

1
2 An act relating to environmental protection;
3 amending s. 372.57, F.S.; deleting a class of
4 nonresident freshwater fishing license;
5 creating s. 372.5711, F.S.; requiring review of
6 fees for fishing and hunting licenses and
7 exemptions to them; amending s. 373.4145, F.S.;
8 postponing scheduled July 1, 1999, repeal of
9 certain provisions of the interim wetlands
10 permitting program for the Northwest Florida
11 Water Management District; directing the
12 Northwest Florida Water Management District and
13 the Department of Environmental Protection to
14 develop a plan to implement an environmental
15 resource permitting program within the
16 jurisdiction of the district by a specified
17 date; requiring reports to the Legislature on
18 the progress of the planning efforts; providing
19 that certain jurisdictional declaratory
20 statements shall not expire until a specified
21 date; amending s. 252.937, F.S.; renaming the
22 Division of Water Facilities of the department
23 as the Division of Water Resource Management;
24 amending ss. 378.901 and 403.021, F.S.;
25 deleting references to the Division of
26 Environmental Resource Permitting; amending s.
27 86 of ch. 93-213, Laws of Florida; eliminating
28 repayment of funds appropriated for
29 administering the state NPDES program;
30 requiring reinstatement of certain suspended
31 payments in lieu of taxes; amending subsection

1 (2) of section 373.136, F.S.; allowing the
2 prevailing party to recover attorney's fees and
3 costs; amending s. 57.111, F.S.; defining
4 "state agency"; amending s. 403.031, F.S.;
5 defining the term "total maximum daily load";
6 creating s. 403.067, F.S.; authorizing the
7 Department of Environmental Protection to adopt
8 a process of listing surface waters not meeting
9 water quality standards and for the process of
10 establishing, allocating, and implementing
11 total maximum daily loads applicable to such
12 listed waters; providing specific authority for
13 the department to implement s. 1313, 33 U.S.C.;
14 providing legislative findings and intent;
15 providing for a listing of surface waters;
16 providing for an assessment; providing for an
17 adopted list; providing for removal from the
18 list; providing for calculation of total
19 maximum daily load; providing for
20 implementation; providing for rules; providing
21 for application; providing for construction;
22 providing for evaluation; amending s. 403.805,
23 F.S.; revising language with respect to the
24 powers and duties of the Secretary of the
25 Department of Environmental Protection;
26 providing authorization for the Secretary of
27 the Department of Environmental Protection to
28 reorganize the department under certain
29 conditions; providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Subsection (6) of section 373.4145, Florida
2 Statutes, is amended and subsection (7) is added to said
3 section, to read:

4 373.4145 Interim part IV permitting program for the
5 Northwest Florida Water Management District.--

6 (6) Subsections (1), (2), (3), and (4) shall be
7 repealed effective July 1, 2003 ~~1999~~.

8 (7)(a) The department and the Northwest Florida Water
9 Management District are directed to begin developing a plan by
10 which the permitting for activities proposed in surface waters
11 and wetlands shall fully comply with the provisions of part IV
12 of chapter 373, beginning July 1, 2003. The plan also shall
13 address the division of environmental resource permitting
14 responsibilities between the department and the Northwest
15 Florida Water Management District; the methodology of
16 delineating wetlands in the Northwest Florida Water Management
17 District; authority of the Northwest Florida Water Management
18 District to implement federal permitting programs related to
19 activities in surface waters and wetlands; and the chapter 70
20 implications of implementing the provisions of part IV of
21 chapter 373 within the jurisdiction of the Northwest Florida
22 Water Management District.

23 (b) The department and Northwest Florida Water
24 Management District shall jointly prepare an interim report on
25 their progress in developing the aforementioned plan, to be
26 presented March 1, 2001 to the Governor, the President of the
27 Senate, the Speaker of the House of Representatives, and the
28 chairs of the relevant substantive and fiscal committees. The
29 department and district shall present a final report on March
30 1, 2003.

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1 (c) Any jurisdictional declaratory statement issued
2 for a project within the geographic jurisdiction of the
3 Northwest Florida Water Management District that is valid on
4 July 1, 1999, and for which there has been issued a permit
5 pursuant to chapters 403 and 373 for a phase of that project
6 and which identified proposed future development, including
7 mitigation, that would require an additional permit pursuant
8 to chapters 403 and 373 shall not expire until January 1,
9 2002.

10 Section 2. Subsection (2) of section 252.937, Florida
11 Statutes, 1998 Supplement, is amended to read:

12 252.937 Department powers and duties.--

13 (2) To ensure that this program is self-supporting,
14 the department shall provide administrative support, including
15 staff, facilities, materials, and services to implement this
16 part for specified stationary sources subject to s. 252.939
17 and shall provide necessary funding to local emergency
18 planning committees and county emergency management agencies
19 for work performed to implement this part. Each state agency
20 with regulatory, inspection, or technical assistance programs
21 for specified stationary sources subject to this part shall
22 enter into a memorandum of understanding with the department
23 which specifically outlines how each agency's staff,
24 facilities, materials, and services will be utilized to
25 support implementation. At a minimum, these agencies and
26 programs include: the Department of Environmental
27 Protection's Division of Air Resources Management and Division
28 of Water Resource Management ~~Facilities~~, and the Department of
29 Labor and Employment Security's Division of Safety. It is the
30 Legislature's intent to implement this part as efficiently and
31

1 economically as possible, using existing expertise and
2 resources, if available and appropriate.

3 Section 3. Paragraph (a) of subsection (1) of section
4 378.901, Florida Statutes, is amended to read:

5 378.901 Life-of-the-mine permit.--

6 (1) As used in this section, the term:

7 (a) "Bureau" means the Bureau of Mine Reclamation of
8 the Division of Water Resource Management ~~Environmental~~
9 ~~Resource Permitting~~ of the Department of Environmental
10 Protection.

11 Section 4. Paragraph (a) of subsection (9) of section
12 403.021, Florida Statutes, is amended to read:

13 403.021 Legislative declaration; public policy.--

14 (9)(a) The Legislature finds and declares that it is
15 essential to preserve and maintain authorized water depth in
16 the existing navigation channels, port harbors, turning
17 basins, and harbor berths of this state in order to provide
18 for the continued safe navigation of deepwater shipping
19 commerce. The department shall recognize that maintenance of
20 authorized water depths consistent with port master plans
21 developed pursuant to s. 163.3178(2)(k) is an ongoing,
22 continuous, beneficial, and necessary activity that is in the
23 public interest; and it shall develop a regulatory process
24 that shall enable the ports of this state to conduct such
25 activities in an environmentally sound, safe, expeditious, and
26 cost-efficient manner. It is the further intent of the
27 Legislature that the permitting and enforcement of dredging,
28 dredged-material management, and other related activities for
29 Florida's deepwater ports pursuant to this chapter and
30 chapters 161, 253, and 373 shall be consolidated within the
31 department's Division of Water Resource Management

1 ~~Environmental Resource Permitting~~ and, with the concurrence of
2 the affected deepwater port or ports, may be administered by a
3 district office of the department or delegated to an approved
4 local environmental program.

5 Section 5. Section 86 of chapter 93-213, Laws of
6 Florida, is amended to read:

7 Section 86. The Department of Environmental Regulation
8 is authorized 54 career service positions for administering
9 the state NPDES program. Twenty-five career service positions
10 are authorized for startup of the program beginning July 1,
11 1993, and the remaining 29 career service positions beginning
12 January 1, 1994. The state NPDES program staffing shall start
13 July 1, 1993, with completion targeted for 6 months following
14 United States Environmental Protection Agency authorization to
15 administer the National Pollutant Discharge Elimination System
16 program. Implementation of positions is subject to review and
17 final approval by the secretary of the Department of
18 Environmental Regulation. The sum of \$3.2 million is hereby
19 appropriated from the Pollution Recovery Trust Fund to cover
20 program startup costs. ~~Such funds are to be repaid from a
21 fund the Legislature deems appropriate, no later than July 1,
22 2000.~~

23 Section 6. If the Department of Environmental
24 Protection or a water management district has made a payment
25 in lieu of taxes to a governmental entity and subsequently
26 suspended such payment, the department or water management
27 district shall reinstitute appropriate payments and continue
28 the payments in consecutive years until the governmental
29 entity has received a total of 10 payments for each tax loss.

30 Section 7. Subsection (2) of section 373.136, Florida
31 Statutes, is amended to read:

1 (2) The court may award to the prevailing party or
2 parties reasonable attorney's fees for services rendered in
3 actions at law and all appellate proceedings resulting
4 therefrom under the provisions of ch. 373. In addition to the
5 above, the court may award all costs and charges incident to
6 such actions.

7 ~~(3)(2)~~ Any action by a citizen of the state to seek
8 judicial enforcement of any of the provisions of this chapter
9 shall be governed by the Florida Environmental Protection Act,
10 s. 403.412.

11 Section 8. Paragraph (f) is added to subsection (3) of
12 section 57.111, Florida Statutes, to read:

13 57.111 Civil actions and administrative proceedings
14 initiated by state agencies; attorneys' fees and costs.--

15 (3) As used in this section:

16 (f) The term "state agency" has the meaning described
17 in s. 120.52(1).

18 Section 9. Subsection (21) is added to section
19 403.031, Florida Statutes, to read:

20 403.031 Definitions.--In construing this chapter, or
21 rules and regulations adopted pursuant hereto, the following
22 words, phrases, or terms, unless the context otherwise
23 indicates, have the following meanings:

24 (21) "Total maximum daily load" is defined as the sum
25 of the individual wasteload allocations for point sources and
26 the load allocations for nonpoint sources and natural
27 background. Prior to determining individual wasteload
28 allocations and load allocations, the maximum amount of a
29 pollutant that a water body or water segment can assimilate
30 from all sources without exceeding water quality standards
31 must first be calculated.

1 Section 10. Section 403.067, Florida Statutes, is
2 created to read:

3 403.067 Establishment and implementation of total
4 maximum daily loads.--

5 (1) LEGISLATIVE FINDINGS AND INTENT.--In furtherance
6 of public policy established in s. 403.021, the Legislature
7 declares that the waters of the state are among its most basic
8 resources and that the development of a total maximum daily
9 load program for state waters as required by ss. 303(d) of the
10 Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et
11 seq. will promote improvements in water quality throughout the
12 state through the coordinated control of point and nonpoint
13 sources of pollution. The Legislature finds that, while point
14 and nonpoint sources of pollution have been managed through
15 numerous programs, better coordination among these efforts and
16 additional management measures may be needed in order to
17 achieve the restoration of impaired water bodies. The
18 scientifically based total maximum daily load program is
19 necessary to fairly and equitably allocate pollution loads to
20 both nonpoint and point sources. Implementation of the
21 allocation shall include consideration of a cost-effective
22 approach coordinated between contributing point and nonpoint
23 sources of pollution for impaired water bodies or water body
24 segments and may include the opportunity to implement the
25 allocation through non-regulatory and incentive-based
26 programs. The Legislature further declares that the Department
27 of Environmental Protection shall be the lead agency in
28 administering this program and shall coordinate with local
29 governments, water management districts, the Department of
30 Agriculture and Consumer Services, local soil and water
31 conservation districts, environmental groups, regulated

1 interests, other appropriate state agencies, and affected
2 pollution sources in developing and executing the total
3 maximum daily load program.

4 (2) LIST OF SURFACE WATERS OR SEGMENTS.--In accordance
5 with ss. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
6 U.S.C. ss. 1251 et seq., the department must submit
7 periodically to the United States Environmental Protection
8 Agency a list of surface waters or segments for which total
9 maximum daily load assessments will be conducted. The
10 assessments shall evaluate the water quality conditions of the
11 listed waters and, if such waters are determined not to meet
12 water quality standards, total maximum daily loads shall be
13 established, subject to the provisions of s. 403.067(4). The
14 department shall establish a priority ranking and schedule for
15 analyzing such waters.

16 (a) The list, priority ranking, and schedule cannot be
17 used in the administration or implementation of any regulatory
18 program. However, this paragraph does not prohibit any agency
19 from employing the data or other information used to establish
20 the list, priority ranking, or schedule in administering any
21 program.

22 (b) The list, priority ranking, and schedule prepared
23 under this subsection shall be made available for public
24 comment, but shall not be subject to challenge under chapter
25 120.

26 (c) The provisions of this subsection are applicable
27 to all lists prepared by the department and submitted to the
28 United States Environmental Protection Agency pursuant to ss.
29 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C.
30 ss. 1251 et seq., including those submitted prior to the
31

1 effective date of this act, except as provided in s.
2 403.067(4).

3 (d) If the department proposes to implement total
4 maximum daily load calculations or allocations established
5 prior to the effective date of this act, the department shall
6 adopt those calculations and allocations by rule by the
7 secretary pursuant to ss. 120.54, 120.536(1) and
8 403.067(6)(d).

9 (3) ASSESSMENT.--

10 (a) Based on the priority ranking and schedule for a
11 particular listed water body or water body segment, the
12 department shall conduct a total maximum daily load assessment
13 of the basin in which the water body or water body segment is
14 located using the methodology developed pursuant to s.
15 403.067(3)(b). In conducting this assessment, the department
16 shall coordinate with the local water management district, the
17 Department of Agriculture and Consumer Services, other
18 appropriate state agencies, soil and water conservation
19 districts, environmental groups, regulated interests, and
20 other interested parties.

21 (b) The department shall adopt by rule a methodology
22 for determining those waters which are impaired. The rule
23 shall provide for consideration as to whether water quality
24 standards codified in chapter 62-302, Florida Administrative
25 Code, are being exceeded, based on objective and credible
26 data, studies and reports, including surface water improvement
27 and management plans approved by water management districts
28 under s. 373.456 and pollutant load reduction goals developed
29 according to department rule. Such rule also shall set forth:
30
31

1 1. Water quality sample collection and analysis
2 requirements, accounting for ambient background conditions,
3 seasonal and other natural variations;

4 2. Approved methodologies;

5 3. Quality assurance and quality control protocols;

6 4. Data modeling; and

7 5. Other appropriate water quality assessment
8 measures.

9 (c) If the department has adopted a rule establishing
10 a numerical criterion for a particular pollutant, a narrative
11 or biological criterion may not be the basis for determining
12 an impairment in connection with that pollutant unless the
13 department identifies specific factors as to why the numerical
14 criterion is not adequate to protect water quality. If water
15 quality non-attainment is based on narrative or biological
16 criteria, the specific factors concerning particular
17 pollutants shall be identified prior to a total maximum daily
18 load being developed for those criteria for that surface water
19 or surface water segment.

20 (4) APPROVED LIST.--If the department determines,
21 based on the total maximum daily load assessment methodology
22 described in s. 403.067(3), that water quality standards are
23 not being achieved and that technology-based effluent
24 limitations and other pollution control programs under local,
25 state, or federal authority, including Everglades restoration
26 activities pursuant to s. 373.4592 and the National Estuary
27 Program, which are designed to restore such waters for the
28 pollutant of concern are not sufficient to result in
29 attainment of applicable surface water quality standards, it
30 shall confirm that determination by issuing a subsequent,
31 updated list of those water bodies or segments for which total

1 maximum daily loads will be calculated. In association with
2 this updated list the department shall establish priority
3 rankings and schedules by which water bodies or segments will
4 be subjected to total maximum daily load calculations. If a
5 surface water or water segment is to be listed under this
6 subsection, the department must specify the particular
7 pollutants causing the impairment and the concentration of
8 those pollutants causing the impairment relative to the water
9 quality standard. This updated list shall be approved and
10 amended by order of the department subsequent to completion of
11 an assessment of each water body or water body segment, and
12 submitted to the United States Environmental Protection
13 Agency. Each order shall be subject to challenge under ss.
14 120.569 and 120.57.

15 (5) REMOVAL FROM LIST.--At any time throughout the
16 total maximum daily load process, surface waters or segments
17 evaluated or listed under this section shall be removed from
18 the lists described in s. 403.067(2) or s. 403.067(4) upon
19 demonstration that water quality criteria are being attained,
20 based on data equivalent to that required by rule under s.
21 403.067(3).

22 (6) CALCULATION AND ALLOCATION.--

23 (a) Calculation of total maximum daily load.

24 1. Prior to developing a total maximum daily load
25 calculation for each water body or water body segment on the
26 list specified in s. 403.067(4), the department shall
27 coordinate with applicable local governments, water management
28 districts, the Department of Agriculture and Consumer
29 Services, other appropriate state agencies, local soil and
30 water conservation districts, environmental groups, regulated
31 interests, and affected pollution sources to determine the

1 information required, accepted methods of data collection and
2 analysis, and quality control/quality assurance requirements.
3 The analysis may include mathematical water quality modeling
4 using approved procedures and methods.

5 2. The department shall develop total maximum daily
6 load calculations for each water body or water body segment on
7 the list described in s. 403.067(4) according to the priority
8 ranking and schedule unless the impairment of such waters is
9 due solely to activities other than point and nonpoint sources
10 of pollution. For waters determined to be impaired due solely
11 to factors other than point and nonpoint sources of pollution,
12 no total maximum daily load will be required. A total maximum
13 daily load may be required for those waters that are impaired
14 predominantly due to activities other than point and nonpoint
15 sources. The total maximum daily load calculation shall
16 establish the amount of a pollutant that a water body or water
17 body segment can assimilate without exceeding water quality
18 standards, and shall account for seasonal variations and
19 include a margin of safety that takes into account any lack of
20 knowledge concerning the relationship between effluent
21 limitations and water quality. The total maximum daily load
22 may be based on a pollutant load reduction goal developed by a
23 water management district, provided that such pollutant load
24 reduction goal is promulgated by the department in accordance
25 with the procedural and substantive requirements of this
26 subsection.

27 (b) Allocation of total maximum daily loads. The total
28 maximum daily loads shall include establishment of reasonable
29 and equitable allocations of the total maximum daily load
30 among point and nonpoint sources that will alone, or in
31 conjunction with other management and restoration activities,

1 provide for the attainment of water quality standards and the
2 restoration of impaired waters. The allocations shall
3 establish the maximum amount of the water pollutant from a
4 given source or category of sources that may be discharged or
5 released into the water body or water body segment in
6 combination with other discharges or releases. Such
7 allocations shall be designed to attain water quality
8 standards and shall be based on consideration of the
9 following:

10 1. Existing treatment levels and management practices;

11 2. Differing impacts pollutant sources may have on
12 water quality;

13 3. The availability of treatment technologies,
14 management practices, or other pollutant reduction measures;

15 4. Environmental, economic, and technological
16 feasibility of achieving the allocation;

17 5. The cost benefit associated with achieving the
18 allocation;

19 6. Reasonable timeframes for implementation;

20 7. Potential applicability of any moderating
21 provisions such as variances, exemptions, and mixing zones;

22 and

23 8. The extent to which nonattainment of water quality
24 standards is caused by pollution sources outside of Florida,
25 discharges that have ceased, or alterations to water bodies
26 prior to the date of this act.

27 (c) Not later than February 1, 2001, the department
28 shall submit a report to the Governor, the President of the
29 Senate, and the Speaker of the House of Representatives
30 containing recommendations, including draft legislation, for
31 any modifications to the process for allocating total maximum

1 daily loads, including the relationship between allocations
2 and the basin planning process. Such recommendations shall be
3 developed by the department in cooperation with a technical
4 advisory committee which includes representatives of affected
5 parties, environmental organizations, water management
6 districts, and other appropriate local, state, and federal
7 government agencies. The technical advisory committee shall
8 also include such members as may be designated by the
9 President of the Senate and the Speaker of the House of
10 Representatives.

11 (d) The total maximum daily load calculations and
12 allocations for each water body or water body segment shall be
13 adopted by rule by the secretary pursuant to ss. 120.54 and
14 120.536(1), and 403.805. The rules adopted pursuant to this
15 paragraph shall not be subject to approval by the
16 Environmental Regulation Commission. As part of the rule
17 development process, the department shall hold at least one
18 public workshop in the vicinity of the water body or water
19 body segment for which the total maximum daily load is being
20 developed. Notice of the public workshop shall be published
21 not less than 5 days nor more than 15 days before the public
22 workshop in a newspaper of general circulation in the county
23 or counties containing the water bodies or water body segments
24 for which the total maximum daily load calculation and
25 allocation are being developed.

26 (7) IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

27 (a) The department shall be the lead agency in
28 coordinating the implementation of the total maximum daily
29 load allocation through water quality protection
30 programs. Application of a total maximum daily load
31 calculation or allocation by a water management district shall

1 be consistent with this section and shall not require the
2 issuance of an order or a separate action pursuant to s.
3 120.54 or s. 120.536(1) for adoption of the calculation and
4 allocation previously established by the department. Such
5 programs may include, but are not limited to:

- 6 1. Permitting and other existing regulatory programs;
- 7 2. Nonregulatory and incentive-based programs,
8 including best management practices, cost sharing, waste
9 minimization, pollution prevention, and public education;
- 10 3. Other water quality management and restoration
11 activities, for example surface water improvement and
12 management plans approved by water management districts under
13 s. 373.456;
- 14 4. Pollutant trading or other equitable economically
15 based agreements;
- 16 5. Public works including capital facilities; or
- 17 6. Land acquisition.

18 (b) In developing and implementing the total maximum
19 daily load allocation, the department may develop a basin
20 plan. The basin plan will serve to fully integrate all the
21 management strategies available to the state for the purpose
22 of achieving water quality restoration. The basin planning
23 process is intended to involve the broadest possible range of
24 interested parties, with the objective of encouraging the
25 greatest amount of cooperation and consensus possible. The
26 department shall hold at least one public meeting in the
27 vicinity of the basin to discuss and receive comments during
28 the basin planning process and shall otherwise encourage
29 public participation to the greatest practical extent. Notice
30 of the public meeting shall be published in a newspaper of
31 general circulation in each county in which the basin lies not

1 less than 5 days nor more than 15 days before the public
2 meeting. A basin plan shall not supplant or otherwise alter
3 any assessment made under s. 403.086(3) and s.403.086(4), or
4 any calculation or allocation made under s. 403.086(6).

5 (c) The department, in cooperation with the water
6 management districts and other interested parties, as
7 appropriate, may develop suitable interim measures, best
8 management practices, or other measures necessary to achieve
9 the level of pollution reduction established by the department
10 for nonagricultural nonpoint pollutant sources in allocations
11 developed pursuant to s. 403.067(6)(b). These practices and
12 measures may be adopted by rule by the department and the
13 water management districts pursuant to ss. 120.54 and
14 120.536(1), and may be implemented by those parties
15 responsible for nonagricultural nonpoint pollutant sources and
16 the department and the water management districts shall assist
17 with implementation. Where interim measures, best management
18 practices, or other measures are adopted by rule, the
19 effectiveness of such practices in achieving the levels of
20 pollution reduction established in allocations developed by
21 the department pursuant to s. 403.067(6)(b) shall be verified
22 by the department. Implementation, in accordance with
23 applicable rules, of practices that have been verified by the
24 department to be effective at representative sites shall
25 provide a presumption of compliance with state water quality
26 standards and release from the provisions of s. 376.307(5) for
27 those pollutants addressed by the practices, and the
28 department is not authorized to institute proceedings against
29 the owner of the source of pollution to recover costs or
30 damages associated with the contamination of surface or ground
31 water caused by those pollutants. Such rules shall also

1 incorporate provisions for a notice of intent to implement the
2 practices and a system to assure the implementation of the
3 practices, including recordkeeping requirements. Where water
4 quality problems are detected despite the appropriate
5 implementation, operation and maintenance of best management
6 practices and other measures according to rules adopted under
7 this paragraph, the department or the water management
8 districts shall institute a reevaluation of the best
9 management practice or other measures.

10 (d) The Department of Agriculture and Consumer
11 Services may develop and adopt by rule pursuant to ss. 120.54
12 and 120.536(1) suitable interim measures, best management
13 practices, or other measures necessary to achieve the level of
14 pollution reduction established by the department for
15 agricultural pollutant sources in allocations developed
16 pursuant to s. 403.067(6)(b). These practices and measures may
17 be implemented by those parties responsible for agricultural
18 pollutant sources and the department, the water management
19 districts and the Department of Agriculture and Consumer
20 Services shall assist with implementation. Where interim
21 measures, best management practices, or other measures are
22 adopted by rule, the effectiveness of such practices in
23 achieving the levels of pollution reduction established in
24 allocations developed by the department pursuant to s.
25 403.067(6)(b) shall be verified by the department.
26 Implementation, in accordance with applicable rules, of
27 practices that have been verified by the department to be
28 effective at representative sites shall provide a presumption
29 of compliance with state water quality standards and release
30 from the provisions of s. 376.307(5) for those pollutants
31 addressed by the practices, and the department is not

1 authorized to institute proceedings against the owner of the
2 source of pollution to recover costs or damages associated
3 with the contamination of surface or ground water caused by
4 those pollutants. In the process of developing and adopting
5 rules for interim measures, best management practices, or
6 other measures, the Department of Agriculture and Consumer
7 Services shall consult with the department, the Department of
8 Health, the water management districts, representatives from
9 affected farming groups, and environmental group
10 representatives. Such rules shall also incorporate provisions
11 for a notice of intent to implement the practices and a system
12 to assure the implementation of the practices, including
13 recordkeeping requirements. Where water quality problems are
14 detected despite the appropriate implementation, operation and
15 maintenance of best management practices and other measures
16 according to rules adopted under this paragraph, the
17 Department of Agriculture and Consumer Services shall
18 institute a reevaluation of the best management practice or
19 other measure.

20 (e) The provisions of s. 403.067(7) paragraphs (c) and
21 (d) shall not preclude the department or water management
22 district from requiring compliance with water quality
23 standards or with current best management practice
24 requirements set forth in any applicable regulatory program
25 authorized by law for the purpose of protecting water
26 quality. Additionally, s. 403.067(7)(c) and s. 403.067(7)(d)
27 are applicable only to the extent that they do not conflict
28 with any rules promulgated by the department that are
29 necessary to maintain a federally delegated or approved
30 program.

31

1 (8) RULES.--The department is authorized to adopt
2 rules pursuant to ss. 120.54 and 120.536(1) for:

3 (a) Delisting water bodies or water body segments from
4 the list developed under s. 403.067(4) pursuant to the
5 guidance under s. 403.067(5);

6 (b) Administration of funds to implement the total
7 maximum daily load program;

8 (c) Procedures for pollutant trading among the
9 pollutant sources to a water body or water body segment,
10 including a mechanism for the issuance and tracking of
11 pollutant credits. Such procedures may be implemented through
12 permits or other authorizations and must be legally binding.
13 No rule implementing a pollutant trading program shall become
14 effective prior to review and ratification by the Legislature;
15 and

16 (d) The total maximum daily load calculation in
17 accordance with s. 403.067(6)(a) immediately upon the
18 effective date of this act, for those eight water segments
19 within Lake Okeechobee proper as submitted to the United
20 States Environmental Protection Agency pursuant to s.
21 403.067(2).

22 (9) APPLICATION.--The provisions of this section are
23 intended to supplement existing law and nothing in this
24 section shall be construed as altering any applicable state
25 water quality standards or as restricting the authority
26 otherwise granted to the department or a water management
27 district under this chapter or chapter 373. The exclusive
28 means of state implementation of ss. 303(d) of the Clean Water
29 Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. shall be
30 in accordance with the identification, assessment, calculation
31 and allocation, and implementation provisions of s. 403.067.

1 (10) CONSTRUCTION.--Nothing in this section shall be
2 construed as limiting the applicability or consideration of
3 any mixing zone, variance, exemption, site specific
4 alternative criteria, or other moderating provision.

5 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--The
6 department shall not implement, without prior legislative
7 approval, any additional regulatory authority pursuant to the
8 Clean Water Act ss. 303(d) or 40 CFR Part 130, if such
9 implementation would result in water quality discharge
10 regulation of activities not currently subject to regulation.

11 (12) In order to provide adequate due process while
12 ensuring timely development of total maximum daily loads,
13 proposed rules and orders authorized by this act shall be
14 ineffective pending resolution of a section 120.54(3), 120.56,
15 120.569, or 120.57 administrative proceeding. However, the
16 department may go forward prior to resolution of such
17 administrative proceedings with subsequent agency actions
18 authorized by s. 403.067(2) through s. 403.067(6), provided
19 that the department can support and substantiate those actions
20 using the underlying bases for the rules or orders without the
21 benefit of any legal presumption favoring, or in deference to,
22 the challenged rules or orders.

23 Section 11. Subsection (1) of section 403.805, Florida
24 Statutes, is amended to read:

25 403.805 Secretary; powers and duties.--

26 (1) The secretary shall have the powers and duties of
27 heads of departments set forth in chapter 20, including the
28 authority to adopt rules pursuant to ss. 120.536(1) and 120.54
29 to implement the provisions of chapters 253, 373, and 376 and
30 this chapter. The secretary shall have rulemaking
31 responsibility under chapter 120, but shall submit any

1 proposed rule containing standards to the Environmental
2 Regulation Commission for approval, modification, or
3 disapproval pursuant to s. 403.804, except for total maximum
4 daily load calculations and allocations developed pursuant to
5 s. 403.067(6). The secretary shall have responsibility for
6 final agency action regarding total maximum daily load
7 calculations and allocations developed pursuant to s.
8 403.067(6). The secretary shall employ legal counsel to
9 represent the department in matters affecting the department.
10 Except for appeals on permits specifically assigned by this
11 act to the Governor and Cabinet, and unless otherwise
12 prohibited by law, the secretary may delegate the authority
13 assigned to the department by this act to the assistant
14 secretary, division directors, and district and branch office
15 managers and to the water management districts.

16 Section 12. The department, coordinating with the
17 water management districts and the Department of Agriculture
18 and Consumer Services, shall evaluate the effectiveness of the
19 implementation of total maximum daily loads for a period of 5
20 years from the effective date of this act. The department
21 shall document that effectiveness, using all data and
22 information at its disposal, in a report to the Governor, the
23 President of the Senate, and the Speaker of the House of
24 Representatives by January 1, 2005. The report shall provide
25 specific recommendations for statutory changes necessary to
26 implement total maximum daily loads more effectively,
27 including the development or expansion of pollution prevention
28 and pollutant trading opportunities, and best management
29 practices. The report shall also provide recommendations for
30 statutory changes relating to pollutant sources which are not
31 subject to permitting under chapter 403, Florida Statutes, or

1 chapter 373, Florida Statutes, and which do not implement the
2 nonregulatory practices or other measures outlined in the
3 basin plan prepared under s. 403.067, Florida Statutes, in
4 accordance with the schedule of the plan, or fail to implement
5 them as designed.

6 Section 13. Notwithstanding subsection 20.255(2),
7 Florida Statutes, the Secretary of the Department of
8 Environmental Protection is authorized to restructure and
9 reorganize the department within the current statutory
10 prescribed divisions and in compliance with s. 216.292, F.S.,
11 1998 Supplement, to increase efficiency in carrying out the
12 agency's statutory mission and objectives. Actions taken under
13 the authority granted by this section must be taken in
14 consultation with the Executive Office of the Governor subject
15 to the notification and review procedures in s. 216.177,
16 Florida Statutes. The secretary shall submit a report
17 describing actions taken and additional plans for implementing
18 the provisions of this section to the Governor, the President
19 of the Senate, and the Speaker of the House of Representatives
20 by 30 days after this bill becomes a law. The department shall
21 submit status reports on a monthly basis through December
22 1999.

23 Section 14. Paragraph (b) of subsection (2) of section
24 372.57, Florida Statutes, 1998 Supplement, is amended to read:
25 372.57 Licenses and permits; exemptions; fees.--No
26 person, except as provided herein, shall take game, freshwater
27 fish, or fur-bearing animals within this state without having
28 first obtained a license, permit, or authorization and paid
29 the fees hereinafter set forth, unless such license is issued
30 without fee as provided in s. 372.561. Such license, permit,
31 or authorization shall authorize the person to whom it is

1 issued to take game, freshwater fish, or fur-bearing animals
2 in accordance with law and commission rules. Such license,
3 permit, or authorization is not transferable. Each license or
4 permit must bear on its face in indelible ink the name of the
5 person to whom it is issued and other information requested by
6 the commission. Such license, permit, or authorization issued
7 by the commission or any agent must be in the personal
8 possession of the person to whom issued while taking game,
9 freshwater fish, or fur-bearing animals. The failure of such
10 person to exhibit such license, permit, or authorization to
11 the commission or its wildlife officers, when such person is
12 found taking game, freshwater fish, or fur-bearing animals, is
13 a violation of law. A positive form of identification is
14 required when using an authorization, a lifetime license, a
15 5-year license, or when otherwise required by the license or
16 permit. The lifetime licenses and 5-year licenses provided
17 herein shall be embossed with the name, date of birth, the
18 date of issuance, and other pertinent information as deemed
19 necessary by the commission. A certified copy of the
20 applicant's birth certificate shall accompany all applications
21 for a lifetime license for residents 12 years of age and
22 younger. Each applicant for a license, permit, or
23 authorization shall provide the applicant's social security
24 number on the application form. Disclosure of social security
25 numbers obtained through this requirement shall be limited to
26 the purpose of administration of the Title IV-D child support
27 enforcement program and use by the commission, and as
28 otherwise provided by law.

29 (2) For residents and nonresidents, the license and
30 fees for noncommercial fishing and for hunting and trapping in
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1 this state, and the activity authorized thereby, are as
2 follows:

3 (b)~~1~~. A fishing license for a nonresident to take
4 freshwater fish in this state for 7 consecutive days is \$15.

5 ~~2. A fishing license for a nonresident to take
6 freshwater fish for 3 consecutive days is \$5.~~

7 Section 15. Section 372.5711, Florida Statutes, is
8 created to read:

9 372.5711 Review of fees for licenses and permits;
10 review of exemptions.--The fees for licenses and permits
11 established under this chapter, and exemptions thereto, shall
12 be reviewed by the Legislature during its regular session
13 every 5 years beginning in 2000.

14 Section 16. This act shall take effect upon becoming a
15 law.

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