraph (c) of subsection (1) of section 856.015, Florida Statutes, is amended to read:

856.015 Open house parties.--

(1) Definitions.--As used in this section:

(c) "Drug" means a controlled substance, as that term is defined in ss. 893.02~~(4)~~ and 893.03.

Section 62. Subsection (6) of section 893.135, Florida Statutes, is amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.--

(6) A mixture, as defined in s. 893.02~~(14)~~, containing any controlled substance described in this section includes, but is not limited to, a solution or a dosage unit, including but not limited to, a pill or tablet, containing a controlled substance. For the purpose of clarifying legislative intent regarding the weighing of a mixture containing a controlled substance described in this section, the weight of the controlled substance is the total weight of the mixture, including the controlled substance and any other substance in the mixture. If

there is more than one mixture containing the same controlled substance, the weight of the controlled substance is calculated by aggregating the total weight of each mixture.

Section 63. Paragraph (a) of subsection (1) of section 944.47, Florida Statutes, is amended to read:

944.47 Introduction, removal, or possession of certain articles unlawful; penalty.--

(1)(a) Except through regular channels as authorized by the officer in charge of the correctional institution, it is unlawful to introduce into or upon the grounds of any state correctional institution, or to take or attempt to take or send or attempt to send therefrom, any of the following articles which are hereby declared to be contraband for the purposes of this section, to wit:

1. Any written or recorded communication or any currency or coin given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution.

2. Any article of food or clothing given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution.

3. Any intoxicating beverage or beverage which causes or may cause an intoxicating effect.

4. Any controlled substance as defined in s. 893.02~~(4)~~ or any prescription or nonprescription drug having a hypnotic, stimulating, or depressing effect.

5. Any firearm or weapon of any kind or any explosive substance.

Section 64. Subsection (1) of section 951.22, Florida Statutes, is amended to read:

951.22 County detention facilities; contraband articles.--

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby declared to be contraband for the purposes of this act, to wit: Any written or recorded communication; any currency or coin; any article of food or clothing; any tobacco products as defined in s. 210.25(11); any cigarette as defined in s. 210.01(1); any cigar; any intoxicating beverage or beverage which causes or may cause an intoxicating effect; any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02~~(4)~~; any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon; and any instrumentality of any nature that may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.

Section 65. Paragraph (a) of subsection (1) of section 985.4046, Florida Statutes, is amended to read:

985.4046 Introduction, removal, or possession of certain articles unlawful; penalty.--

(1)(a) Except as authorized through program policy or operating procedure or as authorized by the facility

superintendent, program director, or manager, a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be contraband under this section:

1. Any unauthorized article of food or clothing.

2. Any intoxicating beverage or any beverage that causes or may cause an intoxicating effect.

3. Any controlled substance, as defined in s. 893.02~~(4)~~, or any prescription or nonprescription drug that has a hypnotic, stimulating, or depressing effect.

4. Any firearm or weapon of any kind or any explosive substance.

Section 66. Sections 403.7075, 403.756, 403.78, 403.781, 403.782, 403.783, 403.784, 403.7841, 403.7842, 403.785, 403.786, 403.787, 403.7871, 403.7872, 403.7873, 403.788, 403.7881, 403.789, 403.7891, 403.7892, 403.7893, and 403.7895, Florida Statutes, are repealed.

Section 67. (1)(a) The Department of Environmental Protection shall conduct a study to determine the various sources of nitrogen input into the Wekiva River and associated springs contributing water to the river. The Department of Environmental Protection shall prepare a report recommending actions to be taken by the Department of Environmental Protection and the St. Johns Water Management District that will provide the best use of economic resources to reduce nitrogen input into the river and associated springs. The Department of Environmental Protection shall submit a report to the Governor,

the President of the Senate, and the Speaker of the House of Representatives no later than February 1, 2007.

(b) The Department of Health shall contract with an independent entity for a study to determine the sources of nitrogen input from onsite sewage treatment and disposal systems into the Wekiva River and associated springs. The study shall measure the concentration of nitrates in the soil 10 feet and 20 feet below the drainfield of the onsite sewage treatment and disposal systems. The contract shall require the entity to submit a report to the Department of Health describing the locations of such sources and the nitrate amounts contributed by such sources and containing recommendations to reduce or eliminate nitrogen input from such sources. Rulemaking required by s. 369.318(2), Florida Statutes, shall be suspended until the completion of this study. The Department of Health shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than February 1, 2007.

(2) The Department of Health shall develop rules for a model proposal for the operation and maintenance of onsite sewage treatment and disposal systems within the Wekiva Study Area or the Wekiva River Protection Area. At a minimum, the rules shall require each property owner in the Wekiva Study Area or the Wekiva River Protection Area that has an onsite sewage treatment and disposal system to pump out the system at least once every 5 years.

(3) The sum of $250,000 is appropriated from the General Revenue Fund to the Department of Environmental Protection for

the 2006-2007 fiscal year to be used by the department to conduct the study required under paragraph (1)(a).

(4) The sum of $250,000 is appropriated from the General Revenue Fund to the Department of Health for the 2006-2007 fiscal year to be used by the department to contract for the independent study required under paragraph (1)(b).

Section 68. The Department of Environmental Protection shall require and collect a report from each water management district in the state on how much water is being extracted each month for resale in bottled water containers and submit a report of the findings to the Legislature by November 1, 2006.

Section 69. This act shall take effect July 1, 2006.

======= T I T L E A M E N D M E N T ==========

Remove the entire title and insert:

A bill to be entitled

An act relating to environmental protection; amending ss. 199.1055, 220.1845, 376.30781, 376.80, and 376.86, F.S.; increasing the amount and percentage of the credit that may be applied against the intangible personal property tax and the corporate income tax for the cost of voluntary cleanup of a contaminated site; increasing the amount that may be received by the taxpayer as an incentive to complete the cleanup in the final year; increasing the total amount of credits that may be granted in any year; providing tax credits for voluntary cleanup activities related to solid waste disposal facilities; providing criteria for eligible sites and activities; increasing the amount of the Brownfield Areas Loan Guarantee; reducing

the job creation requirements; directing the Department of Environmental Protection to apply certain criteria, requirements, and limitations for implementation of such provisions; providing certain exceptions; amending s. 288.9015, F.S.; requiring Enterprise Florida, Inc., to aggressively market brownfields; amending ss. 196.012 and 196.1995, F.S., to include brownfield areas in the implementation of the economic development ad valorem tax exemption authorized under s. 3, Art VII of the Florida Constitution; repealing s. 376.87, F.S., relating to the Brownfield Property Ownership Clearance Assistance; repealing s. 376.875, F.S., relating to the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund; amending s. 14.2015, F.S.; deleting a reference to the trust fund to conform; amending s. 403.413, F.S.; clarifying who is liable for dumping under the Florida Litter Law; amending s. 403.4131, F.S.; deleting the provisions relating to Keep Florida Beautiful, Inc.; providing that certain counties are encouraged to develop a regional approach to coordinating litter control and prevention programs; deleting certain requirements for a litter survey; amending s. 403.41315, F.S.; conforming provisions to changes made to the Keep Florida Beautiful, Inc., program; amending s. 403.4133, F.S.; placing the Adopt-a-Shore Program within the Department of Environmental Protection; amending s. 320.08058, F.S.; requiring that the proceeds of the fees paid for Wildflower license plates be distributed to Wildflower Foundation, Inc.; requiring the foundation to

develop certain procedures and programs; specifying uses of the proceeds; transferring the balance of such proceeds to the Department of Agriculture and Consumer Services under certain circumstances; amending s. 403.703, F.S.; reordering definitions in alphabetical order; clarifying certain definitions and deleting definitions that are not used; amending ss. 316.003, 377.709, and 487.048, F.S.; conforming cross-references; amending s. 403.704, F.S.; deleting certain obsolete provisions relating to the state solid waste management program; amending s. 403.7043, F.S.; deleting certain obsolete and conflicting provisions relating to compost standards; amending s. 403.7045, F.S.; providing that industrial byproducts are not regulated under certain circumstances; conforming a cross-reference; clarifying certain provisions governing dredged material; amending s. 403.707, F.S.; clarifying the Department of Environmental Preservation's permit authority; deleting certain obsolete provisions; creating s. 403.7071, F.S.; providing for the management and disposal of storm-generated debris; amending s. 403.708, F.S.; deleting obsolete provisions and clarifying certain provisions governing landfills; amending s. 403.709, F.S.; revising the provisions relating to the distribution of the waste tire fees; amending s. 403.7095, F.S., relating to the solid waste management grant program; conforming a cross-reference; amending s. 403.7125, F.S.; deleting certain definitions that appear elsewhere in law and clarifying certain financial-disclosure provisions with respect to the closure of a landfill; amending s. 403.716, F.S.;

deleting certain provisions relating to the training of certain facility operators; amending s. 403.717, F.S.; clarifying the provisions relating to waste tires and the processing of waste tires; transferring, renumbering, and amending s. 403.7221, F.S.; increasing the duration of certain research, development, and demonstration permits; amending s. 403.201, F.S.; conforming a cross-reference; amending s. 403.722, F.S.; clarifying provisions relating to who is required to obtain certain hazardous waste permits; amending s. 403.7226, F.S.; deleting a provision requiring a report that is duplicative of other reports; amending s. 403.724, F.S.; clarifying certain financial-responsibility provisions; amending s. 403.7255, F.S.; providing additional requirements regarding the public notification of certain contaminated sites; amending s. 403.726, F.S.; authorizing the Department of Environmental Protection to issue an order to abate certain hazards; amending s. 403.7265, F.S.; requiring a local government to provide matching funds for certain grants; providing that matching funds are not required under certain conditions; amending s. 403.885, F.S.; revising grant program eligibility requirements for certain water management and restoration projects; eliminating requirements for certain funding and legislative review of such projects; amending s. 373.1961, F.S.; conforming a cross-reference; repealing s. 403.7075, F.S., relating to the submission of certain plans for solid waste management facilities; repealing s. 403.756, F.S., relating to an annual used-oil report; directing the department to

require and collect certain reports from each water management district, and to submit such findings to the Legislature by a certain date; amending s. 206.606, F.S.; authorizing the use of certain funds for local boating related projects and activities; amending s. 327.59, F.S.; authorizing marina owners, operators, employees, and agents to take actions to secure vessels during severe weather and to charge fees and be held harmless for such service; holding marina operators, employees, and agents liable for damage caused by intentional acts or negligence while removing or securing vessels; authorizing contract provisions and providing contract notice requirements relating to removing or securing vessels; amending s. 327.60, F.S.; providing for local regulation of anchoring within mooring fields; amending s. 328.64, F.S.; requiring the Department of Highway Safety and Motor Vehicles to provide forms for certain notification related to vessels; requiring the department to provide by rule for the surrender and replacement of certificates of registration to reflect change of address; amending s. 328.72, F.S.; requiring counties to use funds for specific boating related purposes; requiring counties to provide reports demonstrating specified expenditure of such funds; providing penalties for failure to comply; amending s. 376.11, F.S.; authorizing the distribution of revenues from the Florida Coastal Protection Trust Fund to all local governments for the removal of certain vessels; amending s. 376.15, F.S.; revising provisions relating to the removal of abandoned and derelict vessels; specifying

officers authorized to remove such vessels; providing that certain costs are recoverable; requiring the Department of Legal Affairs to represent the Fish and Wildlife Conservation Commission in certain actions; expanding eligibility for disbursement of grant funds for the removal of certain vessels; amending s. 403.813, F.S.; providing exemptions from permitting, registration, and regulation of floating vessel platforms or floating boat lifts by a local government; authorizing local governments to require certain permits or registration for floating vessel platforms or floating boat lifts under certain circumstances; amending s. 705.101, F.S.; revising the definition of "abandoned property" to include certain vessels; amending s. 705.103, F.S.; revising the terminology relating to abandoned or lost property to conform; amending s. 823.11, F.S.; revising provisions relating to abandoned and derelict vessels and the removal of such vessels; providing a definition of "derelict vessel"; specifying which officers may remove such vessels; directing the Fish and Wildlife Conservation Commission to implement a plan for the procurement of federal disaster funds for the removal of derelict vessels; requiring the Department of Legal Affairs to represent the commission in certain actions; deleting a provision authorizing the commission to delegate certain authority to local governments under certain circumstances; authorizing private property owners to remove certain vessels with required notice; providing that cost of such removal is recoverable; prohibiting

private property owners from hindering the removal of certain vessels by vessel owners or agents; providing for jurisdictional imposition of civil penalties for violations relating to certain vessels; providing an exception for the mooring of certain vessels to upland properties under certain circumstances; amending s. 893.02, F.S.; providing definitions; creating s. 893.121, F.S.; providing for quarantine of any residential property where illegal clandestine laboratory activities occurred; providing for establishment of a uniform notice and a uniform letter of notification; providing for posting of specified notice at the site of a quarantine; providing requirements for the sending of a specified letter of notification to a residential property owner or manager; providing for petitions by certain persons in circuit court to lift such quarantines under certain conditions; prohibiting specified violations relating to such quarantines; creating s. 893.122, F.S.; permitting demolition of quarantined residential property under certain conditions; providing immunity from health-based civil actions for residential property owners who have met specified clandestine laboratory decontamination standards as evidenced by specified documentation; providing an exception to such immunity for persons convicted of manufacturing controlled substances at the site; creating s. 893.123, F.S.; providing for rulemaking to adopt clandestine laboratory decontamination standards; providing for certificates of fitness to indicate that decontamination has been completed; providing requirements

for the lifting of a quarantine upon demolition of the property; creating s. 893.124, F.S.; requiring the Department of Health to specify requirements for persons authorized to perform decontamination and contamination assessments; requiring the department to compile and maintain lists of decontamination and contamination assessment specialists; providing responsibilities for decontamination specialists; permitting decontamination and contamination assessment specialists to request specified documents; providing for the issuance of certificates of fitness by contamination assessment specialists; amending ss. 465.016, 465.023, 856.015, 893.135, 944.47, 951.22, and 985.4046, F.S.; conforming cross-references; repealing ss. 403.78, 403.781, 403.782, 403.783, 403.784, 403.7841, 403.7842, 403.785, 403.786, 403.787, 403.7871, 403.7872, 403.7873, 403.788, 403.7881, 403.789, 403.7891, 403.7892, 403.7893, and 403.7895, F.S., relating to the Statewide Multipurpose Hazardous Waste Facility Siting Act; requiring the Department of Environmental Protection to conduct a study of the sources of nitrogen input into the Wekiva River and associated springs; requiring the Department of Health to contract for an independent study of the sources of nitrogen input from onsite sewage treatment and disposal systems into the Wekiva River and associated springs; requiring reports on such studies; providing report requirements; suspending certain department rulemaking until study completion; requiring the Department of Environmental Protection and the Department of Health to submit copies of the reports

to the Legislature by a certain date; requiring the Department of Health to develop rules for a model proposal for the operation and maintenance of onsite sewage treatment and disposal systems in certain areas; specifying a rule criterion; providing appropriations; providing an effective date.