

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/SB 1110 (935176)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government;
and Senator Rouson

SUBJECT: Grease Waste Removal and Disposal

DATE: February 4, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Fav/CS
3.	_____	_____	<u>AP</u>	_____

I. Summary:

PCS/SB 1110 creates regulations for grease waste removal and disposal. The bill defines the terms disposal facility, graywater, grease interceptor or grease trap, grease waste, hauler, originator, and service manifest. The bill provides requirements for what a service manifest must contain and which entity must sign it and when.

The bill requires haulers to dispose of grease waste at a disposal facility and prevents them from returning grease waste or graywater to a grease interceptor or trap. The bill provides for compliance inspections. The bill also contains penalties for failure to provide or retain a service manifest, failure to clean a grease interceptor or grease trap, and unlawful disposal of grease. The bill provides for a local government to receive reports of violations and to collect fines and impose license actions. The bill does not prohibit a local government from adopting or enforcing an ordinance or rule to regulate the removal and disposal of grease waste which is more strict or extensive than what the bill provides.

The bill permits fiscally constrained counties and small counties to opt out of the bill's requirements.

The bill requires the Department of Environmental Protection (DEP) to adopt rules to implement the new regulations in the bill.

The DEP may incur costs from regulating grease disposal, periodic inspections, and rulemaking.

II. Present Situation:

Fats, Oils, and Grease

Fats, oils, and grease (FOG) are usually found in kitchens as ingredients or byproducts of cooking.¹ Examples include cooking oil; butter, margarine, or shortening; salad dressing; gravy; bacon and sausage grease; mayonnaise; peanut butter; and dairy products like milk, yogurt, cream, sour cream, and ice cream. Improper FOG disposal, usually down kitchen sinks, can cause environmental damage. In a sewer system, FOG can solidify and accumulate around the insides of underground sewer pipes, which can lead to blockages, backups, pipe bursts, and overflows.² When that happens, raw sewage carrying bacteria, excess nutrients, and disease-causing pathogens can enter waterbodies. Septic systems have similar problems, with FOG accumulating in septic tanks and lines and eventually causing blockages, backups, and overflows. Failing septic systems release raw sewage, which can be carried to nearby waterbodies by stormwater.³ Sewage disposal facilities are responsible for taking steps to prevent sanitary sewer overflows or underground pipe leaks, and for ensuring that collected wastewater reaches the facility for appropriate treatment.⁴ Some local governments have regulated grease disposal to protect local sewer systems.⁵

Grease Traps and Interceptors

Facilities that prepare and serve food must install grease removal devices in accordance with the Florida Building Code.⁶ Grease removal devices include grease traps and grease interceptors.⁷ A grease trap is a concrete or metal tank, usually located indoor or under a sink, that receives wastewater from kitchen pipes.⁸ FOG in the grease trap separates from the water and floats to the surface of the tank, thereby reducing the concentration of grease in the wastewater.⁹

A grease interceptor has more storage capability than a grease trap and is located underground outside of the regulated establishment.¹⁰ Wastewater from fixtures and floor drains in a kitchen flows into a grease interceptor where FOG separate from wastewater. The wastewater continues to flow from the interceptor to a wastewater treatment facility.

¹ Clemson Cooperative Extension, *F.O.G. (Fats, Oils, and Grease) Pollution*, <https://hgic.clemson.edu/factsheet/f-o-g-fats-oils-and-grease-pollution/> (last visited Jan. 10, 2022).

² Department of Environmental Protection, *Recommendations for Regulating Fat, Oil, and Grease Processing and Biofuel Production Facilities in Florida* (Mar. 15, 2013) available at https://floridadep.gov/sites/default/files/Guidance_FOG_Biofuel_15Mar13.pdf (last visited Jan. 21, 2022).

³ *Id.*

⁴ Section 403.086(7), F.S.

⁵ See, e.g., Alachua Ord. No. 38-140 (wastewater rates and charges); Cape Coral Ord. No. 19-8.2 (restricted use of the public sewers); Daytona Beach Ord. No. 7-7.2 (public sanitary sewer system pretreatment); and Tallahassee Ord. No. 21-493 (disposal of other special waste).

⁶ 2020 Florida Building Code, Chapter 10, Section 1003.3.1, available at <https://codes.iccsafe.org/content/FLPC2020P1/chapter-10-traps-interceptors-and-separators> (last visited Jan. 20, 2022). Sarasota County Public Utilities, *Fats, Oils, and Grease: Best Management Practices Guide*, 4, available at <https://www.scgov.net/home/showpublisheddocument/51221/637582391435000000> (last visited Jan. 20, 2022).

⁷ Sarasota County Public Utilities, *Fats, Oils, and Grease: Best Management Practices Guide* at 4.

⁸ *Id.*; Miami-Dade County, *FOG – Fats, Oils, and Grease*, 1, available at <https://www.miamidade.gov/environment/library/flyers/fats-oils-grease-fact-sheet.pdf> (last visited Jan. 20, 2022).

⁹ *Id.*

¹⁰ *Id.*

Current Regulation

To clean a grease interceptor, a service person must obtain an annual written permit from the DEP for the county in which the service company is located.¹¹ These permits authorize the disposal service to handle liquid waste associated with food operations and apply to all food establishment sludge which is collected for disposal from onsite sewage treatment and disposal systems.¹² Food establishment sludge is defined as oils, fats, greases, food scraps and other grease interceptor contents generated by a food operation or institutional food preparation facility that uses an onsite sewage treatment and disposal system.¹³ An onsite sewage treatment and disposal system is defined in part as a sewage system that contains a grease interceptor.¹⁴

Prior to issuance of the permit, the applicant must provide evidence of certain adequate equipment, including a tank truck with a liquid capacity of at least 1,500 gallons, pumps, off-truck stabilization tanks, and pH testing equipment.¹⁵ Untreated food establishment sludges must be transported to an approved treatment facility without leakage, spillage, or creation of a sanitary nuisance.¹⁶

Any food establishment sludge collected from onsite sewage treatment and disposal systems must be disposed of at a DEP-approved site and by a DEP-approved method.¹⁷ Food establishment sludge haulers who have collected the sludge from onsite sewage treatment and disposal systems are required to maintain a collection and hauling log at the treatment site or at the main business location, which must be retained for five years and must include:

- Date of collection;
- Address of collection;
- Whether the point of collection is a residence or business (and what type of business);
- Estimated volume of waste transported;
- Receipts for lime or other materials used for treatment;
- Location of the approved treatment facility;
- Date and time of discharge to the treatment facility; and
- Acknowledgement from treatment facility of receipt of waste.¹⁸

Current Regulation of Solid Waste

Solid waste is defined in statute as 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.¹⁹ Sludge is the

¹¹ Fla. Admin. Code R. 62-6.010(1).

¹² *Id.*

¹³ Fla. Admin. Code R. 62-6.002(27).

¹⁴ Section 381.0065(2)(l), F.S.

¹⁵ Fla. Admin. Code R. 62-6.010(2)(a).

¹⁶ Fla. Admin. Code R. 62-6.010(5).

¹⁷ Fla. Admin. Code R. 62-6.010(7).

¹⁸ Fla. Admin. Code R. 62-6.010(7)(e).

¹⁹ Section 403.703(35), F.S.

accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment or water supply treatment, and mixed liquids and solids pumped in part from septic tanks, grease traps, or similar waste disposal appurtenances.²⁰ The state's solid waste management program is required to include at a minimum:

- Procedures and requirements to ensure cooperative efforts in solid waste management by counties and municipalities;
- Provisions for the continuation of existing effective regional resources recovery, recycling, and solid waste management facilities and programs;
- Planning guidelines and technical assistance to counties and municipalities to aid in establishing recycling programs and meeting municipal recycling goals;
- Technical assistance to counties and municipalities in determining the full cost of solid waste management;
- Planning guidelines and technical assistance to counties and municipalities to develop and implement programs for alternative disposal or processing or recycling of certain types of solid wastes; and
- A public education program.²¹

It is a violation of the Florida Air and Water Pollution Control Act (act), which includes solid waste disposal regulations, for any person:

- To cause pollution, except as otherwise provided in the act, so as to harm or injure human health or welfare, animal, plant, or aquatic life or property;
- To fail to obtain a permit required by the act or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the DEP; and
- To knowingly make any false representation or certification in any application, record, report, plan, or other document filed or required to be maintained under the act, or to falsify or tamper with any monitoring device or method.²²

Violations of the act are as follows:

- A person who commits a violation is liable to the state for any damage caused and for civil penalties;
- A person who willfully causes pollution so as to harm or injure human health or welfare, animal, plant, or aquatic life or property commits a felony of the third degree, punishable by a fine of no more than \$50,000 or by imprisonment for five years, or both;
- A person who causes pollution so as to harm or injure human health or welfare, animal, plant, or aquatic life or property, or who fails to obtain any permit or comply with any rule, regulation, order, permit, or certification, due to reckless indifference or gross careless disregard commits a misdemeanor of the second degree, punishable by a fine of no more than \$10,000 or by 60 days in jail, or both; and
- A person who willfully fails to obtain any permit or comply with any rule, regulation, order, permit, or certification, or knowingly makes a false representation or certification commits a

²⁰ Section 403.703(34), F.S.

²¹ Section 403.705(2), F.S.

²² Section 403.161, F.S.

misdeemeanor of the first degree, punishable by a fine of no more than \$10,000 or by six months in jail, or both.²³

The civil penalties and criminal fines imposed by a court must be of such amount as to ensure immediate and continued compliance with the section.²⁴

The administrative penalties for solid waste violations include a penalty of \$3,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus \$1,000 if the solid waste is Class I;²⁵ plus \$1,500 if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well; plus \$1,500 if the waste contains more than 25 gallons of used oil.²⁶ The DEP shall assess a penalty of \$4,500 for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; or failure to provide access control for three consecutive inspections.²⁷

Current Regulation of Used Oil

Used oil is defined in statute as any oil that is refined from crude or synthetic oil and, as a result of use, storage, or handling, has become contaminated and unsuitable for its original purpose.²⁸ Certain actions are prohibited with respect to used oil, including:

- No person may collect, transport, store, recycle, use or dispose of used oil in a manner that endangers the public health or welfare;
- No person may discharge used oil into sewers, drainage systems, septic tanks, surface or ground waters, watercourses, or marine waters;
- No person may mix or commingle used oil with solid waste that is to be disposed of in landfills or directly dispose of used oil in landfills unless approved by the DEP;
- No person may mix or commingle used oil with hazardous substances that make it unsuitable for recycling or beneficial use; and
- Used oil cannot be used for road oiling, dust control, weed abatement, or other similar uses that may release oil into the environment.²⁹

Oil transporters and transfer facilities, used oil processors and re-refiners, and used oil burners and fuel marketers are all required to register annually with the DEP pursuant to the agency's rules.³⁰ Each registered person who transports, processes, burns, or recycles used oil shall maintain records which identify:

- The source of the materials transported or recycled;
- The quantity of material received;
- The date of receipt; and

²³ *Id.*

²⁴ *Id.*

²⁵ Class I waste is solid waste that is not hazardous waste, and that is not prohibited from disposal in a lined landfill. Fla. Admin. Code R. 62-701.200.

²⁶ Section 403.121(3)(e), F.S.

²⁷ *Id.*

²⁸ Section 403.75(7), F.S.

²⁹ Section 403.751, F.S.

³⁰ Section 403.754(1), F.S.

- The destination or end use of the materials.³¹

Used oil transporters must also have certification to transport more than 500 gallons annually over public highways.³² The DEP developed this certification program and is responsible for issuing, denying, or revoking certifications.³³

Current Federal Regulation

The National Pretreatment Program (program) implements Clean Water Act requirements to pretreat pollutants that are introduced into publicly owned treatment works (POTWs).³⁴ POTWs collect wastewater from homes, commercial buildings, and industrial facilities and transport it to treatment plants.³⁵ The program aims in part to prevent excess loadings of oil and grease, which have caused violations or operational problems at POTWs.³⁶ The program's general pretreatment regulations establish responsibilities among federal, state, and local government; industry; and the public, although responsibility rests mainly on local municipalities.³⁷ The regulations apply to all nondomestic sources that introduce pollutants into a POTW.³⁸

Water Quality Assurance Trust Fund

The WQATF is a broad-based fund for use in responding to incidents of contamination that pose a serious danger to the quality of groundwater and surface water resources or otherwise pose a serious danger to the public health, safety, or welfare.³⁹ Moneys in the fund may be used:

- For assessment, cleanup, restoration, monitoring, and maintenance of any site involving spills, discharges, or escapes of pollutants or hazardous substances which occur as a result of procedures taken by private and governmental entities involving the storage, transportation, and disposal of such products;
- For assessment, cleanup, restoration, monitoring, and maintenance of sites involving dry-cleaning products;
- For activities to expeditiously restore or replace potable water supplies;
- For response actions under the Comprehensive Environmental Response, Compensation, and Liability Act; and
- To restore or replace contaminated private potable water wells or water systems.⁴⁰

³¹ Section 403.754(6), F.S.

³² Section 403.767, F.S.

³³ *Id.*; Fla. Admin. Code R. 62.710.600.

³⁴ U.S. Environmental Protection Agency, *Introduction to the National Pretreatment Program*, 1-1 (June 2011), available at https://www.epa.gov/sites/default/files/2015-10/documents/pretreatment_program_intro_2011.pdf (last visited Jan. 21, 2022).

³⁵ *Id.*

³⁶ *Id.* at 1-4.

³⁷ *Id.* at 2-2, 2-4.

³⁸ *Id.* at 2-2.

³⁹ Section 376.307(1), F.S.

⁴⁰ *Id.*

III. Effect of Proposed Changes:

Section 1 creates s. 403.742, F.S., to regulate grease waste removal and disposal. The bill defines the following six terms as follows:

- “Disposal facility” means a permitted or certified waste management facility that is authorized to receive grease waste.
- “Graywater” means kitchen sink wastewater.
- “Grease interceptor or grease trap” means a receptacle through which wastewater containing fats, oils, or grease flows before entering a drainage system and which is designed to trap or intercept such materials while allowing clear water to escape. This term does not include receptacles designed specifically to collect used cooking oil or fats and bones.
- “Grease waste” means liquid or solid material composed primarily of fatty substances, oils, and grease from animal or vegetable sources which is retained in a grease interceptor or grease trap.
- “Hauler” means a person who removes and disposes of grease waste.
- “Originator” means a food service establishment that processes, prepares, or serves food or beverages for consumption by the public, including restaurants, commercial kitchens, cafeterias, hotels, school kitchens, hospitals, prisons, correctional facilities, and care institutions.
- “Service manifest” means an electronic or hard copy recordkeeping system used for the collection and disposal of grease waste.

The bill requires the service manifest to include an originator section, a hauler section, and a disposal facility section. The bill requires the service manifest to contain, at a minimum, all of the following information:

- The name, address, and telephone number of the originator, the hauler, and the disposal facility.
- The condition of the originator’s grease interceptor or grease trap and verification that the grease interceptor or grease trap was cleaned by the hauler and that graywater was not returned to the grease interceptor or grease trap.
- The amount of grease waste removed from the originator’s grease interceptor or grease trap.
- The amount of grease waste disposed of at the disposal facility.
- The billing receipt or ticket number provided to the hauler by the disposal facility.

With respect to the disposal of grease waste, the bill requires a hauler who removes grease waste from a grease interceptor or grease trap to dispose of it at a disposal facility. The hauler may not return grease waste or graywater to a grease interceptor or grease trap or dispose of grease waste in any location other than a grease facility.

The bill requires a hauler to document the removal and disposal of grease waste with a service manifest. The originator and the hauler must sign the service manifest upon completion of grease waste removal during the originator’s hours of operation to verify that the information contained in the service manifest is accurate. The hauler must provide a copy of the signed service manifest to the originator. The bill provides that if the grease waste removal occurs when the originator is closed or before or after the originator’s hours of operation, the hauler must sign the manifest, verifying that the information contained in it is accurate, and leave a signed copy on the premises

in a location designated by the originator or make the service manifest available to the originator electronically.

The bill requires that upon completion of grease waste disposal, the disposal facility operator and the hauler must sign the service manifest, verifying that the information contained in it is accurate. The hauler must provide the originator and the county and municipality in which the originator is located with a copy of the completed service manifest showing the signatures of the originator, if signed, the hauler, and the disposal facility operator within 30 days after the date of disposal. The bill requires a copy of the signed completed service manifest to be retained on site by the originator and the hauler for one year.

With respect to compliance inspections, the bill requires an inspecting entity to verify that an originator has a contract with a hauler for grease waste removal and that grease removal and disposal are documented properly. The bill also requires the DEP to periodically inspect the service manifests retained by a hauler to ensure compliance.

The bill provides that a hauler who violates these provisions will be subject to the following penalties:

- For each failure to provide or retain a service manifest, an administrative fine not to exceed \$100;
- For each failure to clean a grease interceptor or grease trap, an administrative fine not to exceed \$250. The DEP shall authorize an inspecting entity to impose this penalty as part of a grease interceptor or grease trap inspection;
- For an unlawful disposal of grease waste, an administrative fine of at least \$2,500;
- For a second or subsequent unlawful disposal of grease waste, an administrative fine of at least \$5,000;
- For an unlawful disposal of grease waste, the penalty must include a license suspension of at least 30 days; and
- For a second or subsequent unlawful disposal of grease waste, the penalty must include a license revocation of at least 12 months.

The bill provides that local governments:

- May receive copies of service manifests from haulers;
- Receive reports of violations;
- Collect and retain fines for service manifest violations; and
- Impose license actions.

This bill does not prohibit a local government from adopting or enforcing an ordinance or rule to regulate the removal and disposal of grease waste which is more strict or extensive than the regulations found in the bill.

The bill permits fiscally constrained counties and small counties to opt out of the bill's requirements.

The bill requires the DEP to adopt rules to implement the regulations in the bill.

Section 2 provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DEP may incur costs from regulating grease disposal, from periodic inspections and rulemaking.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 403.742 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 2, 2022:

The committee substitute:

- Defines “grease interceptor or grease trap” to mean “a receptacle through which wastewater containing fats, oils, or grease flows before entering a drainage system and which is designed to trap or intercept the fats, oils, or grease while allowing clear water to escape. The term does not include receptacles designed specifically for collecting used cooking oil or fats and bones.”
- Allows a hauler to give a signed copy of the service manifest to the originator electronically.
- Requires a hauler to provide a copy of the completed service manifest to the county and municipality in which an originator is located.
- Provides that local governments may receive copies of service manifests from haulers, receive reports of violation, collect and retain fines for service manifest violations, and impose license actions.
- Removes the requirement that fines collected pursuant to the penalties subsection must be deposited into the Water Quality Assurance Trust Fund.
- Allows fiscally constrained counties and small counties to opt out of the bill’s requirements.
- Retains all other provisions in the bill except as otherwise described.

B. Amendments:

None.