

By Senator Latvala

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A bill to be entitled  
An act relating to rulemaking authority of the  
Department of Environmental Protection (RAB);  
amending s. 403.061, F.S.; authorizing the  
adoption of rules on quality-assurance  
requirements for environmental data submitted  
to the department; providing an effective date.  
Be It Enacted by the Legislature of the State of Florida:  
Section 1. Section 403.061, Florida Statutes, is  
amended to read:  
403.061 Department; powers and duties.--The department  
shall have the power and the duty to control and prohibit  
pollution of air and water in accordance with the law and  
rules adopted ~~and promulgated~~ by it and, for this purpose, to:  
(1) Approve and promulgate current and long-range  
plans developed to provide for air and water quality control  
and pollution abatement.  
(2) Hire only such employees as may be necessary to  
effectuate the responsibilities of the department.  
(3) Utilize the facilities and personnel of other  
state agencies, including the Department of Health ~~and~~  
Rehabilitative Services, and delegate to any such agency any  
duties and functions as the department may deem necessary to  
carry out the purposes of this act.  
(4) Secure necessary scientific, technical, research,  
administrative, and operational services by interagency  
agreement, by contract, or otherwise. All state agencies,  
upon direction of the department, shall make these services  
and facilities available.

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

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

8           (7) Adopt, modify, and repeal rules and regulations to  
9 carry out the intent and purposes of this act. Any rule or  
10 regulation adopted pursuant to this act shall be consistent  
11 with the provisions of federal law, if any, relating to  
12 control of emissions from motor vehicles, effluent  
13 limitations, pretreatment requirements, or standards of  
14 performance. No county, municipality, or political subdivision  
15 shall adopt or enforce any local ordinance, special law, or  
16 local regulation requiring the installation of Stage II vapor  
17 recovery systems, as currently defined by department rule,  
18 unless such county, municipality, or political subdivision is  
19 or has been in the past designated by federal regulation as a  
20 moderate, serious, or severe ozone nonattainment area. Rules  
21 adopted pursuant to this act shall not require dischargers of  
22 waste into waters of the state to improve natural background  
23 conditions. Discharges from steam electric generating plants  
24 existing or licensed under this chapter on July 1, 1984, shall  
25 not be required to be treated to a greater extent than may be  
26 necessary to assure that the quality of nonthermal components  
27 of discharges from nonrecirculated cooling water systems is as  
28 high as the quality of the makeup waters; that the quality of  
29 nonthermal components of discharges from recirculated cooling  
30 water systems is no lower than is allowed for blowdown from  
31 such systems; or that the quality of noncooling system

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

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

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

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

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

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

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

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

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

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

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

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

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

19 3. Discharges of water necessary for water management  
20 purposes which have been approved by the governing board of a  
21 water management district and, if required by law, by the  
22 secretary.

23 (c) The department, by rule, shall establish water  
24 quality criteria for wetlands which criteria give appropriate  
25 recognition to the water quality of such wetlands in their  
26 natural state.

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28 Nothing in this act shall be construed to invalidate any  
29 existing department rule relating to mixing zones. The  
30 department shall cooperate with the Department of Highway

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1 Safety and Motor Vehicles in the development of regulations  
2 required by s. 316.272(1).

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

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

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

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

22 (a) Notwithstanding any other provision of this  
23 chapter, the department may authorize, by rule, the Department  
24 of Transportation to perform any activity requiring a permit  
25 from the department covered by this chapter, upon  
26 certification by the Department of Transportation that it will  
27 meet all requirements imposed by statute, rule, or standard  
28 for environmental control and protection as such statute,  
29 rule, or standard applies to a governmental program. To this  
30 end, the department may accept such certification of  
31 compliance for programs of the Department of Transportation,

1 may conduct investigations for compliance, and, if a violation  
2 is found to exist, may take all necessary enforcement action  
3 pertaining thereto, including, but not limited to, the  
4 revocation of certification. The authorization shall be by  
5 rule of the department, shall be limited to the maintenance,  
6 repair, or replacement of existing structures, and shall be  
7 conditioned upon compliance by the Department of  
8 Transportation with specific guidelines or requirements which  
9 are set forth in the formal acceptance and deemed necessary by  
10 the department to assure future compliance with this chapter  
11 and applicable department rules. The failure of the Department  
12 of Transportation to comply with any provision of the written  
13 acceptance shall constitute grounds for its revocation by the  
14 department.

15 (b) The provisions of chapter 120 shall be accorded  
16 any person when substantial interests will be affected by an  
17 activity proposed to be conducted by the Department of  
18 Transportation pursuant to its certification and the  
19 acceptance of the department. If a proceeding is conducted  
20 pursuant to ss. 120.569 and 120.57, the department may  
21 intervene as a party. Should an administrative law judge of  
22 the Division of Administrative Hearings of the Department of  
23 Management Services submit a recommended order pursuant to ss.  
24 120.569 and 120.57, the department shall issue a final  
25 department order adopting, rejecting, or modifying the  
26 recommended order pursuant to such action.

27 (15) Consult with any person proposing to construct,  
28 install, or otherwise acquire a pollution control device or  
29 system concerning the efficacy of such device or system, or  
30 the pollution problem which may be related to the source,  
31 device, or system. Nothing in any such consultation shall be

1 construed to relieve any person from compliance with this act,  
2 rules and regulations of the department, or any other  
3 provision of law.

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

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

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

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

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

20 (21) Advise, consult, cooperate, and enter into  
21 agreements with other agencies of the state, the Federal  
22 Government, other states, interstate agencies, groups,  
23 political subdivisions, and industries affected by the  
24 provisions of this act, rules, or policies of the department.  
25 However, the secretary of the department shall not enter into  
26 any interstate agreement relating to the transport of ozone  
27 precursor pollutants, nor modify its rules based upon a  
28 recommendation from the Ozone Transport Assessment Group or  
29 any other such organization that is not an official  
30 subdivision of the United States Environmental Protection  
31 Agency but which studies issues related to the transport of

1 ozone precursor pollutants, without prior review and specific  
2 legislative approval.

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

7 (23) Adopt rules and regulations to ensure that no  
8 detergents are sold in Florida after December 31, 1972, which  
9 are reasonably found to have a harmful or deleterious effect  
10 on human health or on the environment. Any regulations adopted  
11 pursuant to this subsection shall apply statewide. Subsequent  
12 to the promulgation of such rules and regulations, no county,  
13 municipality, or other local political subdivision shall adopt  
14 or enforce any local ordinance, special law, or local  
15 regulation governing detergents which is less stringent than  
16 state law or regulation. Regulations, ordinances, or special  
17 acts adopted by a county or municipality governing detergents  
18 shall be subject to approval by the department, except that  
19 regulations, ordinances, or special acts adopted by any county  
20 or municipality with a local pollution control program  
21 approved pursuant to s. 403.182 shall be approved as an  
22 element of the local pollution control program.

23 (24)(a) Establish a permit system to provide for spoil  
24 site approval, as may be requested and required by local  
25 governmental agencies as defined in s. 403.1822(3), or  
26 mosquito control districts as defined in s. 388.011(5), to  
27 facilitate these agencies in providing spoil sites for the  
28 deposit of spoil from maintenance dredging of navigation  
29 channels, port harbors, turning basins, and harbor berths, as  
30 part of a federal project, when the agency is acting as  
31 sponsor of a contemplated dredge and fill operation involving



1 an established navigation channel, harbor, turning basin, or  
2 harbor berth. A spoil site approval granted to the agency  
3 shall be granted for a period of 10 to 25 years when such site  
4 is not inconsistent with an adopted local governmental  
5 comprehensive plan and the requirements of this chapter. The  
6 department shall periodically review each permit to determine  
7 compliance with the terms and conditions of the permit. Such  
8 review shall be conducted at least once every 10 years.

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

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

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

3 (b) The provisions of paragraph (a) apply only to the  
4 port waters, spoil disposal sites, port harbors, navigation  
5 channels, turning basins, and harbor berths used for deepwater  
6 commercial navigation in the ports of Jacksonville, Tampa,  
7 Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm  
8 Beach, Port Manatee, Port St. Joe, Panama City, St.  
9 Petersburg, Port Bartow, Florida Power Corporation's Crystal  
10 River Canal, Boca Grande, Green Cove Springs, and Pensacola.

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

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

21 (29) Adopt by rule special criteria to protect Class  
22 II shellfish harvesting waters. Rules previously adopted by  
23 the department in rule 17-4.28(8)(a), Florida Administrative  
24 Code, are hereby ratified and determined to be a valid  
25 exercise of delegated legislative authority and shall remain  
26 in effect unless amended by the Environmental Regulation  
27 Commission.

28 (30) Establish requirements by rule that reasonably  
29 protect the public health and welfare from electric and  
30 magnetic fields associated with existing 230 kV or greater  
31 electrical transmission lines, new 230 kV and greater

1 electrical transmission lines for which an application for  
2 certification under the Transmission Line Siting Act, ss.  
3 403.52-403.5365, is not filed, new or existing electrical  
4 transmission or distribution lines with voltage less than 230  
5 kV, and substation facilities. Notwithstanding any other  
6 provision in this chapter or any other law of this state or  
7 political subdivision thereof, the department shall have  
8 exclusive jurisdiction in the regulation of electric and  
9 magnetic fields associated with all electrical transmission  
10 and distribution lines and substation facilities. However,  
11 nothing herein shall be construed as superseding or repealing  
12 the provisions of s. 403.523(1) and (10).

13 (31) Adopt rules necessary to obtain approval from the  
14 United States Environmental Protection Agency to administer  
15 the Federal National Pollution Discharge Elimination System  
16 (NPDES) permitting program in Florida under ss. 318, 402, and  
17 405 of the Federal Clean Water Act, Pub. L. No. 92-500, as  
18 amended. This authority shall be implemented consistent with  
19 the provisions of part II, which shall be applicable to  
20 facilities certified thereunder. The department shall  
21 establish all rules, standards, and requirements that regulate  
22 the discharge of pollutants into waters of the United States  
23 as defined by and in a manner consistent with federal  
24 regulations; provided, however, that the department may adopt  
25 a standard that is stricter or more stringent than one set by  
26 the United States Environmental Protection Agency if approved  
27 by the Governor and Cabinet in accordance with the procedures  
28 of s. 403.804(2).

29 (32) Coordinate the state's stormwater program.  
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1           (33) Establish and administer programs providing  
2 appropriate incentives that have the following goals, in order  
3 of importance:

4           (a) Preventing and reducing pollution at its source.

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

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

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

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

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

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

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1           (37) Enter into a memorandum of agreement with the  
2 Florida Ports Council which provides a supplemental permitting  
3 process for the issuance of a joint coastal permit pursuant to  
4 s. 161.055 or environmental resource permit pursuant to part  
5 IV of chapter 373, to a port listed in s. 311.09(1), for  
6 maintenance dredging and the management of dredged materials  
7 from maintenance dredging of all navigation channels, port  
8 harbors, turning basins, and harbor berths. Such permit shall  
9 be issued for a period of 5 years and shall be annually  
10 extended for an additional year if the port is in compliance  
11 with all permit conditions at the time of extension.

12           (38) Enter into a memorandum of agreement with the  
13 Florida Ports Council which provides a supplemental permitting  
14 process for the issuance of a conceptual joint coastal permit  
15 pursuant to s. 161.055 or environmental resource permit  
16 pursuant to part IV of chapter 373, to a port listed in s.  
17 311.09(1), for dredging and the management of materials from  
18 dredging and for other related activities necessary for  
19 development, including the expansion of navigation channels,  
20 port harbors, turning basins, harbor berths, and associated  
21 facilities. Such permit shall be issued for a period of up to  
22 15 years.

23           (39) Establish, by rule, appropriate quality-assurance  
24 requirements for environmental data submitted to the  
25 department and the criteria by which environmental data may be  
26 rejected by the department. The rules may be in addition to  
27 any laboratory-certification provisions under ss. 403.0625 and  
28 403.863.

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30 The department shall implement such programs in conjunction  
31 with its other powers and duties and shall place special

1 emphasis on reducing and eliminating contamination that  
2 presents a threat to humans, animals or plants, or to the  
3 environment.

4 Section 2. This act shall take effect upon becoming a  
5 law.

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8 SENATE SUMMARY

9 Authorizes the Department of Environmental Protection to  
10 adopt rules on quality-assurance requirements for  
11 environmental data submitted to the department.  
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