

# Civil Penalties - Environmental Disaster Offenses

Statute	Description
<b>Sections 376.011 – 376.21, F.S. - Pollutant Discharge Prevention and Control Act - Coastal Waters</b>	
Section 376.065, F.S.	Requires every owner or operator of a terminal facility to obtain a discharge prevention and response certificate from DEP. Requires applicants for such certificates to provide DEP certain information. Persons who violate the section commit a noncriminal infraction punishable by a \$500 civil penalty.*
Section 376.07, F.S.	Requires terminal facilities transferring heavy oil to or from a vessel with a specified storage capacity to adequately boom or seal off the transfer area during a transfer. Owners and operators of terminal facilities who fail to do so commit a noncriminal infraction punishable by a \$2,500 civil penalty. If the owner or operator elects to appear before the county court and the court determines that the owner or operator failed to deploy any boom equipment during a transfer, the civil penalty shall be \$5,000.*
Section 376.071, F.S.	Requires vessels operating in state waters with a storage capacity to carry 10,000 gallons or more of pollutants as fuel or cargo to maintain an adequate written ship-specific discharge prevention and control contingency plan. Also requires such vessels to have on board a "discharge officer" responsible for training crew members on the plan. Masters of vessels who violate this section commit a noncriminal infraction punishable by a \$5,000 civil penalty.*
Section 376.16, F.S.	<p>Sections 376.041, F.S., prohibits the discharge of pollutants into or upon any coastal waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast of the state. Section 376.15, F.S., prohibits any person, firm, or corporation from storing, leaving, or abandoning any derelict vessel in this state.</p> <p>Section 376.16(1), F.S., specifies that it is unlawful for any person to violate any provisions of ss. 376.011 - 376.21, F.S., or any DEP rule or order made pursuant to the act. Violations are punishable by a civil penalty of up to \$50,000 per violation per day to be assessed by DEP. Each day during any portion of which a violation occurs constitutes a separate offense.</p> <p>Subsections (2) and (3) provide that in addition to the penalties provided for in subsection (1), a person responsible for two or more discharges of any pollutant within a 12-month period at the same facility commits a noncriminal infraction punishable as follows:</p> <p>For discharges of gasoline or diesel over 5 gallons, the civil penalty for the 2<sup>nd</sup> discharge is \$500, and the civil penalty for any subsequent discharges is \$1,000. For discharges of gasoline or diesel equal to or less than 5 gallons, the civil penalty for the 2<sup>nd</sup> and subsequent discharges is \$50. Where a person elects to appear before the county court to determine whether an infraction occurred, the above caps are waived and the court may impose a civil penalty of up to \$500 for a 2<sup>nd</sup> discharge, and up to \$1,000 for subsequent discharges.</p> <p>For discharges of pollutants other than gasoline or diesel over 5 gallons, the civil penalty for the 2<sup>nd</sup> discharge is \$2,500, and the civil penalty for any subsequent discharges is \$5,000. For discharges of pollutants other than gasoline or diesel equal to or less than 5 gallons, the civil penalty for the 2<sup>nd</sup> and subsequent discharges is \$100. Where a person elects to appear before the county court to determine whether an infraction occurred, the above caps are waived and the court may impose a civil penalty of up to \$5,000 for a 2<sup>nd</sup> discharge, and up to \$10,000 for subsequent discharges.*</p>

\* Persons cited for infractions under these sections may also be charged with criminal penalties (2nd degree misdemeanors) if they refuse to pay the civil penalty, post a bond, or sign and accept a citation promising to appear before the court.

<b>Sections 376.30 - 376.317, F.S. – Surface and Ground Water</b>	
Section 376.302, F.S.	Provides that it is a violation to discharge pollutants or hazardous substances into or upon the surface or ground waters which violates DEP standards; fail to obtain any permit or registration required by this chapter or DEP rule, or to violate or fail to comply with any statute, rule, order, permit, registration, or certification adopted or issued by DEP; and 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. A person who commits a violation is liable for civil penalties as provided in s. 403.141, F.S., (\$10,000 per offense - each day during any portion of which such violation occurs constitutes a separate offense),
<b>Chapter 377, F.S. - Oil and Gas</b>	
Section 377.37, F.S.	Chapter 377, F.S., contains provisions regulating oil and gas. It sets forth notification requirements, requires permits, prohibits persons drilling for oil, gas or other petroleum products from polluting, and provides reporting requirements.  Any person who violates any provision of this law or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1), or any lessee, permit holder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products who refuses inspection by the division as provided in this chapter, is subject to the judicial imposition of a civil penalty in an amount of not more than \$10,000 for each offense. Each day during any portion of which such violation occurs is a separate offense.
<b>Sections 403.011 - 403.44, F.S. - Florida Air and Water Pollution Control Act</b>	
Section 403.087, F.S.	A stationary installation that is reasonably expected to be a source of air or water pollution must not be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by DEP. DEP may revoke any permit issued by it if it finds that the permit holder submitted false or inaccurate information on his or her application; violated law, DEP orders, rules, or regulations, or permit conditions; failed to submit operational reports or other information required by DEP rule or regulation; or refused lawful inspection.
Section 403.121, F.S.	Provides judicial and administrative remedies for violations specified in s. 403.161(1), F.S. (see below).  Subsection (2) provides that DEP may institute a civil action to impose and recover a civil penalty for each violation in an amount not more than \$10,000 per offense. Each day during any portion of which such violation occurs constitutes a separate offense.  Subsection (3) provides that DEP may institute an administrative proceeding to impose and recover the following administrative penalties: <ul style="list-style-type: none"> <li>(a) For a drinking water contamination violation, DEP shall assess a penalty of \$2,000 for a Maximum Containment Level (MCL) violation; plus \$1,000 if the violation is for a primary inorganic, organic, or radiological MCL or it is a fecal coliform bacteria violation; plus \$1,000 if the violation occurs at a community water system; and plus \$1,000 if any MCL is exceeded by more than 100 percent. For failure to obtain a clearance letter prior to placing a drinking water system into service when the system would not have been eligible for clearance, DEP shall assess a penalty of \$3,000.</li> <li>(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, DEP shall assess a penalty of \$1,000. For a domestic or industrial wastewater violation not involving a surface water or groundwater quality violation, DEP shall assess a penalty of \$2,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surface water or groundwater quality violation, DEP shall assess a penalty of \$5,000.</li> </ul>

- (c) For a dredge and fill or stormwater violation, DEP shall assess a penalty of \$1,000 for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system plus \$2,000 if the dredging or filling occurs in an aquatic preserve, Outstanding Florida Water, conservation easement, or Class I or Class II surface water, plus \$1,000 if the area dredged or filled is greater than one-quarter acre but less than or equal to one-half acre, and plus \$1,000 if the area dredged or filled is greater than one-half acre but less than or equal to one acre. The administrative penalty schedule shall not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. DEP retains the authority to seek the judicial imposition of civil penalties for all dredge and fill violations involving more than one acre. DEP shall assess a penalty of \$3,000 for the failure to complete required mitigation, failure to record a required conservation easement, or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than 5 acres, DEP shall assess a penalty of \$2,000 for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, DEP shall assess a penalty of \$5,000 per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling.
- (e) For solid waste violations, DEP shall assess a penalty of \$2,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus \$1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus \$1,000 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 \$1,000 if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. DEP shall assess a penalty of \$3,000 for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; failure to provide access control for three consecutive inspections. DEP shall assess a penalty of \$2,000 for failure to construct or maintain a required stormwater management system.
- (f) For an air emission violation, DEP shall assess a penalty of \$1,000 for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, plus \$1,000 if the emission results in an air quality violation, plus \$3,000 if the emission was from a major source and the source was major for the pollutant in violation; plus \$1,000 if the emission was more than 150 percent of the allowable level.
- (g) For storage tank system and petroleum contamination violations, DEP shall assess a penalty of \$5,000 for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. DEP shall assess a penalty of \$3,000 for failure to timely upgrade a storage tank system. DEP shall assess a penalty of \$2,000 for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. DEP shall assess a penalty of \$1,000 for failure to properly operate, maintain, or close a storage tank system.

Subsection (4) sets forth the following additional administrative penalties that DEP must assess:

- (a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), F.S., \$5,000.
- (b) For failure to install, maintain, or use a required pollution control system or device, \$4,000.
- (c) For failure to obtain a required permit before construction or modification, \$3,000.
- (d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, \$2,000.
- (e) For failure to maintain required staff to respond to emergencies, for failure to conduct required training, failure to prepare, maintain, or update required contingency plans, failure to adequately respond to emergencies to bring an emergency situation

	<p>under control, or failure to submit required notification to the department, \$1,000.</p> <p>(f) Except as provided in subsection (2) with respect to public water systems serving a population of more than 10,000, for failure to prepare, submit, maintain, or use required reports or other required documentation, \$500.</p> <p>Subsection (5) provides that DEP may assess a \$500 penalty for failure to comply with any other DEP regulatory statute or rule requirement not otherwise identified in s. 403.121, F.S.</p> <p>Subsection (6) specifies that for each additional day during which a violation occurs, the administrative penalties in subsections (3), (4), and (5) may be assessed per day per violation.</p> <p>Subsection (7) provides enhanced administrative penalties if the violator has a history of noncompliance.</p>
Section 403.141, F.S.	<p>Provides that a person who commits any violation of s. 403.161(1), F.S., (see below) is subject to the judicial imposition of a civil penalty for each offense in an amount of not more than \$10,000 per offense. Each day during any portion of which such violation occurs constitutes a separate offense.</p>
Section 403.161, F.S. Causing Pollution	<p>Subsection (1) provides that it is a violation for any person:</p> <ul style="list-style-type: none"> <li>(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.</li> <li>(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.</li> <li>(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.</li> <li>(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.</li> </ul> <p>Whoever violates subsection (1) is liable to the state for any damage caused and for civil penalties as provided in s. 403.141.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
Section 403.401, F.S.	<p>Specifies that any license may be revoked or suspended if DEP finds that the licensee has failed or refused to comply with any of the provisions of this act.</p>

<p>Section 403.413, F.S. Florida's Litter Law</p>	<p>(4) Unless otherwise authorized by law or permit, it is unlawful for any person to dump litter in any manner or amount:</p> <ul style="list-style-type: none"><li>(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;</li><li>(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</li><li>(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.</li></ul> <p>(6) Penalties</p> <ul style="list-style-type: none"><li>(a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes is guilty of a noncriminal infraction, punishable by a civil penalty of \$100. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.</li></ul>
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