Florida Statutes
Chapter 403: Environmental Control
Part I Pollution Control

403.061 Department; powers and duties. ---

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

(1) Approve and promulgate current and long-range plans developed to provide for air and water quality control and pollution abatement.

(2) Hire only such employees as may be necessary to effectuate the responsibilities of the department.

(3) Utilize the facilities and personnel of other state agencies, including the Department of Health, and delegate to any such agency any duties and functions as the department may deem necessary to carry out the purposes of this act.

(4) Secure necessary scientific, technical, research, administrative, and operational services by interagency agreement, by contract, or otherwise. All state agencies, upon direction of the department, shall make these services and facilities available.

(5) Accept state appropriations and loans and grants from the Federal Government and from other sources, public or private, which loans and grants shall not be expended for other than the purposes of this act.

(6) Exercise general supervision of the administration and enforcement of the laws, rules, and regulations pertaining to air and water pollution.

(7) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act. Any rule adopted pursuant to this act shall be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. No county, municipality, or political subdivision shall adopt or enforce any local ordinance, special law, or local regulation requiring the installation of Stage II vapor recovery systems, as currently defined by department rule, unless such county, municipality, or political subdivision is or has been in the past designated by federal regulation as a moderate, serious, or severe ozone nonattainment area. Rules adopted pursuant to this act shall not require dischargers of waste into waters of the state to improve natural background conditions. Discharges from steam electric generating plants existing or licensed under this chapter on July 1, 1984, shall not be required to be treated to a greater extent than may be necessary to assure that the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the makeup waters; that the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or that the quality of noncooling system discharges which

receive makeup water from a receiving body of water which does not meet applicable department water quality standards is as high as the quality of the receiving body of water. The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.

(8) Issue such orders as are necessary to effectuate the control of air and water pollution and enforce the same by all appropriate administrative and judicial proceedings.

(9) Adopt a comprehensive program for the prevention, control, and abatement of pollution of the air and waters of the state, and from time to time review and modify such program as necessary.

(10) Develop a comprehensive program for the prevention, abatement, and control of the pollution of the waters of the state. In order to effect this purpose, a grouping of the waters into classes may be made in accordance with the present and future most beneficial uses. Such classifications may from time to time be altered or modified. However, before any such classification is made, or any modification made thereto, public hearings shall be held by the department.

(11) Establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and also standards for the abatement of excessive and unnecessary noise. The department is authorized to establish reasonable zones of mixing for discharges into waters.

(a) When a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam electric generating plant discharge of pollutants that is existing or licensed under this chapter on July 1, 1984, may nevertheless be granted a mixing zone, provided that:

1. The standard would not be met in the water body in the absence of the discharge;

2. The discharge is in compliance with all applicable technology-based effluent limitations;

3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

4. The discharge otherwise complies with the mixing zone provisions specified in department rules.

(b) No mixing zone for point source discharges shall be permitted in Outstanding Florida Waters except for:

1. Sources that have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;

2. Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act;

3. Discharges of water necessary for water management purposes which have been approved by the

governing board of a water management district and, if required by law, by the secretary; and

4. The discharge of demineralization concentrate which has been determined permittable under s. 403.0882 and which meets the specific provisions of s. 403.0882(4)(a) and (b), if the proposed discharge is clearly in the public interest.

(c) The department, by rule, shall establish water quality criteria for wetlands which criteria give appropriate recognition to the water quality of such wetlands in their natural state.
Nothing in this act shall be construed to invalidate any existing department rule relating to mixing zones.
The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).

(12)(a) Cause field studies to be made and samples to be taken out of the air and from the waters of the state periodically and in a logical geographic manner so as to determine the levels of air quality of the air and water quality of the waters of the state.

(b) Determine the source of the pollution whenever a study is made or a sample collected which proves to be below the air or water quality standard set for air or water.

(13) Require persons engaged in operations which may result in pollution to file reports which may contain information relating to locations, size of outlet, height of outlet, rate and period of emission, and composition and concentration of effluent and such other information as the department shall prescribe to be filed relative to pollution.

(14) Establish a permit system whereby a permit may be required for the operation, construction, or expansion of any installation that may be a source of air or water pollution and provide for the issuance and revocation of such permits and for the posting of an appropriate bond to operate.

(a) Notwithstanding any other provision of this chapter, the department may authorize, by rule, the Department of Transportation to perform any activity requiring a permit from the department covered by this chapter, upon certification by the Department of Transportation that it will meet all requirements imposed by statute, rule, or standard for environmental control and protection as such statute, rule, or standard applies to a governmental program. To this end, the department may accept such certification of compliance for programs of the Department of Transportation, may conduct investigations for compliance, and, if a violation is found to exist, may take all necessary enforcement action pertaining thereto, including, but not limited to, the revocation of certification. The authorization shall be by rule of the department, shall be limited to the maintenance, repair, or replacement of existing structures, and shall be conditioned upon compliance by the Department of Transportation with specific guidelines or requirements which are set forth in the formal acceptance and deemed necessary by the department to assure future compliance with this chapter and applicable department rules. The failure of the Department of Transportation to comply with any provision of the written acceptance shall constitute grounds for its revocation by the department.

(b) The provisions of chapter 120 shall be accorded any person when substantial interests will be affected by an activity proposed to be conducted by the Department of Transportation pursuant to its certification and the acceptance of the department. If a proceeding is conducted pursuant to ss. 120.569 and 120.57, the department may intervene as a party. Should an administrative law judge of the Division of Administrative Hearings of the Department of Management Services submit a recommended order pursuant to ss. 120.569 and 120.57, the department shall issue a final department order adopting, rejecting, or modifying the recommended order pursuant to such action.

(15) Consult with any person proposing to construct, install, or otherwise acquire a pollution control device or system concerning the efficacy of such device or system, or the pollution problem which may be related to the source, device, or system. Nothing in any such consultation shall be construed to relieve any person from compliance with this act, rules and regulations of the department, or any other provision of law.

(16) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this act.

(17) Encourage local units of government to handle pollution problems within their respective jurisdictions on a cooperative basis and provide technical and consultative assistance therefor.

(18) Encourage and conduct studies, investigations, and research relating to pollution and its causes, effects, prevention, abatement, and control.

(19) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this state and the several parts thereof and make recommendations to appropriate public and private bodies with respect thereto.

(20) Collect and disseminate information and conduct educational and training programs relating to pollution.

(21) Advise, consult, cooperate, and enter into agreements with other agencies of the state, the Federal Government, other states, interstate agencies, groups, political subdivisions, and industries affected by the provisions of this act, rules, or policies of the department. However, the secretary of the department shall not enter into any interstate agreement relating to the transport of ozone precursor pollutants, nor modify its rules based upon a recommendation from the Ozone Transport Assessment Group or any other such organization that is not an official subdivision of the United States Environmental Protection Agency but which studies issues related to the transport of ozone precursor pollutants, without prior review and specific legislative approval.

(22) Adopt, modify, and repeal rules governing the specifications, construction, and maintenance of industrial reservoirs, dams, and containers which store or retain industrial wastes of a deleterious nature.

(23) Adopt rules and regulations to ensure that no detergents are sold in Florida after December 31,

1972, which are reasonably found to have a harmful or deleterious effect on human health or on the environment. Any regulations adopted pursuant to this subsection shall apply statewide. Subsequent to the promulgation of such rules and regulations, no county, municipality, or other local political subdivision shall adopt or enforce any local ordinance, special law, or local regulation governing detergents which is less stringent than state law or regulation. Regulations, ordinances, or special acts adopted by a county or municipality governing detergents shall be subject to approval by the department, except that regulations, ordinances, or special acts adopted by any county or municipality with a local pollution control program approved pursuant to s. 403.182 shall be approved as an element of the local pollution control program.

(24)(a) Establish a permit system to provide for spoil site approval, as may be requested and required by local governmental agencies as defined in [1]s. 403.1822(3), or mosquito control districts as defined in s. 388.011(5), to facilitate these agencies in providing spoil sites for the deposit of spoil from maintenance dredging of navigation channels, port harbors, turning basins, and harbor berths, as part of a federal project, when the agency is acting as sponsor of a contemplated dredge and fill operation involving an established navigation channel, harbor, turning basin, or harbor berth. A spoil site approval granted to the agency shall be granted for a period of 10 to 25 years when such site is not inconsistent with an adopted local governmental comprehensive plan and the requirements of this chapter. The department shall periodically review each permit to determine compliance with the terms and conditions of the permit. Such review shall be conducted at least once every 10 years.

(b) This subsection applies only to those maintenance dredging operations permitted after July 1, 1980, where the United States Army Corps of Engineers is the prime dredge and fill agent and the local governmental agency is acting as sponsor for the operation, and does not require the redesignation of currently approved spoil sites under such previous operations.

(25) Establish and administer a program for the restoration and preservation of bodies of water within the state. The department shall have the power to acquire lands, to cooperate with other applicable state or local agencies to enhance existing public access to such bodies of water, and to adopt all rules necessary to accomplish this purpose.

(26)(a) Develop standards and criteria for waters used for deepwater shipping which standards and criteria consider existing water quality; appropriate mixing zones and other requirements for maintenance dredging in previously constructed deepwater navigation channels, port harbors, turning basins, or harbor berths; and appropriate mixing zones for disposal of spoil material from dredging and, where necessary, develop a separate classification for such waters. Such classification, standards, and criteria shall recognize that the present dedicated use of these waters is for deepwater commercial navigation.

(b) The provisions of paragraph (a) apply only to the port waters, spoil disposal sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Port Bartow, Florida Power Corporation’s Crystal

River Canal, Boca Grande, Green Cove Springs, and Pensacola.

(27) Establish rules which provide for a special category of water bodies within the state, to be referred to as "Outstanding Florida Waters," which water bodies shall be worthy of special protection because of their natural attributes. Nothing in this subsection shall affect any existing rule of the department.

(28) Perform any other act necessary to control and prohibit air and water pollution, and to delegate any of its responsibilities, authority, and powers, other than rulemaking powers, to any state agency now or hereinafter established.

(29) Adopt by rule special criteria to protect Class II and Class III shellfish harvesting waters. Such rules may include special criteria for approving docking facilities that have 10 or fewer slips if the construction and operation of such facilities will not result in the closure of shellfish waters.

(30) Establish requirements by rule that reasonably protect the public health and welfare from electric and magnetic fields associated with existing 230 kV or greater electrical transmission lines, new 230 kV and greater electrical transmission lines for which an application for certification under the Florida Electric Transmission Line Siting Act, ss. 403.52-403.5365, is not filed, new or existing electrical transmission or distribution lines with voltage less than 230 kV, and substation facilities. Notwithstanding any other provision in this chapter or any other law of this state or political subdivision thereof, the department shall have exclusive jurisdiction in the regulation of electric and magnetic fields associated with all electrical transmission and distribution lines and substation facilities. However, nothing herein shall be construed as superseding or repealing the provisions of s. 403.523(1) and (10).

(31) Adopt rules necessary to obtain approval from the United States Environmental Protection Agency to administer the Federal National Pollution Discharge Elimination System (NPDES) permitting program in Florida under ss. 318, 402, and 405 of the Federal Clean Water Act, Pub. L. No. 92-500, as amended. This authority shall be implemented consistent with the provisions of part II, which shall be applicable to facilities certified thereunder. The department shall establish all rules, standards, and requirements that regulate the discharge of pollutants into waters of the United States as defined by and in a manner consistent with federal regulations; provided, however, that the department may adopt a standard that is stricter or more stringent than one set by the United States Environmental Protection Agency if approved by the Governor and Cabinet in accordance with the procedures of s. 403.804(2).

(32) Coordinate the state's stormwater program.

(33) Establish and administer programs providing appropriate incentives that have the following goals, in order of importance:

(a) Preventing and reducing pollution at its source.

(b) Recycling contaminants that have the potential to pollute.

(c) Treating and neutralizing contaminants that are difficult to recycle.

(d) Disposing of contaminants only after other options have been used to the greatest extent practicable.

(34) Adopt rules which may include stricter permitting and enforcement provisions within Outstanding Florida Waters, aquatic preserves, areas of critical state concern, and areas subject to chapter 380 resource management plans adopted by rule by the Administration Commission, when the plans for an area include waters that are particularly identified as needing additional protection, which provisions are not inconsistent with the applicable rules adopted for the management of such areas by the department and the Governor and Cabinet.

(35) Exercise the duties, powers, and responsibilities required of the state under the federal Clean Air Act, 42 U.S.C. ss. 7401 et seq. The department shall implement the programs required under that act in conjunction with its other powers and duties. Nothing in this subsection shall be construed to repeal or supersede any of the department's existing rules.

(36) Establish statewide standards for persons engaged in determining visible air emissions and to require these persons to obtain training to meet such standards.

(37) Provide a supplemental permitting process for the issuance of a joint coastal permit pursuant to s. 161.055 or environmental resource permit pursuant to part IV of chapter 373, to a port listed in s. 311.09(1), for maintenance dredging and the management of dredged materials from maintenance dredging of all navigation channels, port harbors, turning basins, and harbor berths. Such permit shall be issued for a period of 5 years and shall be annually extended for an additional year if the port is in compliance with all permit conditions at the time of extension. The department is authorized to adopt rules to implement this subsection.

(38) Provide a supplemental permitting process for the issuance of a conceptual joint coastal permit pursuant to s. 161.055 or environmental resource permit pursuant to part IV of chapter 373, to a port listed in s. 311.09(1), for dredging and the management of materials from dredging and for other related activities necessary for development, including the expansion of navigation channels, port harbors, turning basins, harbor berths, and associated facilities. Such permit shall be issued for a period of up to 15 years. The department is authorized to adopt rules to implement this subsection.

(39) Enter into a memorandum of agreement with the Florida Inland Navigation District and the West Coast Inland Navigation District, or their successor agencies, to provide a supplemental process for issuance of joint coastal permits pursuant to s. 161.055 or environmental resource permits pursuant to part IV of chapter 373 for regional waterway management activities, including, but not limited to, maintenance dredging, spoil disposal, public recreation, inlet management, beach nourishment, and environmental protection directly related to public navigation and the construction, maintenance, and operation of Florida's inland waterways. The department is authorized to adopt rules to implement this subsection.

(40) Maintain a list of projects or activities, including mitigation banks, which applicants may consider when developing proposals in order to meet the mitigation or public interest requirements of this chapter, chapter 253, or chapter 373. The contents of such list are not a rule as defined in chapter 120, and listing a specific project or activity does not imply department approval for such project or activity. Each county government is encouraged to develop an inventory of projects or activities for inclusion on the list by obtaining input from local stakeholders in the public, private, and nonprofit sectors, including local governments, port authorities, marine contractors, other representatives of the marine construction industry, environmental or conservation organizations, and other interested parties. A county may establish dedicated trust funds for depositing public interest donations to be used for future public interest projects, including improving on-water law enforcement capabilities.

[2](41) Expand the use of online self-certification for appropriate exemptions and general permits issued by the department or the water management districts if such expansion is economically feasible. Notwithstanding any other provision of law, a local government may not specify the method or form for documenting that a project qualifies for an exemption or meets the requirements for a permit under chapter 161, chapter 253, chapter 373, or this chapter. This limitation of local government authority extends to Internet-based department programs that provide for self-certification.

(42) Serve as the state's single point of contact for performing the responsibilities described in Presidential Executive Order 12372, including administration and operation of the Florida State Clearinghouse. The Florida State Clearinghouse shall be responsible for coordinating interagency reviews of the following: federal activities and actions subject to the federal consistency requirements of s. 307 of the Coastal Zone Management Act; documents prepared pursuant to the National Environmental Policy Act, 42 U.S.C. ss. 4321 et seq., and the Outer Continental Shelf Lands Act, 43 U.S.C. ss. 1331 et seq.; applications for federal funding pursuant to s. 216.212; and other notices and information regarding federal activities in the state, as appropriate. The Florida State Clearinghouse shall ensure that state agency comments and recommendations on the environmental, social, and economic impact of proposed federal actions are communicated to federal agencies, applicants, local governments, and interested parties.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.
History.— s. 7, ch. 67-436; ss. 19, 26, 35, ch. 69-106; s. 1, ch. 71-35; s. 2, ch. 71-36; s. 3, ch. 72-39; s. 1, ch. 72-53; s. 113, ch. 73-333; s. 3, ch. 74-133; s. 1, ch. 77-21; s. 137, ch. 77-104; s. 268, ch. 77-147; s. 2, ch. 77-369; s. 14, ch. 78-95; s. 2, ch. 78-437; s. 73, ch. 79-65; s. 1, ch. 79-130; s. 96, ch. 79-164; s. 160, ch. 79-400; s. 1, ch. 80-66; ss. 2, 5, ch. 81-228; s. 5, ch. 82-27; s. 1, ch. 82-79; s. 2, ch. 82-80; s. 66, ch. 83-310; s. 5, ch. 84-79; s. 1, ch. 84-338; s. 1, ch. 85-296; s. 5, ch. 85-345; s. 5, ch. 86-173; s. 52, ch. 86-186; s. 22, ch. 88-393; s. 31, ch. 89-279; s. 54, ch. 90-331; s. 24, ch. 91-305; s. 23, ch. 92-203; s. 127, ch. 92-279; s. 55, ch. 92-326; s. 36, ch. 93-213; s. 5, ch. 94-311; s. 1, ch. 94-321; s. 356, ch. 94-356; s. 55, ch. 95-144; s. 144, ch. 96-320; s. 8, ch. 96-370; s. 129, ch. 96-410; s. 26, ch. 97-160; s. 100, ch. 98-

200; s. 3, ch. 98-326; s. 155, ch. 99-8; s. 2, ch. 2001-188; s. 1, ch. 2001-224; s. 8, ch. 2002-275; s. 68, ch. 2006-230; s. 42, ch. 2010-147; s. 4, ch. 2010-201; s. 2, ch. 2010-208.
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Note.— Repealed by s. 18, ch. 2001-270.
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Note.— As enacted by s. 42, ch. 2010-147. For a description of multiple acts in the same session affecting a statutory provision, see preface to the Florida Statutes, "Statutory Construction." Subsection (41) was also added by s. 2, ch. 2010-208, and that version reads:

403.0885 Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) Program. ---

(1) The Legislature finds and declares that it is in the public interest to promote effective and efficient regulation of the discharge of pollutants into waters of the state and eliminate duplication of permitting programs by the United States Environmental Protection Agency under s. 402 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and the department under this chapter. It is further found that state implementation of the federal NPDES program, with sufficient time for legislative revision prior to the implementation of the state NPDES permit program by the department, would promote the orderly establishment of a state-administered NPDES program. It is the specific intent of the Legislature that permit fees charged by the department for processing of federally approved NPDES permits be adequate to cover the entire cost to the department of program management, for reviewing and acting upon any permit application, and to cover the cost of surveillance and other field services of any permits issued pursuant to this section.
(2) The department is empowered to establish a state NPDES program in accordance with s. 402 of the Clean Water Act, as amended. The department shall have the power and authority to assume the NPDES permitting program from the United States Environmental Protection Agency and to implement the program, including the general permitting program under 40 C.F.R. s. 122.28 and the pretreatment program under 40 C.F.R. part 403, in accordance with s. 402(b) of the Clean Water Act, as amended, and 40 C.F.R. part 123. Variance, thermal variance, and provisions for relief from criteria set forth in the Clean Water Act, as amended, and corresponding United States Environmental Protection Agency regulations shall be part of the assumed NPDES permitting program. The department may not accept authorization to administer a state NPDES program for municipal stormwater for a period of 4 years following federal approval of the state NPDES program. The provisions governing upset and bypass conditions contained in 40 C.F.R. s. 122.41 shall apply to the state National Pollutant Discharge Elimination System Program. The state NPDES permit shall be the sole permit issued by the state under this chapter regulating the discharge of pollutants or wastes into surface waters within the state for discharges covered by the United States Environmental Protection Agency approved state NPDES program. This legislative authority is intended to be sufficient to enable the department to qualify for delegation of the federal NPDES program to the state and operate such program in accordance with federal law. Only that portion of the facility permit which authorizes a discharge pursuant to s. 402 of the Clean Water Act, as amended, shall be submitted to the United States Environmental Protection Agency for review under that section. To the extent other sections of this chapter apply and do not conflict with federal requirements, the application of such sections to discharges regulated under this

section is not prohibited.

(3) An application for an NPDES permit and other approvals from the state relating to the permitted activity shall be granted or denied by the department within the time allowed for permit review under 40 C.F.R. part 124, subpart A. Other than for stormwater discharge permitting, the decision on issuance or denial of such permit may not be delegated to another agency or governmental authority. The department is specifically exempted from the time limitations provided in ss. 120.60 and 403.0876; provided that upon timely application for renewal, a permit issued under this section shall not expire until the application has been finally acted upon or until the last day for seeking judicial review of the agency order or a later date fixed by order of the reviewing court. However, if the department fails to render a permitting decision within the time allowed by 40 C.F.R. part 124, subpart A, or a memorandum of agreement executed by the department and the United States Environmental Protection Agency, whichever is shorter, the applicant may apply for an order from the circuit court requiring the department to render a decision within a specified time.

(4) The department shall respond, in writing, to any written comments on a pending application for a state NPDES permit which the department receives from the executive director, or his or her designee, of the Fish and Wildlife Conservation Commission on matters within the commenting agency's jurisdiction. The department's response shall not constitute agency action for purposes of ss. 120.569 and 120.57 or other provisions of chapter 120.

(5) Certified aquaculture activities under s. 597.004 that have individual production units whose annual production and water discharge are less than the parameters established by the NPDES program are exempt from wastewater management regulations. For purposes herein, the term "individual production units" shall be determined by rule of the Department of Agriculture and Consumer Services.
History.— s. 23, ch. 88-393; s. 16, ch. 92-132; s. 76, ch. 93-213; s. 366, ch. 94-356; s. 132, ch. 96-410; s. 1007, ch. 97-103; s. 16, ch. 98-203; s. 22, ch. 98-333; s. 204, ch. 99-245.

403.111 Confidential records. ---

(1) Any information, other than effluent data and those records described in 42 U.S.C. s. 7661a(b)(8), relating to secret processes or secret methods of manufacture or production, or relating to costs of production, profits, or other financial information which is otherwise not public record, which may be required, ascertained, or discovered by inspection or investigation shall be exempt from the provisions of s. 119.07(1), shall not be disclosed in public hearings, and shall be kept confidential by any member, officer, or employee of the department, upon a showing satisfactory to the department that the information should be kept confidential. The person from whom the information is obtained must request that the department keep such information confidential and must inform the department of the basis for the claim of confidentiality. The department shall, subject to notice and opportunity for hearing, determine whether the information requested to be kept confidential should or should not be kept confidential. The department shall determine whether the information submitted should be kept confidential pursuant to the public purpose test as stated in [1]s. 119.14(4)(b)3.

(2) Nothing in this section shall be construed to prevent the use of such records in judicial or administrative proceedings when ordered to be produced by appropriate subpoena or by order of the court or an administrative law judge. No such subpoena or order of the court or administrative law judge shall abridge or alter the rights or remedies of persons affected in the protection of trade secrets or secret processes, in the manner provided by law, and such persons affected may take any and all steps available by law to protect such trade secrets or processes.

(3) Information submitted by or required of permit applicants or permittees pursuant to s. 403.0885 is not subject to the provisions of this section but is subject to the provisions of 40 C.F.R. s. 122.7.
History.— s. 12, ch. 67-436; ss. 26, 35, ch. 69-106; s. 6, ch. 74-133; s. 1, ch. 90-74; s. 5, ch. 93-94; s. 77, ch. 93-213; s. 239, ch. 96-406; s. 133, ch. 96-410.
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Note.— Repealed by s. 1, ch. 95-217

403.161 Prohibitions, violation, penalty, intent. ---

1) It shall be a violation of this chapter, and it shall be prohibited for any person:

(a) To cause pollution, except as otherwise provided in this chapter, so as to harm or injure human health or welfare, animal, plant, or aquatic life or property.

(b) To fail to obtain any permit required by this chapter 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 department pursuant to its lawful authority.

(c) To knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this chapter or by any permit, rule, regulation, or order issued under this chapter.

(d) For any person who owns or operates a facility to fail to report to the representative of the department, as established by department rule, within one working day of discovery of a release of hazardous substances from the facility if the owner or operator is required to report the release to the United States Environmental Protection Agency in accordance with 42 U.S.C. s. 9603.

(2) Whoever commits a violation specified in subsection (1) is liable to the state for any damage caused and for civil penalties as provided in s. 403.141.

(3) Any person who willfully commits a violation specified in paragraph (1)(a) is guilty of a felony of the third degree punishable as provided in ss. 775.082(3)(d) and 775.083(1)(g) by a fine of not more than $50,000 or by imprisonment for 5 years, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.

(4) Any person who commits a violation specified in paragraph (1)(a) due to reckless indifference or gross careless disregard is guilty of a misdemeanor of the second degree, punishable as provided in ss. 775.082(4)(b) and 775.083(1)(g) by a fine of not more than $5,000 or by 60 days in jail, or by both, for each offense.

(5) Any person who willfully commits a violation specified in paragraph (1)(b) or paragraph (1)(c) is guilty of a misdemeanor of the first degree punishable as provided in ss. 775.082(4)(a) and 775.083(1)(g) by a fine of not more than $10,000 or by 6 months in jail, or by both for each offense.

(6) It is the legislative intent that the civil penalties and criminal fines imposed by the court be of such amount as to ensure immediate and continued compliance with this section.

History.— s. 17, ch. 67-436; ss. 26, 35, ch. 69-106; s. 1, ch. 70-356; s. 1, ch. 70-439; s. 4, ch. 72-286; s. 8, ch. 74-133; s. 139, ch. 77-104; s. 1, ch. 77-174; s. 21, ch. 88-393; s. 2, ch. 89-143; s. 8, ch. 89-324.

403.815 Public notice; waiver of hearings. ---

The department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of application for a permit submitted under this chapter or chapter 253. The notice of application shall be published within 14 days after the application is filed with the department. Notwithstanding any provision of s. 120.60, the department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of proposed agency action on any permit application submitted under this chapter or chapter 253. The department shall require the applicant for a permit to construct or expand a solid waste facility to publish such notice. The notice of proposed agency action shall be published at least 14 days prior to final agency action. The 90-day time period specified in s. 120.60 shall be tolled by the request of the department for publication of notice of proposed agency action and shall resume 14 days after receipt by the department of proof of publication. However, if a petition is filed for a proceeding pursuant to ss. 120.569 and 120.57, the time periods and tolling provisions of s. 120.60 shall apply. The cost of publication of notice under this section shall be paid by the applicant. The secretary may, by rule, specify the format and size of such notice. Within 14 days after publication of notice of proposed agency action, any person whose substantial interests are affected may request a hearing in accordance with ss. 120.569 and 120.57. The failure to request a hearing within 14 days after publication of notice of proposed agency action constitutes a waiver of any right to a hearing on the application under ss. 120.569 and 120.57.

History.— s. 10, ch. 80-66; s. 13, ch. 82-27; s. 44, ch. 84-338; s. 48, ch. 87-225; s. 169, ch. 96-410.