

1 A bill to be entitled
2 An act relating to environmental regulation; amending s.
3 120.569, F.S.; providing that a nonapplicant who petitions
4 to challenge an agency's issuance of a license, permit, or
5 conceptual approval in certain circumstances has the
6 burden of ultimate persuasion and the burden of going
7 forward with evidence; amending s. 125.022, F.S.;
8 prohibiting a county from requiring an applicant to obtain
9 a permit or approval from another state or federal agency
10 as a condition of processing a development permit under
11 certain conditions; authorizing a county to attach certain
12 disclaimers to the issuance of a development permit;
13 creating s. 161.032, F.S.; requiring that the Department
14 of Environmental Protection review an application for
15 certain permits under the Beach and Shore Preservation Act
16 and request additional information within a specified
17 time; requiring that the department proceed to process the
18 application if the applicant believes that a request for
19 additional information is not authorized by law or rule;
20 extending the period for an applicant to timely submit
21 additional information, notwithstanding certain provisions
22 of the Administrative Procedure Act; authorizing the
23 department to issue such permits in advance of the
24 issuance of certain permits as provided for in the
25 Endangered Species Act under certain conditions; amending
26 s. 161.041, F.S.; specifying that s. 403.0874, F.S.,
27 authorizing expedited permitting, applies to provisions
28 governing coastal construction; prohibiting the Department

29 of Environmental Protection from requiring certain
30 sediment quality specifications or turbidity standards as
31 a permit condition; providing legislative intent with
32 respect to permitting for beach renourishment projects;
33 directing the department to amend specified rules relating
34 to permitting for such projects; amending s. 163.3180,
35 F.S.; providing an exemption to the level-of-service
36 standards adopted under the Strategic Intermodal System
37 for certain inland multimodal facilities; specifying
38 project criteria; amending s. 166.033, F.S.; prohibiting a
39 municipality from requiring an applicant to obtain a
40 permit or approval from another state or federal agency as
41 a condition of processing a development permit under
42 certain conditions; authorizing a county to attach certain
43 disclaimers to the issuance of a development permit;
44 amending s. 218.075, F.S.; providing for the reduction or
45 waiver of permit processing fees relating to projects that
46 serve a public purpose for certain entities created by
47 special act, local ordinance, or interlocal agreement;
48 amending s. 258.397, F.S.; providing an exemption from a
49 showing of extreme hardship relating to the sale,
50 transfer, or lease of sovereignty submerged lands in the
51 Biscayne Bay Aquatic Preserve for certain municipal
52 applicants; providing for additional dredging and filling
53 activities in the preserve; amending s. 373.026, F.S.;
54 requiring the Department of Environmental Protection to
55 expand its use of Internet-based self-certification
56 services for exemptions and permits issued by the

57 department and water management districts; amending s.
58 373.413, F.S.; specifying that s. 403.0874, F.S.,
59 authorizing expedited permitting, applies to provisions
60 governing surface water management and storage; amending
61 s. 373.4135, F.S.; conforming a cross-reference; amending
62 s. 373.4136, F.S.; clarifying the use of the uniform
63 mitigation assessment method for mitigation credits for
64 the establishment and operation of mitigation banks;
65 amending s. 373.4137, F.S.; revising legislative findings
66 with respect to the options for mitigation relating to
67 transportation projects; revising certain requirements for
68 determining the habitat impacts of transportation
69 projects; requiring water management districts to purchase
70 credits from public or private mitigation banks under
71 certain conditions; providing for the release of certain
72 mitigation funds held for the benefit of a water
73 management district if a project is excluded from a
74 mitigation plan; requiring water management districts to
75 use private mitigation banks in developing plans for
76 complying with mitigation requirements; providing an
77 exception; revising the procedure for excluding a project
78 from a mitigation plan; amending s. 373.414, F.S.;
79 revising provisions for the uniform mitigation assessment
80 method rule for wetlands and other surface waters;
81 providing requirements for the interpretation and
82 application of the uniform mitigation assessment method
83 rule; providing an exception; defining the terms
84 "preservation mitigation" and "without preservation" for

85 | the purposes of certain assessments pursuant to the rule;
86 | providing for reassessment of mitigation banks under
87 | certain conditions; amending s. 373.4141, F.S.; providing
88 | a limitation for the request of additional information
89 | from an applicant by the department; providing that
90 | failure of an applicant to respond to such a request
91 | within a specified time period constitutes withdrawal of
92 | the application; reducing the time within which a permit
93 | must be approved, denied, or subject to notice of proposed
94 | agency action; prohibiting a state agency or an agency of
95 | the state from requiring additional permits or approval
96 | from a local, state, or federal agency without explicit
97 | authority; amending s. 373.4144, F.S.; providing
98 | legislative intent with respect to the coordination of
99 | regulatory duties among specified state and federal
100 | agencies; requiring that the department report annually to
101 | the Legislature on efforts to expand the state
102 | programmatic general permit or regional general permits;
103 | providing for a voluntary state programmatic general
104 | permit for certain dredge and fill activities; amending s.
105 | 373.41492, F.S.; authorizing the use of proceeds from the
106 | water treatment plant upgrade fee to pay for specified
107 | mitigation projects; requiring proceeds from the water
108 | treatment plant upgrade fee to be transferred by the
109 | Department of Revenue to the South Florida Water
110 | Management District and deposited into the Lake Belt
111 | Mitigation Trust Fund for a specified period of time;
112 | providing, after that period, for the proceeds of the

113 water treatment plant upgrade fee to return to being
114 transferred by the Department of Revenue to a trust fund
115 established by Miami-Dade County for specified purposes;
116 conforming a term; amending s. 373.441, F.S.; requiring
117 that certain counties or municipalities apply by a
118 specified date to the department or water management
119 district for authority to require certain permits;
120 providing that following such delegation, the department
121 or district may not regulate activities that are subject
122 to the delegation; clarifying the authority of local
123 governments to adopt pollution control programs under
124 certain conditions; amending s. 376.3071, F.S.; exempting
125 program deductibles, copayments, and certain assessment
126 report requirements from expenditures under the low-scored
127 site initiative; amending s. 376.30715, F.S.; providing
128 that the transfer of a contaminated site from an owner to
129 a child of the owner or corporate entity does not
130 disqualify the site from the innocent victim petroleum
131 storage system restoration financial assistance program;
132 authorizing certain applicants to reapply for financial
133 assistance; creating s. 378.413, F.S.; providing
134 legislative intent with respect to preemption of
135 environmental regulation for construction aggregate
136 materials mining; limiting the authority of counties to
137 adopt to specified ordinances and rules; providing an
138 exemption; amending s. 380.06, F.S.; exempting a proposed
139 solid mineral mine or a proposed addition or expansion of
140 an existing solid mineral mine from provisions governing

141 developments of regional impact; providing certain
142 exceptions; clarifying the applicability of local
143 government regulations with respect to such mining
144 activities; requiring solid mineral mines that meet
145 specified criteria to enter into binding agreements with
146 the Department of Transportation to mitigate impacts to
147 Strategic Intermodal System facilities; amending s.
148 380.0657, F.S.; authorizing expedited permitting for
149 certain inland multimodal facilities that individually or
150 collectively will create a minimum number of jobs;
151 amending s. 403.061, F.S.; requiring the Department of
152 Environmental Protection to establish reasonable zones of
153 mixing for discharges into specified waters; providing
154 that exceedance of certain groundwater standards does not
155 create liability for site cleanup; providing that
156 exceedance of soil cleanup target levels is not a basis
157 for enforcement or cleanup; amending s. 403.087, F.S.;
158 revising conditions under which the department is
159 authorized to revoke environmental resource permits;
160 creating s. 403.0874, F.S.; providing a short title;
161 providing legislative findings and intent with respect to
162 the consideration of the compliance history of a permit
163 applicant; providing for applicability; specifying the
164 period of compliance history to be considered is issuing
165 or renewing a permit; providing criteria to be considered
166 by the Department of Environmental Protection; authorizing
167 expedited review of permit issuance, renewal,
168 modification, and transfer; providing for a reduced number

169 of inspections; providing for extended permit duration;
170 authorizing the department to make additional incentives
171 available under certain circumstances; providing for
172 automatic permit renewal and reduced or waived fees under
173 certain circumstances; authorizing the department to adopt
174 additional incentives by rule; providing that such rules
175 are binding on a water management district or local
176 government that has been delegated certain regulatory
177 duties; limiting applicability; amending s. 403.1838,
178 F.S.; revising the definition of the term "financially
179 disadvantaged small community" for the purposes of the
180 Small Community Sewer Construction Assistance Act;
181 amending s. 403.7045, F.S.; providing conditions under
182 which sludge from an industrial waste treatment works is
183 not solid waste; amending s. 403.707, F.S.; exempting the
184 disposal of solid waste monitored by certain groundwater
185 monitoring plans from specific authorization; extending
186 the duration of all permits issued to solid waste
187 management facilities that meet specified criteria;
188 providing an exception; providing for prorated permit
189 fees; providing applicability; amending s. 403.814, F.S.;
190 providing for issuance of general permits for the
191 construction, alteration, and maintenance of certain
192 surface water management systems without the action of the
193 department or a water management district; specifying
194 conditions for the general permits; amending s. 403.853,
195 F.S.; providing for the Department of Health, or a local
196 county health department designated by the department, to

197 perform sanitary surveys for a transient noncommunity
 198 water system using groundwater as a source of supply and
 199 serving religious institutions or businesses; amending s.
 200 403.973, F.S.; authorizing expedited permitting for
 201 certain commercial or industrial development projects that
 202 individually or collectively will create a minimum number
 203 of jobs; providing for a project-specific memorandum of
 204 agreement to apply to a project subject to expedited
 205 permitting; clarifying the authority of the Department of
 206 Environmental Protection to enter final orders for the
 207 issuance of certain licenses; revising criteria for the
 208 review of certain sites; amending s. 526.203, F.S.;
 209 authorizing the sale of unblended fuels for certain uses;
 210 revising the deadline for completion of the installation
 211 of fuel tank upgrades to secondary containment systems for
 212 specified properties; providing an effective date.

213

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

215

216 Section 1. Paragraph (p) is added to subsection (2) of
 217 section 120.569, Florida Statutes, to read:

218 120.569 Decisions which affect substantial interests.—

219 (2)

220 (p) For any proceeding arising under chapter 373, chapter
 221 378, or chapter 403, if a nonapplicant petitions as a third
 222 party to challenge an agency's issuance of a license, permit, or
 223 conceptual approval, the order of presentation in the proceeding
 224 shall be for the permit applicant to present a prima facie case

225 demonstrating entitlement to the license, permit, or conceptual
 226 approval, followed by the agency. This demonstration may be made
 227 by entering into evidence the application and relevant material
 228 submitted to the agency in support of the application, and the
 229 agency's staff report or notice of intent to approve the permit,
 230 license, or conceptual approval. Subsequent to the presentation
 231 of the applicant's prima facie case and any direct evidence
 232 submitted by the agency, the petitioner initiating the action
 233 challenging the issuance of the license, permit, or conceptual
 234 approval has the burden of ultimate persuasion and has the
 235 burden of going forward to prove the case in opposition to the
 236 license, permit, or conceptual approval through the presentation
 237 of competent and substantial evidence. The permit applicant and
 238 agency may on rebuttal present any evidence relevant to
 239 demonstrating that the application meets the conditions for
 240 issuance. Notwithstanding subsection (1), this paragraph applies
 241 to proceedings under s. 120.574.

242 Section 2. Section 125.022, Florida Statutes, is amended
 243 to read:

244 125.022 Development permits.—When a county denies an
 245 application for a development permit, the county shall give
 246 written notice to the applicant. The notice must include a
 247 citation to the applicable portions of an ordinance, rule,
 248 statute, or other legal authority for the denial of the permit.
 249 As used in this section, the term "development permit" has the
 250 same meaning as in s. 163.3164. A county may not require as a
 251 condition of processing a development permit that an applicant
 252 obtain a permit or approval from any other state or federal

253 agency unless the agency has issued a notice of intent to deny
254 the federal or state permit before the county action on the
255 local development permit. Issuance of a development permit by a
256 county does not in any way create any rights on the part of the
257 applicant to obtain a permit from another state or federal
258 agency and does not create any liability on the part of the
259 county for issuance of the permit if the applicant fails to
260 fulfill its legal obligations to obtain requisite approvals or
261 fulfill the obligations imposed by another state or a federal
262 agency. A county may attach such a disclaimer to the issuance of
263 a development permit, and may include a permit condition that
264 all other applicable state or federal permits be obtained before
265 commencement of the development. This section does not prohibit
266 a county from providing information to an applicant regarding
267 what other state or federal permits may apply.

268 Section 3. Section 161.032, Florida Statutes, is created
269 to read:

270 161.032 Application review; request for additional
271 information.—

272 (1) Within 30 days after receipt of an application for a
273 permit under this part, the department shall review the
274 application and shall request submission of any additional
275 information the department is permitted by law to require. If
276 the applicant believes that a request for additional information
277 is not authorized by law or rule, the applicant may request a
278 hearing pursuant to s. 120.57. Within 30 days after receipt of
279 such additional information, the department shall review such
280 additional information and may request only that information

281 needed to clarify such additional information or to answer new
282 questions raised by or directly related to such additional
283 information. If the applicant believes that the request for such
284 additional information by the department is not authorized by
285 law or rule, the department, at the applicant's request, shall
286 proceed to process the permit application.

287 (2) Notwithstanding s. 120.60, an applicant for a permit
288 under this part has 90 days after the date of a timely request
289 for additional information to submit such information. If an
290 applicant requires more than 90 days in order to respond to a
291 request for additional information, the applicant must notify
292 the agency processing the permit application in writing of the
293 circumstances, at which time the application shall be held in
294 active status for no more than one additional period of up to 90
295 days. Additional extensions may be granted for good cause shown
296 by the applicant. A showing that the applicant is making a
297 diligent effort to obtain the requested additional information
298 constitutes good cause. Failure of an applicant to provide the
299 timely requested information by the applicable deadline shall
300 result in denial of the application without prejudice.

301 (3) Notwithstanding any other provision of law, the
302 department is authorized to issue permits pursuant to this part
303 in advance of the issuance of any incidental take authorization
304 as provided for in the Endangered Species Act and its
305 implementing regulations if the permits and authorizations
306 include a condition requiring that authorized activities shall
307 not begin until such incidental take authorization is issued.

308 Section 4. Subsections (5), (6), and (7) are added to

309 section 161.041, Florida Statutes, to read:

310 161.041 Permits required.—

311 (5) The provisions of s. 403.0874, relating to the
 312 incentive-based permitting program, apply to all permits issued
 313 under this chapter.

314 (6) The department may not require as a permit condition
 315 sediment quality specifications or turbidity standards more
 316 stringent than those provided for in this chapter, chapter 373,
 317 or the Florida Administrative Code. The department may not issue
 318 guidelines that are enforceable as standards without going
 319 through the rulemaking process pursuant to chapter 120.

320 (7) As an incentive for permit applicants, it is the
 321 Legislature's intent to simplify the permitting for periodic
 322 maintenance of beach renourishment projects previously permitted
 323 and restored under the joint coastal permit process pursuant to
 324 this section or part IV of chapter 373. The department shall
 325 amend chapters 62B-41 and 62B-49 of the Florida Administrative
 326 Code to streamline the permitting process, as necessary, for
 327 periodic maintenance projects.

328 Section 5. Subsection (10) of section 163.3180, Florida
 329 Statutes, is amended to read:

330 163.3180 Concurrency.—

331 (10)(a) Except in transportation concurrency exception
 332 areas, with regard to roadway facilities on the Strategic
 333 Intermodal System designated in accordance with s. 339.63, local
 334 governments shall adopt the level-of-service standard
 335 established by the Department of Transportation by rule.
 336 However, if the Office of Tourism, Trade, and Economic

337 Development concurs in writing with the local government that
338 the proposed development is for a qualified job creation project
339 under s. 288.0656 or s. 403.973, the affected local government,
340 after consulting with the Department of Transportation, may
341 provide for a waiver of transportation concurrency for the
342 project. For all other roads on the State Highway System, local
343 governments shall establish an adequate level-of-service
344 standard that need not be consistent with any level-of-service
345 standard established by the Department of Transportation. In
346 establishing adequate level-of-service standards for any
347 arterial roads, or collector roads as appropriate, which
348 traverse multiple jurisdictions, local governments shall
349 consider compatibility with the roadway facility's adopted
350 level-of-service standards in adjacent jurisdictions. Each local
351 government within a county shall use a professionally accepted
352 methodology for measuring impacts on transportation facilities
353 for the purposes of implementing its concurrency management
354 system. Counties are encouraged to coordinate with adjacent
355 counties, and local governments within a county are encouraged
356 to coordinate, for the purpose of using common methodologies for
357 measuring impacts on transportation facilities for the purpose
358 of implementing their concurrency management systems.

359 (b) There shall be a limited exemption from the Strategic
360 Intermodal System adopted level-of-service standards for new or
361 redevelopment projects consistent with the local comprehensive
362 plan as inland multimodal facilities receiving or sending cargo
363 for distribution and providing cargo storage, consolidation,
364 repackaging, and transfer of goods, and which may, if developed

365 as proposed, include other intermodal terminals, related
366 transportation facilities, warehousing and distribution
367 facilities, and associated office space, light industrial,
368 manufacturing, and assembly uses. The limited exemption applies
369 if the project meets all of the following criteria:

370 1. The project will not cause the adopted level-of-service
371 standards for the Strategic Intermodal System facilities to be
372 exceeded by more than 150 percent within the first 5 years of
373 the project's development.

374 2. The project, upon completion, would result in the
375 creation of at least 50 full-time jobs.

376 3. The project is compatible with existing and planned
377 adjacent land uses.

378 4. The project is consistent with local and regional
379 economic development goals or plans.

380 5. The project is proximate to regionally significant road
381 and rail transportation facilities.

382 6. The project is proximate to a community having an
383 unemployment rate, as of the date of the development order
384 application, which is 10 percent or more above the statewide
385 reported average.

386 7. The local government has a plan, developed in
387 consultation with the Department of Transportation, for
388 mitigating any impacts to the strategic intermodal system.

389 Section 6. Section 166.033, Florida Statutes, is amended
390 to read:

391 166.033 Development permits.—When a municipality denies an
392 application for a development permit, the municipality shall

393 give written notice to the applicant. The notice must include a
394 citation to the applicable portions of an ordinance, rule,
395 statute, or other legal authority for the denial of the permit.
396 As used in this section, the term "development permit" has the
397 same meaning as in s. 163.3164. A municipality may not require
398 as a condition of processing a development permit that an
399 applicant obtain a permit or approval from any other state or
400 federal agency unless the agency has issued a notice of intent
401 to deny the federal or state permit before the municipal action
402 on the local development permit. Issuance of a development
403 permit by a municipality does not in any way create any right on
404 the part of an applicant to obtain a permit from another state
405 or federal agency and does not create any liability on the part
406 of the municipality for issuance of the permit if the applicant
407 fails to fulfill its legal obligations to obtain requisite
408 approvals or fulfill the obligations imposed by another state or
409 federal agency. A municipality may attach such a disclaimer to
410 the issuance of development permits and may include a permit
411 condition that all other applicable state or federal permits be
412 obtained before commencement of the development. This section
413 does not prohibit a municipality from providing information to
414 an applicant regarding what other state or federal permits may
415 apply.

416 Section 7. Section 218.075, Florida Statutes, is amended
417 to read:

418 218.075 Reduction or waiver of permit processing fees.—
419 Notwithstanding any other provision of law, the Department of
420 Environmental Protection and the water management districts

421 shall reduce or waive permit processing fees for counties with a
 422 population of 50,000 or less on April 1, 1994, until such
 423 counties exceed a population of 75,000 and municipalities with a
 424 population of 25,000 or less, or for an entity created by
 425 special act, local ordinance, or interlocal agreement of such
 426 counties or municipalities, or for any county or municipality
 427 not included within a metropolitan statistical area. Fee
 428 reductions or waivers shall be approved on the basis of fiscal
 429 hardship or environmental need for a particular project or
 430 activity. The governing body must certify that the cost of the
 431 permit processing fee is a fiscal hardship due to one of the
 432 following factors:

- 433 (1) Per capita taxable value is less than the statewide
 434 average for the current fiscal year;
- 435 (2) Percentage of assessed property value that is exempt
 436 from ad valorem taxation is higher than the statewide average
 437 for the current fiscal year;
- 438 (3) Any condition specified in s. 218.503(1) which results
 439 in the county or municipality being in a state of financial
 440 emergency;
- 441 (4) Ad valorem operating millage rate for the current
 442 fiscal year is greater than 8 mills; or
- 443 (5) A financial condition that is documented in annual
 444 financial statements at the end of the current fiscal year and
 445 indicates an inability to pay the permit processing fee during
 446 that fiscal year.

447
 448 The permit applicant must be the governing body of a county or

449 municipality or a third party under contract with a county or
 450 municipality or an entity created by special act, local
 451 ordinance, or interlocal agreement and the project for which the
 452 fee reduction or waiver is sought must serve a public purpose.
 453 If a permit processing fee is reduced, the total fee shall not
 454 exceed \$100.

455 Section 8. Paragraphs (a) and (b) of subsection (3) of
 456 section 258.397, Florida Statutes, are amended to read:

457 258.397 Biscayne Bay Aquatic Preserve.—

458 (3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the
 459 Internal Improvement Trust Fund is authorized and directed to
 460 maintain the aquatic preserve hereby created pursuant and
 461 subject to the following provisions:

462 (a) No further sale, transfer, or lease of sovereignty
 463 submerged lands in the preserve shall be approved or consummated
 464 by the board of trustees, except upon a showing of extreme
 465 hardship on the part of the applicant and a determination by the
 466 board of trustees that such sale, transfer, or lease is in the
 467 public interest. A municipal applicant proposing a project under
 468 paragraph (b) is exempt from showing extreme hardship.

469 (b) No further dredging or filling of submerged lands of
 470 the preserve shall be approved or tolerated by the board of
 471 trustees except:

472 1. Such minimum dredging and spoiling as may be authorized
 473 for public navigation projects or for such minimum dredging and
 474 spoiling as may be constituted as a public necessity or for
 475 preservation of the bay according to the expressed intent of
 476 this section.

477 2. Such other alteration of physical conditions, including
478 the placement of riprap, as may be necessary to enhance the
479 quality and utility of the preserve.

480 3. Such minimum dredging and filling as may be authorized
481 for the creation and maintenance of marinas, piers, and docks
482 and their attendant navigation channels and access roads. Such
483 projects may only be authorized upon a specific finding by the
484 board of trustees that there is assurance that the project will
485 be constructed and operated in a manner that will not adversely
486 affect the water quality and utility of the preserve. This
487 subparagraph shall not authorize the connection of upland canals
488 to the waters of the preserve.

489 4. Such dredging as is necessary for the purpose of
490 eliminating conditions hazardous to the public health or for the
491 purpose of eliminating stagnant waters, islands, and spoil
492 banks, the dredging of which would enhance the aesthetic and
493 environmental quality and utility of the preserve and be clearly
494 in the public interest as determined by the board of trustees.

495 5. Such dredging and filling as is necessary for the
496 creation of public waterfront promenades.

497
498 Any dredging or filling under this subsection or improvements
499 under subsection (5) shall be approved only after public notice
500 as provided by s. 253.115.

501 Section 9. Subsection (10) is added to section 373.026,
502 Florida Statutes, to read:

503 373.026 General powers and duties of the department.—The
504 department, or its successor agency, shall be responsible for

505 the administration of this chapter at the state level. However,
506 it is the policy of the state that, to the greatest extent
507 possible, the department may enter into interagency or
508 interlocal agreements with any other state agency, any water
509 management district, or any local government conducting programs
510 related to or materially affecting the water resources of the
511 state. All such agreements shall be subject to the provisions of
512 s. 373.046. In addition to its other powers and duties, the
513 department shall, to the greatest extent possible:

514 (10) Expand the use of Internet-based self-certification
515 services for appropriate exemptions and general permits issued
516 by the department and the water management districts, if such
517 expansion is economically feasible. In addition to expanding the
518 use of Internet-based self-certification services for
519 appropriate exemptions and general permits, the department and
520 water management districts shall identify and develop general
521 permits for appropriate activities currently requiring
522 individual review which could be expedited through the use of
523 applicable professional certification.

524 Section 10. Subsection (6) is added to section 373.413,
525 Florida Statutes, to read:

526 373.413 Permits for construction or alteration.—

527 (6) The provisions of s. 403.0874, relating to the
528 incentive-based permitting program, apply to permits issued
529 under this section.

530 Section 11. Paragraph (c) of subsection (6) of section
531 373.4135, Florida Statutes, is amended to read:

532 373.4135 Mitigation banks and offsite regional

533 mitigation.—

534 (6) An environmental creation, preservation, enhancement,
 535 or restoration project, including regional offsite mitigation
 536 areas, for which money is donated or paid as mitigation, that is
 537 sponsored by the department, a water management district, or a
 538 local government and provides mitigation for five or more
 539 applicants for permits under this part, or for 35 or more acres
 540 of adverse impacts, shall be established and operated under a
 541 memorandum of agreement. The memorandum of agreement shall be
 542 between the governmental entity proposing the mitigation project
 543 and the department or water management district, as appropriate.
 544 Such memorandum of agreement need not be adopted by rule. For
 545 the purposes of this subsection, one creation, preservation,
 546 enhancement, or restoration project shall mean one or more
 547 parcels of land with similar ecological communities that are
 548 intended to be created, preserved, enhanced, or restored under a
 549 common scheme.

550 (c) At a minimum, the memorandum of agreement must address
 551 the following for each project authorized:

552 1. A description of the work that will be conducted on the
 553 site and a timeline for completion of such work.

554 2. A timeline for obtaining any required environmental
 555 resource permit.

556 3. The environmental success criteria that the project
 557 must achieve.

558 4. The monitoring and long-term management requirements
 559 that must be undertaken for the project.

560 5. An assessment of the project in accordance with s.

561 373.4136(4) ~~(a)~~ ~~(i)~~, until the adoption of the uniform wetland
 562 mitigation assessment method pursuant to s. 373.414(18).

563 6. A designation of the entity responsible for the
 564 successful completion of the mitigation work.

565 7. A definition of the geographic area where the project
 566 may be used as mitigation established using the criteria of s.
 567 373.4136(6).

568 8. Full cost accounting of the project, including annual
 569 review and adjustment.

570 9. Provision and a timetable for the acquisition of any
 571 lands necessary for the project.

572 10. Provision for preservation of the site.

573 11. Provision for application of all moneys received
 574 solely to the project for which they were collected.

575 12. Provision for termination of the agreement and
 576 cessation of use of the project as mitigation if any material
 577 contingency of the agreement has failed to occur.

578 Section 12. Subsection (4) of section 373.4136, Florida
 579 Statutes, is amended to read:

580 373.4136 Establishment and operation of mitigation banks.—

581 (4) MITIGATION CREDITS.—After evaluating the information
 582 submitted by the applicant for a mitigation bank permit and
 583 assessing the proposed mitigation bank pursuant to the criteria
 584 in this section, the department or water management district
 585 shall award a number of mitigation credits to a proposed
 586 mitigation bank or phase of such mitigation bank. An entity
 587 establishing and operating a mitigation bank may apply to modify
 588 the mitigation bank permit to seek the award of additional

589 mitigation credits if the mitigation bank results in an
590 additional increase in ecological value over the value
591 contemplated at the time of the original permit issuance, or the
592 most recent modification thereto involving the number of credits
593 awarded. The number of credits awarded shall be based on the
594 degree of improvement in ecological value expected to result
595 from the establishment and operation of the mitigation bank as
596 determined using the uniform mitigation assessment method
597 adopted pursuant to s. 373.414(18). ~~a functional assessment~~
598 ~~methodology. In determining the degree of improvement in~~
599 ~~ecological value, each of the following factors, at a minimum,~~
600 ~~shall be evaluated:~~

601 ~~(a) The extent to which target hydrologic regimes can be~~
602 ~~achieved and maintained.~~

603 ~~(b) The extent to which management activities promote~~
604 ~~natural ecological conditions, such as natural fire patterns.~~

605 ~~(c) The proximity of the mitigation bank to areas with~~
606 ~~regionally significant ecological resources or habitats, such as~~
607 ~~national or state parks, Outstanding National Resource Waters~~
608 ~~and associated watersheds, Outstanding Florida Waters and~~
609 ~~associated watersheds, and lands acquired through governmental~~
610 ~~or nonprofit land acquisition programs for environmental~~
611 ~~conservation; and the extent to which the mitigation bank~~
612 ~~establishes corridors for fish, wildlife, or listed species to~~
613 ~~those resources or habitats.~~

614 ~~(d) The quality and quantity of wetland or upland~~
615 ~~restoration, enhancement, preservation, or creation.~~

616 ~~(e) The ecological and hydrological relationship between~~

617 ~~wetlands and uplands in the mitigation bank.~~

618 ~~(f) The extent to which the mitigation bank provides~~
619 ~~habitat for fish and wildlife, especially habitat for species~~
620 ~~listed as threatened, endangered, or of special concern, or~~
621 ~~provides habitats that are unique for that mitigation service~~
622 ~~area.~~

623 ~~(g) The extent to which the lands that are to be preserved~~
624 ~~are already protected by existing state, local, or federal~~
625 ~~regulations or land use restrictions.~~

626 ~~(h) The extent to which lands to be preserved would be~~
627 ~~adversely affected if they were not preserved.~~

628 ~~(i) Any special designation or classification of the~~
629 ~~affected waters and lands.~~

630 Section 13. Subsections (1) and (2), paragraph (c) of
631 subsection (3), and subsection (4) of section 373.4137, Florida
632 Statutes, are amended to read:

633 373.4137 Mitigation requirements for specified
634 transportation projects.—

635 (1) The Legislature finds that environmental mitigation
636 for the impact of transportation projects proposed by the
637 Department of Transportation or a transportation authority
638 established pursuant to chapter 348 or chapter 349 can be more
639 effectively achieved by regional, long-range mitigation planning
640 rather than on a project-by-project basis. It is the intent of
641 the Legislature that mitigation to offset the adverse effects of
642 these transportation projects be funded by the Department of
643 Transportation and be carried out by the water management
644 districts, through ~~including~~ the use of private mitigation banks

645 if available or, if a private mitigation bank is not available,
646 through any other mitigation options that satisfy state and
647 federal requirements established pursuant to this part.

648 (2) Environmental impact inventories for transportation
649 projects proposed by the Department of Transportation or a
650 transportation authority established pursuant to chapter 348 or
651 chapter 349 shall be developed as follows:

652 (a) By July 1 of each year, the Department of
653 Transportation or a transportation authority established
654 pursuant to chapter 348 or chapter 349 which chooses to
655 participate in this program shall submit to the water management
656 districts a list ~~copy~~ of its projects in the adopted work
657 program and an environmental impact inventory of habitats
658 addressed in the rules adopted pursuant to this part and s. 404
659 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted
660 by its plan of construction for transportation projects in the
661 next 3 years of the tentative work program. The Department of
662 Transportation or a transportation authority established
663 pursuant to chapter 348 or chapter 349 may also include in its
664 environmental impact inventory the habitat impacts of any future
665 transportation project. The Department of Transportation and
666 each transportation authority established pursuant to chapter
667 348 or chapter 349 may fund any mitigation activities for future
668 projects using current year funds.

669 (b) The environmental impact inventory shall include a
670 description of these habitat impacts, including their location,
671 acreage, and type; state water quality classification of
672 impacted wetlands and other surface waters; any other state or

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673 regional designations for these habitats; and a list ~~survey~~ of
674 threatened species, endangered species, and species of special
675 concern affected by the proposed project.

676 (3)

677 (c) Except for current mitigation projects in the
678 monitoring and maintenance phase and except as allowed by
679 paragraph (d), the water management districts may request a
680 transfer of funds from an escrow account no sooner than 30 days
681 prior to the date the funds are needed to pay for activities
682 associated with development or implementation of the approved
683 mitigation plan described in subsection (4) for the current
684 fiscal year, including, but not limited to, design, engineering,
685 production, and staff support. Actual conceptual plan
686 preparation costs incurred before plan approval may be submitted
687 to the Department of Transportation or the appropriate
688 transportation authority each year with the plan. The conceptual
689 plan preparation costs of each water management district will be
690 paid from mitigation funds associated with the environmental
691 impact inventory for the current year. The amount transferred to
692 the escrow accounts each year by the Department of
693 Transportation and participating transportation authorities
694 established pursuant to chapter 348 or chapter 349 shall
695 correspond to a cost per acre of \$75,000 multiplied by the
696 projected acres of impact identified in the environmental impact
697 inventory described in subsection (2). However, the \$75,000 cost
698 per acre does not constitute an admission against interest by
699 the state or its subdivisions nor is the cost admissible as
700 evidence of full compensation for any property acquired by

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701 eminent domain or through inverse condemnation. Each July 1, the
702 cost per acre shall be adjusted by the percentage change in the
703 average of the Consumer Price Index issued by the United States
704 Department of Labor for the most recent 12-month period ending
705 September 30, compared to the base year average, which is the
706 average for the 12-month period ending September 30, 1996. Each
707 quarter, the projected acreage of impact shall be reconciled
708 with the acreage of impact of projects as permitted, including
709 permit modifications, pursuant to this part and s. 404 of the
710 Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer
711 of funds shall be adjusted accordingly to reflect the acreage of
712 impacts as permitted. The Department of Transportation and
713 participating transportation authorities established pursuant to
714 chapter 348 or chapter 349 are authorized to transfer such funds
715 from the escrow accounts to the water management districts to
716 carry out the mitigation programs. Environmental mitigation
717 funds that are identified or maintained in an escrow account for
718 the benefit of a water management district may be released if
719 the associated transportation project is excluded in whole or
720 part from the mitigation plan. For a mitigation project that is
721 in the maintenance and monitoring phase, the water management
722 district may request and receive a one-time payment based on the
723 project's expected future maintenance and monitoring costs. Upon
724 disbursement of the final maintenance and monitoring payment,
725 the department or the participating transportation authorities'
726 obligation will be satisfied, the water management district will
727 have continuing responsibility for the mitigation project, and
728 the escrow account for the project established by the Department

729 of Transportation or the participating transportation authority
730 may be closed. Any interest earned on these disbursed funds
731 shall remain with the water management district and must be used
732 as authorized under this section.

733 (4) Prior to March 1 of each year, each water management
734 district, in consultation with the Department of Environmental
735 Protection, the United States Army Corps of Engineers, the
736 Department of Transportation, participating transportation
737 authorities established pursuant to chapter 348 or chapter 349,
738 and other appropriate federal, state, and local governments, and
739 other interested parties, including entities operating
740 mitigation banks, shall develop a plan for the primary purpose
741 of complying with the mitigation requirements adopted pursuant
742 to this part and 33 U.S.C. s. 1344. In developing such plans,
743 private mitigation banks shall be used if available or, if a
744 private mitigation bank is not available, the districts shall
745 use ~~utilize~~ sound ecosystem management practices to address
746 significant water resource needs and shall focus on activities
747 of the Department of Environmental Protection and the water
748 management districts, such as surface water improvement and
749 management (SWIM) projects and lands identified for potential
750 acquisition for preservation, restoration or enhancement, and
751 the control of invasive and exotic plants in wetlands and other
752 surface waters, to the extent that such activities comply with
753 the mitigation requirements adopted under this part and 33
754 U.S.C. s. 1344. In determining the activities to be included in
755 such plans, the districts shall ~~also consider the purchase of~~
756 credits from public or private mitigation banks permitted under

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757 s. 373.4136 and associated federal authorization and shall
758 include such purchase as a part of the mitigation plan when such
759 purchase would offset the impact of the transportation project,
760 ~~provide equal benefits to the water resources than other~~
761 ~~mitigation options being considered, and provide the most cost-~~
762 ~~effective mitigation option.~~ The mitigation plan shall be
763 submitted to the water management district governing board, or
764 its designee, for review and approval. At least 14 days prior to
765 approval, the water management district shall provide a copy of
766 the draft mitigation plan to any person who has requested a
767 copy.

768 (a) For each transportation project with a funding request
769 for the next fiscal year, the mitigation plan must include a
770 brief explanation of why a mitigation bank was or was not chosen
771 as a mitigation option, including an estimation of identifiable
772 costs of the mitigation bank and nonbank options to the extent
773 practicable.

774 (b) Specific projects may be excluded from the mitigation
775 plan, in whole or in part, and shall not be subject to this
776 section upon the election agreement of the Department of
777 Transportation, ~~or~~ a transportation authority if applicable, or
778 ~~and~~ the appropriate water management district ~~that the inclusion~~
779 ~~of such projects would hamper the efficiency or timeliness of~~
780 ~~the mitigation planning and permitting process. The water~~
781 ~~management district may choose to exclude a project in whole or~~
782 ~~in part if the district is unable to identify mitigation that~~
783 ~~would offset impacts of the project.~~

784 Section 14. Subsection (18) of section 373.414, Florida

785 Statutes, is amended to read:

786 373.414 Additional criteria for activities in surface
787 waters and wetlands.—

788 (18) The department, in coordination with ~~and~~ each water
789 management district responsible for implementation of the
790 environmental resource permitting program, shall develop a
791 uniform mitigation assessment method for wetlands and other
792 surface waters. ~~The department shall adopt the uniform~~
793 ~~mitigation assessment method by rule no later than July 31,~~
794 ~~2002.~~ The rule shall provide an exclusive, uniform, and
795 consistent process for determining the amount of mitigation
796 required to offset impacts to wetlands and other surface waters,
797 and, once effective, shall supersede all rules, ordinances, and
798 variance procedures from ordinances that determine the amount of
799 mitigation needed to offset such impacts. Except when evaluating
800 mitigation bank applications, which must meet the criteria of s.
801 373.4136(1), the rule shall be applied only after determining
802 that the mitigation is appropriate to offset the values and
803 functions of wetlands and surface waters to be adversely
804 impacted by the proposed activity. Once the department adopts
805 the uniform mitigation assessment method by rule, the uniform
806 mitigation assessment method shall be binding on the department,
807 the water management districts, local governments, and any other
808 governmental agencies and shall be the sole means to determine
809 the amount of mitigation needed to offset adverse impacts to
810 wetlands and other surface waters and to award and deduct
811 mitigation bank credits. A water management district and any
812 other governmental agency subject to chapter 120 may apply the

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813 uniform mitigation assessment method without the need to adopt
814 it pursuant to s. 120.54. It shall be a goal of the department
815 and water management districts that the uniform mitigation
816 assessment method developed be practicable for use within the
817 timeframes provided in the permitting process and result in a
818 consistent process for determining mitigation requirements. It
819 shall be recognized that any such method shall require the
820 application of reasonable scientific judgment. The uniform
821 mitigation assessment method must determine the value of
822 functions provided by wetlands and other surface waters
823 considering the current conditions of these areas, utilization
824 by fish and wildlife, location, uniqueness, and hydrologic
825 connection, ~~and, when applied to mitigation banks, the factors~~
826 ~~listed in s. 373.4136(4)~~. The uniform mitigation assessment
827 method shall also account for the expected time-lag associated
828 with offsetting impacts and the degree of risk associated with
829 the proposed mitigation. The uniform mitigation assessment
830 method shall account for different ecological communities in
831 different areas of the state. In developing the uniform
832 mitigation assessment method, the department and water
833 management districts shall consult with approved local programs
834 under s. 403.182 which have an established mitigation program
835 for wetlands or other surface waters. The department and water
836 management districts shall consider the recommendations
837 submitted by such approved local programs, including any
838 recommendations relating to the adoption by the department and
839 water management districts of any uniform mitigation methodology
840 that has been adopted and used by an approved local program in

841 its established mitigation program for wetlands or other surface
842 waters. Environmental resource permitting rules may establish
843 categories of permits or thresholds for minor impacts under
844 which the use of the uniform mitigation assessment method will
845 not be required. The application of the uniform mitigation
846 assessment method is not subject to s. 70.001. In the event the
847 rule establishing the uniform mitigation assessment method is
848 deemed to be invalid, the applicable rules related to
849 establishing needed mitigation in existence prior to the
850 adoption of the uniform mitigation assessment method, including
851 those adopted by a county which is an approved local program
852 under s. 403.182, and the method described in paragraph (b) for
853 existing mitigation banks, shall be authorized for use by the
854 department, water management districts, local governments, and
855 other state agencies.

856 (a) In developing the uniform mitigation assessment
857 method, the department shall seek input from the United States
858 Army Corps of Engineers in order to promote consistency in the
859 mitigation assessment methods used by the state and federal
860 permitting programs.

861 (b) An entity which has received a mitigation bank permit
862 prior to the adoption of the uniform mitigation assessment
863 method shall have impact sites assessed, for the purpose of
864 deducting bank credits, using the credit assessment method,
865 including any functional assessment methodology, which was in
866 place when the bank was permitted; unless the entity elects to
867 have its credits redetermined, and thereafter have its credits
868 deducted, using the uniform mitigation assessment method.

869 (c) The department shall ensure statewide coordination and
870 consistency in the interpretation and application of the uniform
871 mitigation assessment method rule by providing programmatic
872 training and guidance to staff of the department, water
873 management districts, and local governments. To ensure that the
874 uniform mitigation assessment method rule is interpreted and
875 applied uniformly, the department's interpretation, guidance,
876 and approach to applying the uniform mitigation assessment
877 method rule shall govern.

878 (d) Applicants shall submit the information needed to
879 perform the assessment required under the uniform mitigation
880 assessment method rule and may submit the qualitative
881 characterization and quantitative assessment for each assessment
882 area specified by the rule. The reviewing agency shall review
883 that information and notify the applicant of any inadequacy in
884 the information or application of the assessment method.

885 (e) When conducting qualitative characterization of
886 artificial wetlands and other surface waters, such as borrow
887 pits, ditches, and canals, under the uniform mitigation
888 assessment method rule, the native community type to which it is
889 most analogous in function shall be used as a reference. For
890 wetlands or other surface waters that have been altered from
891 their native community type, the historic community type at that
892 location shall be used as a reference, unless the alteration has
893 been of such a degree and extent that a different native
894 community type is now present and self-sustaining.

895 (f) When conducting qualitative characterization of upland
896 mitigation assessment areas, the characterization shall include

897 functions that the upland assessment area provides to the fish
898 and wildlife of the associated wetland or other surface waters.
899 These functions shall be considered and accounted for when
900 scoring the upland assessment area for preservation,
901 enhancement, or restoration.

902 (g) The term "preservation mitigation," as used in the
903 uniform mitigation assessment method, means the protection of
904 important wetland, other surface water, or upland ecosystems
905 predominantly in their existing condition and absent
906 restoration, creation, or enhancement from adverse impacts by
907 placing a conservation easement or other comparable land use
908 restriction over the property or by donation of fee simple
909 interest in the property. Preservation may include a management
910 plan for perpetual protection of the area. The preservation
911 adjustment factor set forth in rule 62-345.500(3), Florida
912 Administrative Code, shall only apply to preservation
913 mitigation.

914 (h) When assessing a preservation mitigation assessment
915 area under the uniform mitigation assessment method, the
916 following apply:

917 1. The term "without preservation" means the reasonably
918 anticipated loss of functions and values provided by the
919 assessment area, assuming the area is not preserved.

920 2. Each of the considerations of the preservation
921 adjustment factor specified in rule 62-345.500(3)(a), Florida
922 Administrative Code, shall be equally weighted and scored on a
923 scale from 0, no value, to 0.2, optimal value. In addition, the
924 minimum preservation adjustment factor shall be 0.2.

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925 (i) The location and landscape support scores, pursuant to
926 rule 62-345.500, Florida Administrative Code, may change in the
927 "with mitigation" or "with impact" condition in both upland and
928 wetland assessment areas, regardless of the initial community
929 structure or water environment scores.

930 (j) When a mitigation plan for creation, restoration, or
931 enhancement includes a preservation mechanism, such as a
932 conservation easement, the "with mitigation" assessment of that
933 creation, restoration, or enhancement shall consider, and the
934 scores shall reflect, the benefits of that preservation
935 mechanism, and the benefits of that preservation mechanism may
936 not be scored separately.

937 (k) Any entity holding a mitigation bank permit that was
938 evaluated under the uniform mitigation assessment method before
939 the effective date of paragraphs (c)-(j) may submit a permit
940 modification request to the relevant permitting agency to have
941 such mitigation bank reassessed pursuant to the provisions set
942 forth in this section, and the relevant permitting agency shall
943 reassess such mitigation bank, if such request is filed with
944 that agency no later than September 30, 2011.

945 Section 15. Section 373.4141, Florida Statutes, is amended
946 to read:

947 373.4141 Permits; processing.—

948 (1) Within 30 days after receipt of an application for a
949 permit under this part, the department or the water management
950 district shall review the application and shall request
951 submittal of all additional information the department or the
952 water management district is permitted by law to require. If the

953 applicant believes any request for additional information is not
954 authorized by law or rule, the applicant may request a hearing
955 pursuant to s. 120.57. Within 30 days after receipt of such
956 additional information, the department or water management
957 district shall review it and may request only that information
958 needed to clarify such additional information or to answer new
959 questions raised by or directly related to such additional
960 information. If the applicant believes the request of the
961 department or water management district for such additional
962 information is not authorized by law or rule, the department or
963 water management district, at the applicant's request, shall
964 proceed to process the permit application. The department or
965 water management district may request additional information no
966 more than twice unless the applicant waives this limitation in
967 writing. If the applicant does not provide a written response to
968 the second request for additional information within 90 days or
969 another time period mutually agreed upon between the applicant
970 and the department or water management district, the application
971 shall be considered withdrawn.

972 (2) A permit shall be approved, ~~or~~ denied, or subject to a
973 notice of proposed agency action within 60 ~~90~~ days after receipt
974 of the original application, the last item of timely requested
975 additional material, or the applicant's written request to begin
976 processing the permit application.

977 (3) Processing of applications for permits for affordable
978 housing projects shall be expedited to a greater degree than
979 other projects.

980 (4) A state agency or an agency of the state may not

981 require as a condition of approval for a permit or as an item to
 982 complete a pending permit application that an applicant obtain a
 983 permit or approval from any other local, state, or federal
 984 agency without explicit statutory authority to require such
 985 permit or approval.

986 Section 16. Section 373.4144, Florida Statutes, is amended
 987 to read:

988 373.4144 Federal environmental permitting.—

989 (1) It is the intent of the Legislature to:

990 (a) Facilitate coordination and a more efficient process
 991 of implementing regulatory duties and functions between the
 992 Department of Environmental Protection, the water management
 993 districts, the United States Army Corps of Engineers, the United
 994 States Fish and Wildlife Service, the National Marine Fisheries
 995 Service, the United States Environmental Protection Agency, the
 996 Fish and Wildlife Conservation Commission, and other relevant
 997 federal and state agencies.

998 (b) Authorize the Department of Environmental Protection
 999 to obtain issuance by the United States Army Corps of Engineers,
 1000 pursuant to state and federal law and as set forth in this
 1001 section, of an expanded state programmatic general permit, or a
 1002 series of regional general permits, for categories of activities
 1003 in waters of the United States governed by the Clean Water Act
 1004 and in navigable waters under the Rivers and Harbors Act of 1899
 1005 which are similar in nature, which will cause only minimal
 1006 adverse environmental effects when performed separately, and
 1007 which will have only minimal cumulative adverse effects on the
 1008 environment.

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1009 (c) Use the mechanism of such a state general permit or
1010 such regional general permits to eliminate overlapping federal
1011 regulations and state rules that seek to protect the same
1012 resource and to avoid duplication of permitting between the
1013 United States Army Corps of Engineers and the department for
1014 minor work located in waters of the United States, including
1015 navigable waters, thus eliminating, in appropriate cases, the
1016 need for a separate individual approval from the United States
1017 Army Corps of Engineers while ensuring the most stringent
1018 protection of wetland resources.

1019 (d) Direct the department not to seek issuance of or take
1020 any action pursuant to any such permit or permits unless such
1021 conditions are at least as protective of the environment and
1022 natural resources as existing state law under this part and
1023 federal law under the Clean Water Act and the Rivers and Harbors
1024 Act of 1899. The department is directed to develop, on or before
1025 October 1, 2005, a mechanism or plan to consolidate, to the
1026 maximum extent practicable, the federal and state wetland
1027 permitting programs. It is the intent of the Legislature that
1028 all dredge and fill activities impacting 10 acres or less of
1029 wetlands or waters, including navigable waters, be processed by
1030 the state as part of the environmental resource permitting
1031 program implemented by the department and the water management
1032 districts. The resulting mechanism or plan shall analyze and
1033 propose the development of an expanded state programmatic
1034 general permit program in conjunction with the United States
1035 Army Corps of Engineers pursuant to s. 404 of the Clean Water
1036 Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq.,

1037 ~~and s. 10 of the Rivers and Harbors Act of 1899. Alternatively,~~
 1038 ~~or in combination with an expanded state programmatic general~~
 1039 ~~permit, the mechanism or plan may propose the creation of a~~
 1040 ~~series of regional general permits issued by the United States~~
 1041 ~~Army Corps of Engineers pursuant to the referenced statutes. All~~
 1042 ~~of the regional general permits must be administered by the~~
 1043 ~~department or the water management districts or their designees.~~

1044 (2) In order to effectuate efficient wetland permitting
 1045 and avoid duplication, the department and water management
 1046 districts are authorized to implement a voluntary state
 1047 programmatic general permit for all dredge and fill activities
 1048 impacting 3 acres or less of wetlands or other surface waters,
 1049 including navigable waters, subject to agreement with the United
 1050 States Army Corps of Engineers, if the general permit is at
 1051 least as protective of the environment and natural resources as
 1052 existing state law under this part and federal law under the
 1053 Clean Water Act and the Rivers and Harbors Act of 1899. The
 1054 ~~department is directed to file with the Speaker of the House of~~
 1055 ~~Representatives and the President of the Senate a report~~
 1056 ~~proposing any required federal and state statutory changes that~~
 1057 ~~would be necessary to accomplish the directives listed in this~~
 1058 ~~section and to coordinate with the Florida Congressional~~
 1059 ~~Delegation on any necessary changes to federal law to implement~~
 1060 ~~the directives.~~

1061 (3) Nothing in this section shall be construed to preclude
 1062 the department from pursuing a series of regional general
 1063 permits for construction activities in wetlands or surface
 1064 waters or complete assumption of federal permitting programs

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1065 regulating the discharge of dredged or fill material pursuant to
 1066 s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended,
 1067 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors
 1068 Act of 1899, so long as the assumption encompasses all dredge
 1069 and fill activities in, on, or over jurisdictional wetlands or
 1070 waters, including navigable waters, within the state.

1071 Section 17. Subsections (2) and (3), paragraph (a) of
 1072 subsection (4), and paragraph (a) of subsection (6) of section
 1073 373.41492, Florida Statutes, are amended to read:

1074 373.41492 Miami-Dade County Lake Belt Mitigation Plan;
 1075 mitigation for mining activities within the Miami-Dade County
 1076 Lake Belt.—

1077 (2) To provide for the mitigation of wetland resources
 1078 lost to mining activities within the Miami-Dade County Lake Belt
 1079 Plan, effective October 1, 1999, a mitigation fee is imposed on
 1080 each ton of limerock and sand extracted by any person who
 1081 engages in the business of extracting limerock or sand from
 1082 within the Miami-Dade County Lake Belt Area and the east one-
 1083 half of sections 24 and 25 and all of sections 35 and 36,
 1084 Township 53 South, Range 39 East. The mitigation fee is imposed
 1085 for each ton of limerock and sand sold from within the
 1086 properties where the fee applies in raw, processed, or
 1087 manufactured form, including, but not limited to, sized
 1088 aggregate, asphalt, cement, concrete, and other limerock and
 1089 concrete products. The mitigation fee imposed by this subsection
 1090 for each ton of limerock and sand sold shall be 12 cents per ton
 1091 beginning January 1, 2007; 18 cents per ton beginning January 1,
 1092 2008; 24 cents per ton beginning January 1, 2009; and 45 cents

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1093 | per ton beginning close of business December 31, 2011. To pay
1094 | for seepage mitigation projects, including hydrological
1095 | structures, as authorized in an environmental resource permit
1096 | issued by the department for mining activities within the Miami-
1097 | Dade County Lake Belt Area, and to upgrade a water treatment
1098 | plant that treats water coming from the Northwest Wellfield in
1099 | Miami-Dade County, a water treatment plant upgrade fee is
1100 | imposed within the same Lake Belt Area subject to the mitigation
1101 | fee and upon the same kind of mined limerock and sand subject to
1102 | the mitigation fee. The water treatment plant upgrade fee
1103 | imposed by this subsection for each ton of limerock and sand
1104 | sold shall be 15 cents per ton beginning on January 1, 2007, and
1105 | the collection of this fee shall cease once the total amount of
1106 | proceeds collected for this fee reaches the amount of the actual
1107 | moneys necessary to design and construct the water treatment
1108 | plant upgrade, as determined in an open, public solicitation
1109 | process. Any limerock or sand that is used within the mine from
1110 | which the limerock or sand is extracted is exempt from the fees.
1111 | The amount of the mitigation fee and the water treatment plant
1112 | upgrade fee imposed under this section must be stated separately
1113 | on the invoice provided to the purchaser of the limerock or sand
1114 | product from the limerock or sand miner, or its subsidiary or
1115 | affiliate, for which the fee or fees apply. The limerock or sand
1116 | miner, or its subsidiary or affiliate, who sells the limerock or
1117 | sand product shall collect the mitigation fee and the water
1118 | treatment plant upgrade fee and forward the proceeds of the fees
1119 | to the Department of Revenue on or before the 20th day of the
1120 | month following the calendar month in which the sale occurs. As

1121 used in this section, the term "proceeds of the fee" means all
 1122 funds collected and received by the Department of Revenue under
 1123 this section, including interest and penalties on delinquent
 1124 fees. The amount deducted for administrative costs may not
 1125 exceed 3 percent of the total revenues collected under this
 1126 section and may equal only those administrative costs reasonably
 1127 attributable to the fees.

1128 (3) The mitigation fee and the water treatment plant
 1129 upgrade fee imposed by this section must be reported to the
 1130 Department of Revenue. Payment of the mitigation and the water
 1131 treatment plant upgrade fees must be accompanied by a form
 1132 prescribed by the Department of Revenue. The proceeds of the
 1133 mitigation fee, less administrative costs, must be transferred
 1134 by the Department of Revenue to the South Florida Water
 1135 Management District and deposited into the Lake Belt Mitigation
 1136 Trust Fund. Beginning January 1, 2012, and ending December 31,
 1137 2017, or upon issuance of water quality certification by the
 1138 department for mining activities within Phase II of the Miami-
 1139 Dade County Lake Belt Plan, whichever occurs later, the proceeds
 1140 of the water treatment plant upgrade fee, less administrative
 1141 costs, must be transferred by the Department of Revenue to the
 1142 South Florida Water Management District and deposited into the
 1143 Lake Belt Mitigation Trust Fund. Beginning January 1, 2018, the
 1144 proceeds of the water treatment plant upgrade fee, less
 1145 administrative costs, must be transferred by the Department of
 1146 Revenue to a trust fund established by Miami-Dade County, for
 1147 the sole purpose authorized by paragraph (6) (a). ~~As used in this~~
 1148 section, the term "proceeds of the fee" means all funds

1149 ~~collected and received by the Department of Revenue under this~~
 1150 ~~section, including interest and penalties on delinquent fees.~~
 1151 ~~The amount deducted for administrative costs may not exceed 3~~
 1152 ~~percent of the total revenues collected under this section and~~
 1153 ~~may equal only those administrative costs reasonably~~
 1154 ~~attributable to the fees.~~

1155 (4) (a) The Department of Revenue shall administer,
 1156 collect, and enforce the mitigation and water treatment plant
 1157 upgrade fees authorized under this section in accordance with
 1158 the procedures used to administer, collect, and enforce the
 1159 general sales tax imposed under chapter 212. The provisions of
 1160 chapter 212 with respect to the authority of the Department of
 1161 Revenue to audit and make assessments, the keeping of books and
 1162 records, and the interest and penalties imposed on delinquent
 1163 fees apply to this section. The fees may not be included in
 1164 computing estimated taxes under s. 212.11, and the dealer's
 1165 credit for collecting taxes or fees provided for in s. 212.12
 1166 does not apply to the fees imposed by this section.

1167 (6) (a) The proceeds of the mitigation fee must be used to
 1168 conduct mitigation activities that are appropriate to offset the
 1169 loss of the value and functions of wetlands as a result of
 1170 mining activities and must be used in a manner consistent with
 1171 the recommendations contained in the reports submitted to the
 1172 Legislature by the Miami-Dade County Lake Belt Plan
 1173 Implementation Committee and adopted under s. 373.4149. Such
 1174 mitigation may include the purchase, enhancement, restoration,
 1175 and management of wetlands and uplands, the purchase of
 1176 mitigation credit from a permitted mitigation bank, and any

1177 structural modifications to the existing drainage system to
 1178 enhance the hydrology of the Miami-Dade County Lake Belt Area.
 1179 Funds may also be used to reimburse other funding sources,
 1180 including the Save Our Rivers Land Acquisition Program, the
 1181 Internal Improvement Trust Fund, the South Florida Water
 1182 Management District, and Miami-Dade County, for the purchase of
 1183 lands that were acquired in areas appropriate for mitigation due
 1184 to rock mining and to reimburse governmental agencies that
 1185 exchanged land under s. 373.4149 for mitigation due to rock
 1186 mining. The proceeds of the water treatment plant upgrade fee
 1187 that are deposited into the Lake Belt Mitigation Trust Fund
 1188 shall be used solely to pay for seepage mitigation projects,
 1189 including groundwater or surface water management structures, as
 1190 authorized in an environmental resource permit issued by the
 1191 department for mining activities within the Miami-Dade County
 1192 Lake Belt Area. The proceeds of the water treatment plant
 1193 upgrade fee that are transferred to a trust fund established by
 1194 Miami-Dade County shall be used to upgrade a water treatment
 1195 plant that treats water coming from the Northwest Wellfield in
 1196 Miami-Dade County. As used in this section, the terms "upgrade a
 1197 water treatment plant" or "water treatment plant upgrade" means
 1198 those works necessary to treat or filter a surface water source
 1199 or supply or both.

1200 Section 18. Present subsections (3), (4), and (5) of
 1201 section 373.441, Florida Statutes, are renumbered as subsections
 1202 (7), (8), and (9), respectively, and new subsections (3), (4),
 1203 (5), and (6) are added to that section, to read:

1204 373.441 Role of counties, municipalities, and local

1205 pollution control programs in permit processing; delegation.-
 1206 (3) A county having a population of 200,000 or more or a
 1207 municipality having a population of 100,000 or more that
 1208 implements a local pollution control program regulating all or a
 1209 portion of the wetlands or surface waters throughout its
 1210 geographic boundary must apply for delegation of state
 1211 environmental resource permitting authority on or before June 1,
 1212 2012. A county or municipality that fails to receive delegation
 1213 of all or a portion of state environmental resource permitting
 1214 authority within 1 year after submitting its application for
 1215 delegation or by June 1, 2013, at the latest, may not require
 1216 permits that in part or in full are substantially similar to the
 1217 requirements needed to obtain an environmental resource permit.
 1218 A county or municipality that has received delegation before
 1219 June 1, 2012, does not need to reapply.
 1220 (4) The department is responsible for all delegations of
 1221 state environmental resource permitting authority to local
 1222 governments. The department must grant or deny an application
 1223 for delegation submitted by a county or municipality that meets
 1224 the criteria in subsection (3) within 1 year after the receipt
 1225 of the application. If an application for delegation is denied,
 1226 any available legal challenge to such denial shall toll the 1-
 1227 year preemption deadline until resolution of the legal
 1228 challenge. Upon delegation to a qualified local government, the
 1229 department and water management district may not regulate the
 1230 activities subject to the delegation within that jurisdiction
 1231 unless regulation is required pursuant to the terms of the
 1232 delegation agreement.

1233 (5) This section does not prohibit or limit a local
 1234 government that meets the criteria in subsection (3) from
 1235 regulating wetlands or surface waters after June 1, 2012, if the
 1236 local government receives delegation of all or a portion of
 1237 state environmental resource permitting authority within 1 year
 1238 after submitting its application for delegation.

1239 (6) Notwithstanding subsections (3), (4), and (5), this
 1240 section does not apply to environmental resource permitting or
 1241 reclamation applications for solid mineral mining and does not
 1242 prohibit the application of local government regulations to any
 1243 new solid mineral mine or any proposed addition to, change to,
 1244 or expansion of an existing solid mineral mine.

1245 Section 19. Paragraph (b) of subsection (11) of section
 1246 376.3071, Florida Statutes, is amended to read:

1247 376.3071 Inland Protection Trust Fund; creation; purposes;
 1248 funding.—

1249 (11)

1250 (b) Low-scored site initiative.—Notwithstanding s.
 1251 376.30711, any site with a priority ranking score of 10 points
 1252 or less may voluntarily participate in the low-scored site
 1253 initiative, whether or not the site is eligible for state
 1254 restoration funding.

1255 1. To participate in the low-scored site initiative, the
 1256 responsible party or property owner must affirmatively
 1257 demonstrate that the following conditions are met:

1258 a. Upon reassessment pursuant to department rule, the site
 1259 retains a priority ranking score of 10 points or less.

1260 b. No excessively contaminated soil, as defined by

1261 department rule, exists onsite as a result of a release of
 1262 petroleum products.

1263 c. A minimum of 6 months of groundwater monitoring
 1264 indicates that the plume is shrinking or stable.

1265 d. The release of petroleum products at the site does not
 1266 adversely affect adjacent surface waters, including their
 1267 effects on human health and the environment.

1268 e. The area of groundwater containing the petroleum
 1269 products' chemicals of concern is less than one-quarter acre and
 1270 is confined to the source property boundaries of the real
 1271 property on which the discharge originated.

1272 f. Soils onsite that are subject to human exposure found
 1273 between land surface and 2 feet below land surface meet the soil
 1274 cleanup target levels established by department rule or human
 1275 exposure is limited by appropriate institutional or engineering
 1276 controls.

1277 2. Upon affirmative demonstration of the conditions under
 1278 subparagraph 1., the department shall issue a determination of
 1279 "No Further Action." Such determination acknowledges that
 1280 minimal contamination exists onsite and that such contamination
 1281 is not a threat to human health or the environment. If no
 1282 contamination is detected, the department may issue a site
 1283 rehabilitation completion order.

1284 3. Sites that are eligible for state restoration funding
 1285 may receive payment of preapproved costs for the low-scored site
 1286 initiative as follows:

1287 a. A responsible party or property owner may submit an
 1288 assessment plan designed to affirmatively demonstrate that the

1289 site meets the conditions under subparagraph 1. Notwithstanding
 1290 the priority ranking score of the site, the department may
 1291 preapprove the cost of the assessment pursuant to s. 376.30711,
 1292 including 6 months of groundwater monitoring, not to exceed
 1293 \$30,000 for each site. The department may not pay the costs
 1294 associated with the establishment of institutional or
 1295 engineering controls.

1296 b. The assessment work shall be completed no later than 6
 1297 months after the department issues its approval.

1298 c. No more than \$10 million for the low-scored site
 1299 initiative shall be encumbered from the Inland Protection Trust
 1300 Fund in any fiscal year. Funds shall be made available on a
 1301 first-come, first-served basis and shall be limited to 10 sites
 1302 in each fiscal year for each responsible party or property
 1303 owner.

1304 d. Program deductibles, copayments, and the limited
 1305 contamination assessment report requirements under paragraph
 1306 (13) (c) do not apply to expenditures under this paragraph.

1307 Section 20. Section 376.30715, Florida Statutes, is
 1308 amended to read:

1309 376.30715 Innocent victim petroleum storage system
 1310 restoration.—A contaminated site acquired by the current owner
 1311 prior to July 1, 1990, which has ceased operating as a petroleum
 1312 storage or retail business prior to January 1, 1985, is eligible
 1313 for financial assistance pursuant to s. 376.305(6),
 1314 notwithstanding s. 376.305(6) (a). For purposes of this section,
 1315 the term "acquired" means the acquisition of title to the
 1316 property; however, a subsequent transfer of the property to a

1317 spouse or child of the owner, a surviving spouse or child of the
 1318 owner in trust or free of trust, ~~or~~ a revocable trust created
 1319 for the benefit of the settlor, or a corporate entity created by
 1320 the owner to hold title to the site does not disqualify the site
 1321 from financial assistance pursuant to s. 376.305(6) and
 1322 applicants previously denied coverage may reapply. Eligible
 1323 sites shall be ranked in accordance with s. 376.3071(5).

1324 Section 21. Section 378.413, Florida Statutes, is created
 1325 to read:

1326 378.413 Regulatory preemption for construction aggregate
 1327 materials mining.-Except as otherwise provided in this section,
 1328 it is the intent of the Legislature for all mines for
 1329 construction aggregate materials, as defined under s.
 1330 337.0261(1), for which an environmental resource permit
 1331 application was filed pursuant to part IV of chapter 373, since
 1332 January 1, 2008, that the regulation, permitting, and
 1333 enforcement of all matters relating to stormwater, drainage,
 1334 wetlands, surface or ground water flows or levels, surface or
 1335 ground water quality, or surface or ground water management,
 1336 reclamation, consumptive uses of water, and imperiled,
 1337 endangered, or threatened species under, but not limited to, s.
 1338 9, Art. IV of the State Constitution, this chapter, chapters 373
 1339 and 379, and parts II and IV of chapter 403 or any equivalent
 1340 federal law or regulation, are preempted to the state, and a
 1341 county may not enact any ordinance or local rule, or attempt to
 1342 regulate or enforce by any means, any matter relating to these
 1343 subjects. This section does not apply to construction aggregate
 1344 materials mines in the Miami-Dade County Lake Belt Area as

1345 described in s. 373.4149(3).

1346 Section 22. Paragraph (u) is added to subsection (24) of
 1347 section 380.06, Florida Statutes, to read:

1348 380.06 Developments of regional impact.—

1349 (24) STATUTORY EXEMPTIONS.—

1350 (u) Any proposed solid mineral mine and any proposed
 1351 addition to, expansion of, or change to an existing solid
 1352 mineral mine is exempt from the provisions of this section.
 1353 Proposed changes to any previously approved solid mineral mine
 1354 development-of-regional-impact development orders having vested
 1355 rights is not subject to further review or approval as a
 1356 development of regional impact or notice of proposed change
 1357 review or approval pursuant to subsection (19), except for those
 1358 applications pending as of July 1, 2011, which shall be governed
 1359 by s. 380.115(2). Notwithstanding the foregoing, however,
 1360 pursuant to s. 380.115(1), previously approved solid mineral
 1361 mine development-of-regional-impact development orders shall
 1362 continue to enjoy vested rights and continue to be effective
 1363 unless rescinded by the developer. All local government
 1364 regulations of proposed solid mineral mines apply to any new
 1365 solid mineral mine or to any proposed addition to, expansion of,
 1366 or change to an existing solid mineral mine. Notwithstanding
 1367 this exemption, a new solid mineral mine that contributes more
 1368 than 5 percent of the maximum service volume to a Strategic
 1369 Intermodal System facility operating below its designated level
 1370 of service must enter into a binding agreement with the
 1371 Department of Transportation to mitigate its impacts to the
 1372 Strategic Intermodal System facility.

1373
 1374 If a use is exempt from review as a development of regional
 1375 impact under paragraphs (a)-(s), but will be part of a larger
 1376 project that is subject to review as a development of regional
 1377 impact, the impact of the exempt use must be included in the
 1378 review of the larger project, unless such exempt use involves a
 1379 development of regional impact that includes a landowner,
 1380 tenant, or user that has entered into a funding agreement with
 1381 the Office of Tourism, Trade, and Economic Development under the
 1382 Innovation Incentive Program and the agreement contemplates a
 1383 state award of at least \$50 million.

1384 Section 23. Subsection (1) of section 380.0657, Florida
 1385 Statutes, is amended to read:

1386 380.0657 Expedited permitting process for economic
 1387 development projects.—

1388 (1) The Department of Environmental Protection and, as
 1389 appropriate, the water management districts created under
 1390 chapter 373 shall adopt programs to expedite the processing of
 1391 wetland resource and environmental resource permits for economic
 1392 development projects that have been identified by a municipality
 1393 or county as meeting the definition of target industry
 1394 businesses under s. 288.106, or any inland multimodal facility,
 1395 receiving or sending cargo to or from Florida ports, with the
 1396 exception of those projects requiring approval by the Board of
 1397 Trustees of the Internal Improvement Trust Fund.

1398 Section 24. Subsection (11) of section 403.061, Florida
 1399 Statutes, is amended to read:

1400 403.061 Department; powers and duties.—The department

1401 shall have the power and the duty to control and prohibit
 1402 pollution of air and water in accordance with the law and rules
 1403 adopted and promulgated by it and, for this purpose, to:

1404 (11) Establish ambient air quality and water quality
 1405 standards for the state as a whole or for any part thereof, and
 1406 also standards for the abatement of excessive and unnecessary
 1407 noise. The department is authorized to establish reasonable
 1408 zones of mixing for discharges into waters. For existing
 1409 installations as defined by rule 62-520.200(10), Florida
 1410 Administrative Code, effective July 12, 2009, zones of discharge
 1411 to groundwater are authorized to a facility's or owner's
 1412 property boundary and extending to the base of a specifically
 1413 designated aquifer or aquifers. Exceedance of primary and
 1414 secondary groundwater standards that occur within a zone of
 1415 discharge does not create liability pursuant to this chapter or
 1416 chapter 376 for site cleanup, and the exceedance of soil cleanup
 1417 target levels is not a basis for enforcement or site cleanup.

1418 (a) When a receiving body of water fails to meet a water
 1419 quality standard for pollutants set forth in department rules, a
 1420 steam electric generating plant discharge of pollutants that is
 1421 existing or licensed under this chapter on July 1, 1984, may
 1422 nevertheless be granted a mixing zone, provided that:

1423 1. The standard would not be met in the water body in the
 1424 absence of the discharge;

1425 2. The discharge is in compliance with all applicable
 1426 technology-based effluent limitations;

1427 3. The discharge does not cause a measurable increase in
 1428 the degree of noncompliance with the standard at the boundary of

1429 the mixing zone; and

1430 4. The discharge otherwise complies with the mixing zone
 1431 provisions specified in department rules.

1432 (b) No mixing zone for point source discharges shall be
 1433 permitted in Outstanding Florida Waters except for:

1434 1. Sources that have received permits from the department
 1435 prior to April 1, 1982, or the date of designation, whichever is
 1436 later;

1437 2. Blowdown from new power plants certified pursuant to
 1438 the Florida Electrical Power Plant Siting Act;

1439 3. Discharges of water necessary for water management
 1440 purposes which have been approved by the governing board of a
 1441 water management district and, if required by law, by the
 1442 secretary; and

1443 4. The discharge of demineralization concentrate which has
 1444 been determined permittable under s. 403.0882 and which meets
 1445 the specific provisions of s. 403.0882(4)(a) and (b), if the
 1446 proposed discharge is clearly in the public interest.

1447 (c) The department, by rule, shall establish water quality
 1448 criteria for wetlands which criteria give appropriate
 1449 recognition to the water quality of such wetlands in their
 1450 natural state.

1451
 1452 Nothing in this act shall be construed to invalidate any
 1453 existing department rule relating to mixing zones. The
 1454 department shall cooperate with the Department of Highway Safety
 1455 and Motor Vehicles in the development of regulations required by
 1456 s. 316.272(1).

1457
 1458 The department shall implement such programs in conjunction with
 1459 its other powers and duties and shall place special emphasis on
 1460 reducing and eliminating contamination that presents a threat to
 1461 humans, animals or plants, or to the environment.

1462 Section 25. Subsection (7) of section 403.087, Florida
 1463 Statutes, is amended to read:

1464 403.087 Permits; general issuance; denial; revocation;
 1465 prohibition; penalty.—

1466 (7) A permit issued pursuant to this section shall not
 1467 become a vested right in the permittee. The department may
 1468 revoke any permit issued by it if it finds that the permitholder
 1469 has:

1470 (a) ~~Has~~ Submitted false or inaccurate information in the
 1471 ~~his or her~~ application for such permit;

1472 (b) ~~Has~~ Violated law, department orders, rules, ~~or~~
 1473 ~~regulations,~~ or ~~permit~~ conditions;

1474 (c) ~~Has~~ Failed to submit operational reports or other
 1475 information required by department rule which directly relate to
 1476 such permit and has refused to correct or cure such violations
 1477 when requested to do so ~~or regulation;~~ or

1478 (d) ~~Has~~ Refused lawful inspection under s. 403.091 at the
 1479 facility authorized by such permit.

1480 Section 26. Section 403.0874, Florida Statutes, is created
 1481 to read:

1482 403.0874 Incentive-based permitting program.—

1483 (1) SHORT TITLE.—This section may be cited as the "Florida
 1484 Incentive-based Permitting Act."

1485 (2) FINDINGS AND INTENT.—The Legislature finds and
1486 declares that the department should consider compliance history
1487 when deciding whether to issue, renew, amend, or modify a permit
1488 by evaluating an applicant's site-specific and program-specific
1489 relevant aggregate compliance history. Persons having a history
1490 of complying with applicable permits or state environmental laws
1491 and rules are eligible for permitting benefits, including, but
1492 not limited to, expedited permit application reviews, longer-
1493 duration permit periods, decreased announced compliance
1494 inspections, and other similar regulatory and compliance
1495 incentives to encourage and reward such persons for their
1496 environmental performance.

1497 (3) APPLICABILITY.—

1498 (a) This section applies to all persons and regulated
1499 activities that are subject to the permitting requirements of
1500 chapter 161, chapter 373, or this chapter, and all other
1501 applicable state or federal laws that govern activities for the
1502 purpose of protecting the environment or the public health from
1503 pollution or contamination.

1504 (b) Notwithstanding paragraph (a), this section does not
1505 apply to certain permit actions or environmental permitting laws
1506 such as:

1507 1. Environmental permitting or authorization laws that
1508 regulate activities for the purpose of zoning, growth
1509 management, or land use; or

1510 2. Any federal law or program delegated or assumed by the
1511 state to the extent that implementation of this section, or any
1512 part of this section, would jeopardize the ability of the state

1513 to retain such delegation or assumption.

1514 (c) As used in this section, the term "regulated activity"
 1515 means any activity, including, but not limited to, the
 1516 construction or operation of a facility, installation, system,
 1517 or project, for which a permit, certification, or authorization
 1518 is required under chapter 161, chapter 373, or this chapter.

1519 (4) COMPLIANCE HISTORY.—The compliance history period
 1520 shall be the 10 years before the date any permit or renewal
 1521 application is received by the department. Any person is
 1522 entitled to the incentives under subsection (5) if:

1523 (a)1. The applicant has conducted the regulated activity
 1524 at the same site for which the permit or renewal is sought for
 1525 at least 8 of the 10 years before the date the permit
 1526 application is received by the department; or

1527 2. The applicant has conducted the same regulated activity
 1528 at a different site within the state for at least 8 of the 10
 1529 years before the date the permit or renewal application is
 1530 received by the department; and

1531 (b) In the 10 years before the date the permit or renewal
 1532 application is received by the department or water management
 1533 district, the applicant has not been subject to a final
 1534 administrative order or civil judgment or criminal conviction
 1535 whereby an administrative law judge or civil or criminal court
 1536 found the applicant violated the applicable law or rule and has
 1537 not been the subject of an administrative settlement or consent
 1538 order, whether formal or informal, that established a violation
 1539 of an applicable law or rule; and

1540 (c) The applicant can demonstrate during a 10-year

1541 compliance history period the implementation of activities or
 1542 practices that resulted in:

1543 1. Reductions in actual or permitted discharges or
 1544 emissions;

1545 2. Reductions in the impacts of regulated activities on
 1546 public lands or natural resources; and

1547 3. Implementation of voluntary environmental performance
 1548 programs, such as environmental management systems.

1549 (5) COMPLIANCE INCENTIVES.—An applicant shall request all
 1550 applicable incentives at the time of application submittal.
 1551 Unless otherwise prohibited by state or federal law, rule, or
 1552 regulation, and if the applicant meets all other applicable
 1553 criteria for the issuance of a permit or authorization, an
 1554 applicant is entitled to the following incentives:

1555 (a) Expedited reviews on permit actions, including, but
 1556 not limited to, initial permit issuance, renewal, modification,
 1557 and transfer, if applicable. Expedited review means, at a
 1558 minimum, that the initial request for additional information
 1559 regarding a permit application shall be issued no later than 30
 1560 days after the application is filed, and final agency action
 1561 shall be taken no later than 60 days after the application is
 1562 deemed complete;

1563 (b) Priority review of the permit application;

1564 (c) Reduction in the number of routine compliance
 1565 inspections;

1566 (d) No more than two requests for additional information
 1567 under s. 120.60; and

1568 (e) Longer permit period durations.

1569 (6) RULEMAKING.—The department may adopt additional
 1570 incentives by rule. Such incentives shall be based on, and
 1571 proportional to, actions taken by the applicant to reduce the
 1572 applicant's impacts on human health and the environment beyond
 1573 those actions required by law. The department's rules adopted
 1574 under this section are binding on the water management districts
 1575 and any local government that has been delegated or assumed a
 1576 regulatory program to which this section applies.

1577 (7) SAVINGS PROVISION.—This section does not affect an
 1578 applicant's responsibility to provide reasonable assurance of
 1579 compliance with applicable statutes and rules as a condition
 1580 precedent to issuance of a permit and does not limit factors the
 1581 department, a water management district, or a delegated program
 1582 may consider in evaluating a permit application under existing
 1583 law.

1584 Section 27. Subsection (2) of section 403.1838, Florida
 1585 Statutes, is amended to read:

1586 403.1838 Small Community Sewer Construction Assistance
 1587 Act.—

1588 (2) The department shall use funds specifically
 1589 appropriated to award grants under this section to assist
 1590 financially disadvantaged small communities with their needs for
 1591 adequate sewer facilities. For purposes of this section, the
 1592 term "financially disadvantaged small community" means a
 1593 municipality that has ~~with~~ a population of 10,000 ~~7,500~~ or fewer
 1594 ~~less~~, according to the latest decennial census and a per capita
 1595 annual income less than the state per capita annual income as
 1596 determined by the United States Department of Commerce.

1597 Section 28. Paragraph (f) of subsection (1) of section
 1598 403.7045, Florida Statutes, is amended to read:

1599 403.7045 Application of act and integration with other
 1600 acts.—

1601 (1) The following wastes or activities shall not be
 1602 regulated pursuant to this act:

1603 (f) Industrial byproducts, if:

1604 1. A majority of the industrial byproducts are
 1605 demonstrated to be sold, used, or reused within 1 year.

1606 2. The industrial byproducts are not discharged,
 1607 deposited, injected, dumped, spilled, leaked, or placed upon any
 1608 land or water so that such industrial byproducts, or any
 1609 constituent thereof, may enter other lands or be emitted into
 1610 the air or discharged into any waters, including groundwaters,
 1611 or otherwise enter the environment such that a threat of
 1612 contamination in excess of applicable department standards and
 1613 criteria or a significant threat to public health is caused.

1614 3. The industrial byproducts are not hazardous wastes as
 1615 defined under s. 403.703 and rules adopted under this section.

1616
 1617 Sludge from an industrial waste treatment works that meets the
 1618 exemption requirements of this paragraph is not solid waste as
 1619 defined in s. 403.703(32).

1620 Section 29. Subsections (2) and (3) of section 403.707,
 1621 Florida Statutes, are amended to read:

1622 403.707 Permits.—

1623 (2) Except as provided in s. 403.722(6), a permit under
 1624 this section is not required for the following, ~~if the activity~~

1625 ~~does not create a public nuisance or any condition adversely~~
 1626 ~~affecting the environment or public health and does not violate~~
 1627 ~~other state or local laws, ordinances, rules, regulations, or~~
 1628 ~~orders:~~

1629 (a) Disposal by persons of solid waste resulting from
 1630 their own activities on their own property, if such waste is
 1631 ordinary household waste from their residential property or is
 1632 rocks, soils, trees, tree remains, and other vegetative matter
 1633 that normally result from land development operations. Disposal
 1634 of materials that could create a public nuisance or adversely
 1635 affect the environment or public health, such as white goods;
 1636 automotive materials, such as batteries and tires; petroleum
 1637 products; pesticides; solvents; or hazardous substances, is not
 1638 covered under this exemption.

1639 (b) Storage in containers by persons of solid waste
 1640 resulting from their own activities on their property, leased or
 1641 rented property, or property subject to a homeowners or
 1642 maintenance association for which the person contributes
 1643 association assessments, if the solid waste in such containers
 1644 is collected at least once a week.

1645 (c) Disposal by persons of solid waste resulting from
 1646 their own activities on their property, if the environmental
 1647 effects of such disposal on groundwater and surface waters are:

1648 1. Addressed or authorized by a site certification order
 1649 issued under part II or a permit issued by the department under
 1650 this chapter or rules adopted pursuant to this chapter; or

1651 2. Addressed or authorized by, or exempted from the
 1652 requirement to obtain, a groundwater monitoring plan approved by

1653 the department. If a facility has a permit authorizing disposal
1654 activity, new areas where solid waste is being disposed of that
1655 are monitored by an existing or modified groundwater monitoring
1656 plan are not required to be specifically authorized in a permit
1657 or other certification.

1658 (d) Disposal by persons of solid waste resulting from
1659 their own activities on their own property, if such disposal
1660 occurred prior to October 1, 1988.

1661 (e) Disposal of solid waste resulting from normal farming
1662 operations as defined by department rule. Polyethylene
1663 agricultural plastic, damaged, nonsalvageable, untreated wood
1664 pallets, and packing material that cannot be feasibly recycled,
1665 which are used in connection with agricultural operations
1666 related to the growing, harvesting, or maintenance of crops, may
1667 be disposed of by open burning if a public nuisance or any
1668 condition adversely affecting the environment or the public
1669 health is not created by the open burning and state or federal
1670 ambient air quality standards are not violated.

1671 (f) The use of clean debris as fill material in any area.
1672 However, this paragraph does not exempt any person from
1673 obtaining any other required permits, and does not affect a
1674 person's responsibility to dispose of clean debris appropriately
1675 if it is not to be used as fill material.

1676 (g) Compost operations that produce less than 50 cubic
1677 yards of compost per year when the compost produced is used on
1678 the property where the compost operation is located.

1679 (3) (a) All applicable provisions of ss. 403.087 and
1680 403.088, relating to permits, apply to the control of solid

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1681 waste management facilities.

1682 (b) Any permit issued to a solid waste management facility
1683 that is designed with a leachate control system that meets
1684 department requirements shall be issued for a term of 20 years
1685 unless the applicant requests a lesser permit term. Existing
1686 permit fees for qualifying solid waste management facilities
1687 shall be prorated to the permit term authorized by this section.
1688 This provision applies to all qualifying solid waste management
1689 facilities that apply for an operating or construction permit or
1690 renew an existing operating or construction permit on or after
1691 July 1, 2012.

1692 Section 30. Subsection (12) is added to section 403.814,
1693 Florida Statutes, to read:

1694 403.814 General permits; delegation.—

1695 (12) A general permit shall be granted for the
1696 construction, alteration, and maintenance of a surface water
1697 management system serving a total project area of up to 10
1698 acres. The construction of such a system may proceed without any
1699 agency action by the department or water management district if:

1700 (a) The total project area is less than 10 acres;

1701 (b) The total project area involves less than 2 acres of
1702 impervious surface;

1703 (c) No activities will impact wetlands or other surface
1704 waters;

1705 (d) No activities are conducted in, on, or over wetlands
1706 or other surface waters;

1707 (e) Drainage facilities will not include pipes having
1708 diameters greater than 24 inches, or the hydraulic equivalent,

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1709 and will not use pumps in any manner;

1710 (f) The project is not part of a larger common plan,
 1711 development, or sale.

1712 (g) The project does not:

1713 1. Cause adverse water quantity or flooding impacts to
 1714 receiving water and adjacent lands;

1715 2. Cause adverse impacts to existing surface water storage
 1716 and conveyance capabilities;

1717 3. Cause a violation of state water quality standards; and

1718 4. Cause an adverse impact to the maintenance of surface
 1719 or ground water levels or surface water flows established
 1720 pursuant to s. 373.042 or a work of the district established
 1721 pursuant to s. 373.086; and

1722 (h) The surface water management system design plans must
 1723 be signed and sealed by a Florida registered professional who
 1724 shall attest that the system will perform and function as
 1725 proposed and has been designed in accordance with appropriate,
 1726 generally accepted performance standards and scientific
 1727 principles.

1728 Section 31. Subsection (6) of section 403.853, Florida
 1729 Statutes, is amended to read:

1730 403.853 Drinking water standards.—

1731 (6) Upon the request of the owner or operator of a
 1732 transient noncommunity water system using groundwater as a
 1733 source of supply and serving religious institutions or
 1734 businesses, other than restaurants or other public food service
 1735 establishments or religious institutions with school or day care
 1736 services, ~~and using groundwater as a source of supply,~~ the

1737 department, or a local county health department designated by
 1738 the department, shall perform a sanitary survey of the facility.
 1739 Upon receipt of satisfactory survey results according to
 1740 department criteria, the department shall reduce the
 1741 requirements of such owner or operator from monitoring and
 1742 reporting on a quarterly basis to performing these functions on
 1743 an annual basis. Any revised monitoring and reporting schedule
 1744 approved by the department under this subsection shall apply
 1745 until such time as a violation of applicable state or federal
 1746 primary drinking water standards is determined by the system
 1747 owner or operator, by the department, or by an agency designated
 1748 by the department, after a random or routine sanitary survey.
 1749 Certified operators are not required for transient noncommunity
 1750 water systems of the type and size covered by this subsection.
 1751 Any reports required of such system shall be limited to the
 1752 minimum as required by federal law. When not contrary to the
 1753 provisions of federal law, the department may, upon request and
 1754 by rule, waive additional provisions of state drinking water
 1755 regulations for such systems.

1756 Section 32. Paragraph (a) of subsection (3) and
 1757 subsections (4), (5), (10), (11), (14), (15), and (18) of
 1758 section 403.973, Florida Statutes, are amended to read:

1759 403.973 Expedited permitting; amendments to comprehensive
 1760 plans.—

1761 (3) (a) The secretary shall direct the creation of regional
 1762 permit action teams for the purpose of expediting review of
 1763 permit applications and local comprehensive plan amendments
 1764 submitted by:

1765 1. Businesses creating at least 50 jobs or a commercial or
 1766 industrial development project that will be occupied by
 1767 businesses that would individually or collectively create at
 1768 least 50 jobs; or

1769 2. Businesses creating at least 25 jobs if the project is
 1770 located in an enterprise zone, or in a county having a
 1771 population of fewer than 75,000 or in a county having a
 1772 population of fewer than 125,000 which is contiguous to a county
 1773 having a population of fewer than 75,000, as determined by the
 1774 most recent decennial census, residing in incorporated and
 1775 unincorporated areas of the county.

1776 (4) The regional teams shall be established through the
 1777 execution of a project-specific memoranda of agreement developed
 1778 and executed by the applicant and the secretary, with input
 1779 solicited from ~~the office and~~ the respective heads of the
 1780 Department of Community Affairs, the Department of
 1781 Transportation and its district offices, the Department of
 1782 Agriculture and Consumer Services, the Fish and Wildlife
 1783 Conservation Commission, appropriate regional planning councils,
 1784 appropriate water management districts, and voluntarily
 1785 participating municipalities and counties. The memoranda of
 1786 agreement should also accommodate participation in this
 1787 expedited process by other local governments and federal
 1788 agencies as circumstances warrant.

1789 (5) In order to facilitate local government's option to
 1790 participate in this expedited review process, the secretary
 1791 shall, in cooperation with local governments and participating
 1792 state agencies, create a standard form memorandum of agreement.

1793 The standard form of the memorandum of agreement shall be used
 1794 only if the local government participates in the expedited
 1795 review process. In the absence of local government
 1796 participation, only the project-specific memorandum of agreement
 1797 executed pursuant to subsection (4) applies. A local government
 1798 shall hold a duly noticed public workshop to review and explain
 1799 to the public the expedited permitting process and the terms and
 1800 conditions of the standard form memorandum of agreement.

1801 (10) The memoranda of agreement may provide for the waiver
 1802 or modification of procedural rules prescribing forms, fees,
 1803 procedures, or time limits for the review or processing of
 1804 permit applications under the jurisdiction of those agencies
 1805 that are members of the regional permit action team ~~party to the~~
 1806 ~~memoranda of agreement~~. Notwithstanding any other provision of
 1807 law to the contrary, a memorandum of agreement must to the
 1808 extent feasible provide for proceedings and hearings otherwise
 1809 held separately ~~by the parties to the memorandum of agreement~~ to
 1810 be combined into one proceeding or held jointly and at one
 1811 location. Such waivers or modifications shall not be available
 1812 for permit applications governed by federally delegated or
 1813 approved permitting programs, the requirements of which would
 1814 prohibit, or be inconsistent with, such a waiver or
 1815 modification.

1816 (11) The ~~standard form for~~ memoranda of agreement shall
 1817 include guidelines to be used in working with state, regional,
 1818 and local permitting authorities. Guidelines may include, but
 1819 are not limited to, the following:

1820 (a) A central contact point for filing permit applications

1821 and local comprehensive plan amendments and for obtaining
 1822 information on permit and local comprehensive plan amendment
 1823 requirements;

1824 (b) Identification of the individual or individuals within
 1825 each respective agency who will be responsible for processing
 1826 the expedited permit application or local comprehensive plan
 1827 amendment for that agency;

1828 (c) A mandatory preapplication review process to reduce
 1829 permitting conflicts by providing guidance to applicants
 1830 regarding the permits needed from each agency and governmental
 1831 entity, site planning and development, site suitability and
 1832 limitations, facility design, and steps the applicant can take
 1833 to ensure expeditious permit application and local comprehensive
 1834 plan amendment review. As a part of this process, the first
 1835 interagency meeting to discuss a project shall be held within 14
 1836 days after the secretary's determination that the project is
 1837 eligible for expedited review. Subsequent interagency meetings
 1838 may be scheduled to accommodate the needs of participating local
 1839 governments that are unable to meet public notice requirements
 1840 for executing a memorandum of agreement within this timeframe.
 1841 This accommodation may not exceed 45 days from the secretary's
 1842 determination that the project is eligible for expedited review;

1843 (d) The preparation of a single coordinated project
 1844 description form and checklist and an agreement by state and
 1845 regional agencies to reduce the burden on an applicant to
 1846 provide duplicate information to multiple agencies;

1847 (e) Establishment of a process for the adoption and review
 1848 of any comprehensive plan amendment needed by any certified

1849 project within 90 days after the submission of an application
1850 for a comprehensive plan amendment. However, the memorandum of
1851 agreement may not prevent affected persons as defined in s.
1852 163.3184 from appealing or participating in this expedited plan
1853 amendment process and any review or appeals of decisions made
1854 under this paragraph; and

1855 (f) Additional incentives for an applicant who proposes a
1856 project that provides a net ecosystem benefit.

1857 (14) (a) Challenges to state agency action in the expedited
1858 permitting process for projects processed under this section are
1859 subject to the summary hearing provisions of s. 120.574, except
1860 that the administrative law judge's decision, as provided in s.
1861 120.574(2) (f), shall be in the form of a recommended order and
1862 shall not constitute the final action of the state agency. In
1863 those proceedings where the action of only one agency of the
1864 state other than the Department of Environmental Protection is
1865 challenged, the agency of the state shall issue the final order
1866 within 45 working days after receipt of the administrative law
1867 judge's recommended order, and the recommended order shall
1868 inform the parties of their right to file exceptions or
1869 responses to the recommended order in accordance with the
1870 uniform rules of procedure pursuant to s. 120.54. In those
1871 proceedings where the actions of more than one agency of the
1872 state are challenged, the Governor shall issue the final order
1873 within 45 working days after receipt of the administrative law
1874 judge's recommended order, and the recommended order shall
1875 inform the parties of their right to file exceptions or
1876 responses to the recommended order in accordance with the

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1877 uniform rules of procedure pursuant to s. 120.54. For ~~This~~
1878 ~~paragraph does not apply to~~ the issuance of department licenses
1879 required under any federally delegated or approved permit
1880 program. ~~In such instances,~~ the department, and not the
1881 Governor, shall enter the final order. The participating
1882 agencies of the state may opt at the preliminary hearing
1883 conference to allow the administrative law judge's decision to
1884 constitute the final agency action. If a participating local
1885 government agrees to participate in the summary hearing
1886 provisions of s. 120.574 for purposes of review of local
1887 government comprehensive plan amendments, s. 163.3184(9) and
1888 (10) apply.

1889 (b) Projects identified in paragraph (3)(f) or challenges
1890 to state agency action in the expedited permitting process for
1891 establishment of a state-of-the-art biomedical research
1892 institution and campus in this state by the grantee under s.
1893 288.955 are subject to the same requirements as challenges
1894 brought under paragraph (a), except that, notwithstanding s.
1895 120.574, summary proceedings must be conducted within 30 days
1896 after a party files the motion for summary hearing, regardless
1897 of whether the parties agree to the summary proceeding.

1898 (15) The office, working with the agencies providing
1899 cooperative assistance and input regarding the memoranda of
1900 agreement, shall review sites proposed for the location of
1901 facilities that the office has certified to be eligible for the
1902 Innovation Incentive Program under s. 288.1089. Within 20 days
1903 after the request for the review by the office, the agencies
1904 shall provide to the office a statement as to each site's

1905 necessary permits under local, state, and federal law and an
 1906 identification of significant permitting issues, which if
 1907 unresolved, may result in the denial of an agency permit or
 1908 approval or any significant delay caused by the permitting
 1909 process.

1910 (18) The office, working with the Rural Economic
 1911 Development Initiative ~~and the agencies participating in the~~
 1912 ~~memoranda of agreement~~, shall provide technical assistance in
 1913 preparing permit applications and local comprehensive plan
 1914 amendments for counties having a population of fewer than 75,000
 1915 residents, or counties having fewer than 125,000 residents which
 1916 are contiguous to counties having fewer than 75,000 residents.
 1917 Additional assistance may include, but not be limited to,
 1918 guidance in land development regulations and permitting
 1919 processes, working cooperatively with state, regional, and local
 1920 entities to identify areas within these counties which may be
 1921 suitable or adaptable for preclearance review of specified types
 1922 of land uses and other activities requiring permits.

1923 Section 33. Subsection (5) is added to section 526.203,
 1924 Florida Statutes, to read:

1925 526.203 Renewable fuel standard.—

1926 (5) SALE OF UNBLENDED FUELS.—This section does not
 1927 prohibit the sale of unblended fuels for the uses exempted under
 1928 subsection (3).

1929 Section 34. The installation of fuel tank upgrades to
 1930 secondary containment systems shall be completed by the
 1931 deadlines specified in rule 62-761.510, Florida Administrative
 1932 Code, Table UST. However, notwithstanding any agreements to the

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1933 | contrary, any fuel service station that changed ownership
 1934 | interest through a bona fide sale of the property between
 1935 | January 1, 2009, and December 31, 2009, is not required to
 1936 | complete the upgrades described in rule 62-761.510, Florida
 1937 | Administrative Code, Table UST, until December 31, 2012.

1938 | Section 35. This act shall take effect July 1, 2011.