



1           (2) Environmental impact inventories for  
2 transportation projects proposed by the Department of  
3 Transportation shall be developed as follows:

4           (a) ~~Beginning July 1996,~~The Department of  
5 Transportation shall submit annually to the Department of  
6 Environmental Protection and the water management districts a  
7 copy of its adopted work program and an inventory of habitats  
8 addressed in the rules adopted pursuant to this part and s.  
9 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be  
10 affected ~~impacted~~ by its plan of construction for  
11 transportation projects in the next ~~first~~ 3 years of the  
12 adopted work program. The Department of Transportation may  
13 also include an inventory of habitats that may be affected by  
14 any future transportation project identified in the adopted  
15 work program.~~For the July 1996 submittal, the inventory may~~  
16 ~~exclude those projects which have received permits pursuant to~~  
17 ~~this part and s. 404 of the Clean Water Act, 33 U.S.C. s.~~  
18 ~~1344, projects for which mitigation planning or design has~~  
19 ~~commenced, or projects for which mitigation has been~~  
20 ~~implemented in anticipation of future permitting needs.~~

21           (b) The environmental impact inventory shall include a  
22 description of these habitat impacts, including their  
23 location, acreage, and type; state water quality  
24 classification of impacted wetlands and other surface waters;  
25 any other state or regional designations for these habitats;  
26 and a survey of threatened species, endangered species, and  
27 species of special concern affected by the proposed project.

28           (3) To fund the mitigation plan for the projected  
29 impacts identified in the inventory described in subsection  
30 (2), ~~beginning July 1, 1997,~~the Department of Transportation  
31 shall identify funds quarterly in an escrow account within the

1 State Transportation Trust Fund established by the Department  
2 of Transportation for the benefit of the Department of  
3 Environmental Protection. Any interest earnings from the  
4 escrow account shall be returned to the Department of  
5 Transportation. The Department of Environmental Protection  
6 shall request a transfer of funds from the escrow account to  
7 the Ecosystem Management and Restoration Trust Fund no sooner  
8 than 30 days prior to the date the funds are needed to pay for  
9 activities contained in the mitigation programs. The amount  
10 transferred each year by the Department of Transportation  
11 shall correspond to a cost per acre of \$75,000 multiplied by  
12 the projected acres of impact identified in the inventory  
13 described in subsection (2) within the water management  
14 district for that year. The water management district may  
15 draw from the trust fund no sooner than 30 days prior to the  
16 date funds are needed to pay for activities associated with  
17 development or implementation of the mitigation plan described  
18 in subsection (4). A portion of the per-acre funding may be  
19 used for support and development of these plans including  
20 design, engineering, production, and staff support. Each July  
21 ~~1, beginning in 1998,~~ the cost per acre shall be adjusted by  
22 the percentage change in the average of the Consumer Price  
23 Index issued by the United States Department of Labor for the  
24 most recent 12-month period ending September 30, compared to  
25 the base year average, which is the average for the 12-month  
26 period ending September 30, 1996. At the end of each year,  
27 the projected acreage of impact shall be reconciled with the  
28 acreage of impact of projects as permitted pursuant to this  
29 part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, and  
30 the following year's transfer of funds shall be adjusted  
31 accordingly to reflect the overtransfer or undertransfer of

1 funds from the preceding year. The Department of Environmental  
2 Protection is authorized to transfer such funds from the  
3 Ecosystem Management and Restoration Trust Fund to the water  
4 management districts to carry out the mitigation programs.

5 (4) Prior to December 31, 1996, each water management  
6 district, in consultation with the Department of Environmental  
7 Protection, the United States Army Corps of Engineers, and  
8 other appropriate federal, state, and local governments, shall  
9 develop a plan for the primary purpose of complying with the  
10 mitigation requirements adopted pursuant to this part and 33  
11 U.S.C. s. 1344. This plan shall also address significant  
12 aquatic and exotic plant problems within wetlands and other  
13 surface waters. In developing such plans, the districts shall  
14 utilize sound ecosystem management practices to address  
15 significant water resource needs. In determining the  
16 activities to be included in such plans, the districts shall  
17 also consider the purchase of credits from public or private  
18 mitigation banks permitted under this part and shall include  
19 such purchase as a part of the mitigation plan when such  
20 purchase would offset the impact of the transportation  
21 project, provide equal benefits to the water resources than  
22 other mitigation options being considered, and provide the  
23 most cost-effective mitigation option. The mitigation plan  
24 shall be preliminarily approved by the water management  
25 district governing board and shall be submitted to the  
26 secretary of the Department of Environmental Protection for  
27 review and final approval. The preliminary approval by the  
28 water management district governing board does not constitute  
29 a decision that affects substantial interests as provided by  
30 s. 120.569. At least 30 days prior to preliminary approval,

31

1 the water management district shall provide a copy of the  
2 draft mitigation plan to any person who has requested a copy.

3 (a) If the Department of Environmental Protection and  
4 water management districts are unable to identify mitigation  
5 that would offset the impacts of a project included in the  
6 inventory, either due to the nature of the impact or the  
7 amount of funds available, that project shall not be addressed  
8 in the mitigation plan and the project shall not be subject to  
9 the provisions of this section.

10 (b) Specific projects may be excluded from ~~the~~  
11 ~~mitigation plan~~ and shall not be subject to this section upon  
12 the agreement of the Department of Transportation, the  
13 Department of Environmental Protection, and the appropriate  
14 water management district that the inclusion of such projects  
15 would hamper the efficiency or timeliness of the mitigation  
16 planning and permitting process.

17 (c) Those transportation projects that are proposed to  
18 commence in fiscal year 1996-1997 shall not be addressed in  
19 the mitigation plan, and the provisions of subsection (7)  
20 shall not apply to these projects. The Department of  
21 Transportation may enter into interagency agreements with the  
22 Department of Environmental Protection or any water management  
23 district to perform mitigation planning and implementation for  
24 these projects.

25 (d) On July 1, 1996, the Department of Transportation  
26 shall transfer to the Department of Environmental Protection  
27 \$12 million from the State Transportation Trust Fund for the  
28 purposes of the surface water improvement management program  
29 and to address statewide aquatic and exotic plant problems  
30 within wetlands and other surface waters. Such funds shall be  
31 considered an advance upon funds that the Department of

1 Transportation would provide for statewide mitigation during  
2 the 1997-1998 through 2004-2005, ~~1998-1999, and 1999-2000~~  
3 fiscal years. This use of mitigation funds for surface water  
4 improvement management projects or aquatic and exotic plant  
5 control may be utilized as mitigation for transportation  
6 projects to the extent that it complies with the mitigation  
7 requirements adopted pursuant to this part and 33 U.S.C. s.  
8 1344. To the extent that such activities result in mitigation  
9 credit for projects permitted in fiscal year 1996-1997, all or  
10 part of the \$12 million funding for surface water improvement  
11 management projects or aquatic and exotic plant control in  
12 fiscal year 1996-1997 shall be drawn from Department of  
13 Transportation mitigation funding for fiscal year 1996-1997  
14 rather than from mitigation funding for fiscal years 1997-1998  
15 through 2004-2005, ~~1998-1999, and 1999-2000~~, in an amount  
16 equal to the cost per acre of impact described in subsection  
17 (3), times the acreage of impact that is mitigated by such  
18 plant control activities. Any part of the \$12 million that  
19 does not result in mitigation credit for projects permitted in  
20 fiscal year 1996-1997 shall remain available for mitigation  
21 credit during subsequent fiscal years, but no later than the  
22 2004-2005 fiscal year ~~1997-1998, 1998-1999, or 1999-2000~~.

23 (5) The water management district shall be responsible  
24 for ensuring that mitigation requirements pursuant to 33  
25 U.S.C. s. 1344 are met for the impacts identified in the  
26 inventory described in subsection (2), by implementation of  
27 the approved plan described in subsection (4) to the extent  
28 funding is provided ~~as funded~~ by the Department of  
29 Transportation. During the federal permitting process, the  
30 water management district may deviate from the approved  
31

1 mitigation plan in order to comply with federal permitting  
2 requirements.

3 (6) The mitigation plan shall be updated annually to  
4 reflect the most current Department of Transportation work  
5 program. Each update of the mitigation plan shall be  
6 submitted to the secretary of the Department of Environmental  
7 Protection for approval as described in subsection (4).  
8 However, such approval shall not be applicable to a deviation  
9 as described in subsection (5) or subsection (7).

10 (7) In order to anticipate schedule changes or minor  
11 projects that may arise, the department and water management  
12 district staff may amend the mitigation plans throughout the  
13 year and may establish a process for these modifications.  
14 Department staff may request legislative funding in  
15 anticipation of these changes.

16 (8)~~(7)~~ Upon approval by the secretary of the  
17 Department of Environmental Protection, the mitigation plan  
18 shall be deemed to satisfy the mitigation requirements under  
19 this part and any other mitigation requirements imposed by  
20 local, regional, and state agencies for impacts identified in  
21 the inventory described in subsection (2). The approval of  
22 the secretary shall authorize the activities proposed in the  
23 mitigation plan, and no other state, regional, or local permit  
24 or approval shall be necessary.

25 (9)~~(8)~~ This section shall not be construed to  
26 eliminate the need for the Department of Transportation to  
27 comply with the requirement to implement practicable design  
28 modifications, including realignment of transportation  
29 projects, to reduce or eliminate the impacts of its  
30 transportation projects on wetlands and other surface waters  
31 as required by rules adopted pursuant to this part, or to

1 diminish the authority under this part to regulate other  
2 impacts, including water quantity or water quality impacts, or  
3 impacts regulated under this part that are not identified in  
4 the inventory described in subsection (2).

5 (10)~~(9)~~ The recommended mitigation plan shall be  
6 annually submitted to the Executive Office of the Governor and  
7 the Legislature through the legislative budget request of the  
8 Department of Environmental Protection in accordance with  
9 chapter 216. Any funds not directed to implement the  
10 mitigation plan should, to the greatest extent possible, be  
11 directed to fund aquatic and exotic plant problems within the  
12 wetlands and other surface waters.

13 ~~(10) By December 1, 1997, the Department of~~  
14 ~~Environmental Protection, in consultation with the water~~  
15 ~~management districts, shall submit a report to the Governor,~~  
16 ~~the President of the Senate, and the Speaker of the House of~~  
17 ~~Representatives describing the implementation of this section,~~  
18 ~~including the use of public and private mitigation banks and~~  
19 ~~other types of mitigation approved in the mitigation plan.~~  
20 ~~The report shall also recommend any amendments to this section~~  
21 ~~necessary to improve the process for developing and~~  
22 ~~implementing mitigation plans for the Department of~~  
23 ~~Transportation. The report shall also include a specific~~  
24 ~~section on how private and public mitigation banks are~~  
25 ~~utilized within the mitigation plans.~~

26 Section 2. This act shall take effect upon becoming a  
27 law.

28 \*\*\*\*\*

30 SENATE SUMMARY

31 Authorizes the Department of Transportation to provide the  
Department of Environmental Protection and the water



1 management districts with an inventory of environmental  
2 habitats that may be impacted by future transportation  
3 projects identified in the adopted work program. Revises  
4 funding requirements for environmental mitigation projects  
5 through additional fiscal years. Authorizes the amendment of  
6 environmental mitigation plans.  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31