

1
2 An act relating to the comprehensive Everglades
3 restoration plan; amending s. 373.026, F.S.;
4 requiring the South Florida Water Management
5 District to submit certain information to the
6 Joint Legislative Committee on Everglades
7 Oversight; requiring the committee to provide
8 certain review of appropriation requests and
9 make recommendations to the Legislature;
10 providing that state funds for land purchases
11 are authorized if contained within the
12 district's Florida Forever 5-year work plan;
13 creating s. 373.1502, F.S.; creating the
14 Comprehensive Everglades Restoration Plan
15 Regulation Act; providing for regulation of
16 comprehensive plan project components;
17 providing findings and intent; providing an
18 expedited permit process; providing a fee;
19 providing for renewal; amending s. 373.4149,
20 F.S.; providing for acceptance of the Phase II
21 Lake Belt Plan; clarifying boundaries of the
22 Miami-Dade County Lake Belt Area; eliminating
23 the Miami-Dade Lake Belt Plan Implementation
24 Committee; providing for certain lands to be
25 made available to the Department of
26 Environmental Protection to be used for land
27 exchanges; amending s. 373.4415, F.S.; deleting
28 an obsolete reference; amending s. 378.4115,
29 F.S.; deleting an obsolete reference; amending
30 s. 373.4595, F.S.; revising Lake Okeechobee
31 protection permit requirements and related

1 exemptions; amending s. 373.470, F.S.; revising
2 due date of the annual report on implementation
3 of the comprehensive plan; amending s. 403.088,
4 F.S.; providing application of water pollution
5 operation permitting procedures to facilities
6 constructed, operated, or maintained in the
7 South Florida ecosystem, including the
8 components of the comprehensive Everglades
9 restoration plan; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Paragraphs (b) and (c) of subsection (8) of
14 section 373.026, Florida Statutes, are amended to read:

15 373.026 General powers and duties of the
16 department.--The department, or its successor agency, shall be
17 responsible for the administration of this chapter at the
18 state level. However, it is the policy of the state that, to
19 the greatest extent possible, the department may enter into
20 interagency or interlocal agreements with any other state
21 agency, any water management district, or any local government
22 conducting programs related to or materially affecting the
23 water resources of the state. All such agreements shall be
24 subject to the provisions of s. 373.046. In addition to its
25 other powers and duties, the department shall, to the greatest
26 extent possible:

27 (8)

28 (b) To ensure to the greatest extent possible that
29 project components will go forward as planned, the department
30 shall collaborate with the South Florida Water Management
31 District in implementing the comprehensive plan as defined in

1 s. 373.470(2)(a)~~restudy~~. Before any project component is
2 submitted to Congress for authorization or receives an
3 ~~additional~~ appropriation of state funds, the department must
4 approve, or approve with amendments, each project component
5 within 60 days following formal submittal of the project
6 component to the department. Department approval shall be
7 based upon a determination of the South Florida Water
8 Management District's compliance with s. 373.1501(5). Once a
9 project component is approved, the South Florida Water
10 Management District shall provide to the Joint Legislative
11 Committee on Everglades Oversight a schedule for implementing
12 the project component, the estimated total cost of the project
13 component, any existing federal or nonfederal credits, the
14 estimated remaining federal and nonfederal share of costs, and
15 an estimate of the amount of state funds that will be needed
16 to implement the project component.All requests for an
17 ~~additional~~ appropriation of state funds needed to implement
18 the project component shall be submitted to the department and
19 such requests shall be included in the department's annual
20 request to the Governor.

21 (c) Notwithstanding paragraph (b), the use of state
22 funds for land purchases from willing sellers is authorized
23 for projects within the South Florida Water Management
24 District's approved 5-year plan of acquisition pursuant to s.
25 373.59 or within the South Florida Water Management District's
26 approved Florida Forever water management district work plan
27 pursuant to s. 373.199.

28 Section 2. Section 373.1502, Florida Statutes, is
29 created to read:

30 373.1502 Regulation of comprehensive plan project
31 components.--

1 (1) SHORT TITLE.--This section may be cited as the
2 "Comprehensive Everglades Restoration Plan Regulation Act."

3 (2) FINDINGS; INTENT.--

4 (a) The Legislature finds that implementation of the
5 comprehensive plan, as defined in s. 373.470(2)(a), is in the
6 public interest and is necessary for restoring, preserving,
7 and protecting the South Florida ecosystem, providing for the
8 protection of water quality in and the reduction of the loss
9 of fresh water from the Everglades, and providing such
10 features as are necessary to meet the other water-related
11 needs of the region, including flood control, the enhancement
12 of water supplies, and other objectives served by the project.

13 (b) The Legislature intends to provide efficient and
14 effective permitting of project components, taking into
15 account all other statutory responsibilities the department
16 and the South Florida Water Management District are required
17 to consider.

18 (3) REGULATION OF COMPREHENSIVE PLAN STRUCTURES AND
19 FACILITIES.--

20 (a) This subsection applies to all project components,
21 as defined in s. 373.1501, identified in the comprehensive
22 plan unless the project component is otherwise subject to s.
23 373.4592, s. 373.4595, or the department's rules on reuse of
24 reclaimed water. Permits issued under this subsection are in
25 lieu of all other permits required under this chapter or
26 chapter 403, except for permits issued under any delegated or
27 approved federal program.

28 (b) The department shall issue a permit for a term of
29 5 years for the construction, operation, modification, or
30 maintenance of a project component based on the criteria set
31 forth in this section. If the department is the entity

1 responsible for the construction, operation, modification, or
2 maintenance of any individual project component, the district
3 shall issue a permit for a term of 5 years based on the
4 criteria set forth in this section. The permit application
5 must provide reasonable assurances that:

6 1. The project component will achieve the design
7 objectives set forth in the detailed design documents
8 submitted as part of the application.

9 2. State water quality standards will be met to the
10 maximum extent practicable. Under no circumstances shall the
11 project component cause or contribute to violation of state
12 water quality standards.

13 3. Discharges from the project component will not pose
14 a serious danger to public health, safety, or welfare.

15 4. Any impacts to wetlands or threatened or endangered
16 species resulting from implementation of the project component
17 will be avoided, minimized, and mitigated, as appropriate.

18 (c) Construction activities for comprehensive plan
19 project components may be initiated upon submission of a
20 permit application and completion of the department's approval
21 under s. 373.1501, but before final agency action or notice of
22 intended agency action. However, a permit must be obtained
23 before the commencement or modification of operation.

24 (d) Permits issued under this subsection must contain
25 reasonable conditions to ensure that water quality resulting
26 from construction and operation of project components is
27 adequately and accurately monitored.

28 (e) Permits issued under this subsection may:

29 1. Authorize construction, operation, modification,
30 and maintenance of individual or multiple project components
31 under a single permit;

1 2. Include any standard conditions provided by
2 department rule which are appropriate and consistent with this
3 subsection; or

4 3. Establish reporting requirements that are
5 consolidated with other reports if all reporting requirements
6 are met.

7 (f) The permitting entity shall require a processing
8 fee in an amount sufficient to cover the costs of reviewing
9 and acting upon any application for a permit under this
10 section and to cover the costs of surveillance associated with
11 any permit issued under this section.

12 (g) At least 60 days before the expiration of any
13 permit issued under this subsection, the permittee may apply
14 for a renewal for a term of 5 years. Such submittals are
15 considered timely and sufficient under s. 120.60(4). Permits
16 issued under this subsection may be modified upon review and
17 approval by the department or district, as appropriate.

18 Section 3. Section 373.4149, Florida Statutes, is
19 amended to read:

20 373.4149 Miami-Dade County Lake Belt Plan.--

21 (1) The Legislature hereby accepts and adopts the
22 recommendations contained in the Phase I Lake Belt Report and
23 Plan, ~~known as the "Miami-Dade County Lake Plan,"~~ dated
24 February 1997 and hereby accepts the Phase II Plan, submitted
25 on February 9, 2001 to the Legislature by the Miami-Dade
26 County Lake Belt Plan Implementation Committee. These plans
27 shall collectively be known as the Miami-Dade County Lake Belt
28 Plan. This plan was developed to enhance the water supply for
29 Miami-Dade County and the Everglades, including appropriate
30 wellfield protection measures; to maximize efficient recovery
31 of limestone while promoting the social and economic welfare

1 of the community and protecting the environment; and to
2 educate various groups and the general public of the benefits
3 of the plan.

4 (2)(a) The Legislature recognizes that deposits of
5 limestone and sand suitable for production of construction
6 aggregates, cement, and road base materials are located in
7 limited areas of the state.

8 (b) The Legislature recognizes that the deposit of
9 limestone available in South Florida is limited due to
10 urbanization to the east and the Everglades to the west.

11 (3) The Miami-Dade County Lake Belt Area is that area
12 bounded by the Ronald Reagan Turnpike to the east, the
13 Miami-Dade-Broward County line to the north, Krome Avenue to
14 the west and Tamiami Trail to the south together with the land
15 south of Tamiami Trail in sections 5, 6, 7, 8, 17, and 18,
16 Township 54 South, Range 39 East, sections 24, 25, and 36,
17 Township 54 South, Range 38 East less those portions of
18 section 3, south of Krome Avenue and west of U.S. Highway 27,
19 section 10, except the west one-half, section 11, except the
20 northeast one-quarter and the east one-half of the northwest
21 one-quarter, and tracts 38 through 41, and tracts 49 through
22 64 inclusive, section 13, except tracts 17 through 35 and
23 tracts 46 through 48, of Florida Fruit Lands Company
24 Subdivision No. 1 according to the plat thereof as recorded in
25 plat book 2, page 17, public records of Miami-Dade County, and
26 section 14, except the west three quarters, Township 52 South,
27 Range 39 East, lying north of the Miami Canal, sections 35 and
28 36 and the east one-half of sections 24 and 25, Township 53
29 South, Range 39 East and Government Lots 1 and 2, lying
30 between Townships 53 and 54 South, Range 39 East and those

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1 portions of sections 1 and 2, Township 54 South, Range 39
2 East, lying north of Tamiami Trail.

3 (4) The identification of the Miami-Dade County Lake
4 Belt Area shall not preempt local land use jurisdiction,
5 planning, or regulatory authority in regard to the use of land
6 by private land owners. When amending local comprehensive
7 plans, or implementing zoning regulations, development
8 regulations, or other local regulations, Miami-Dade County
9 shall strongly consider limestone mining activities and
10 ancillary operations, such as lake excavation, including use
11 of explosives, rock processing, cement, concrete and asphalt
12 products manufacturing, and ancillary activities, within the
13 rock mining supported and allowable areas of the Miami-Dade
14 County Lake Plan adopted by subsection (1); provided, however,
15 that limerock mining activities are consistent with wellfield
16 protection. Rezoning or amendments to local comprehensive
17 plans concerning properties that are located within 1 mile of
18 the Miami-Dade Lake Belt Area shall be compatible with
19 limestone mining activities. No rezonings, variances, or
20 amendments to local comprehensive plans for any residential
21 purpose may be approved for any property located in sections
22 35 and 36 and the east one-half of sections 24 and 25,
23 Township 53 South, Range 39 East until such time as there is
24 no active mining within 2 miles of the property. This section
25 does not preclude residential development that complies with
26 current regulations.

27 ~~(5) The Miami-Dade County Lake Belt Plan~~
28 ~~Implementation Committee shall be appointed by the governing~~
29 ~~board of the South Florida Water Management District to~~
30 ~~develop a strategy for the design and implementation of the~~
31 ~~Miami-Dade County Lake Belt Plan. The committee shall consist~~

1 ~~of the chair of the governing board of the South Florida Water~~
2 ~~Management District, who shall serve as chair of the~~
3 ~~committee, the policy director of Environmental and Growth~~
4 ~~Management in the office of the Governor, the secretary of the~~
5 ~~Department of Environmental Protection, the director of the~~
6 ~~Division of Water Facilities or its successor division within~~
7 ~~the Department of Environmental Protection, the director of~~
8 ~~the Office of Tourism, Trade, and Economic Development within~~
9 ~~the office of the Governor, the secretary of the Department of~~
10 ~~Community Affairs, the executive director of the Fish and~~
11 ~~Wildlife Conservation Commission, the director of the~~
12 ~~Department of Environmental Resource Management of Miami-Dade~~
13 ~~County, the director of the Miami-Dade County Water and Sewer~~
14 ~~Department, the Director of Planning in Miami-Dade County, a~~
15 ~~representative of the Friends of the Everglades, a~~
16 ~~representative of the Florida Audubon Society, a~~
17 ~~representative of the Florida chapter of the Sierra Club, four~~
18 ~~representatives of the nonmining private landowners within the~~
19 ~~Miami-Dade County Lake Belt Area, and four representatives~~
20 ~~from the limestone mining industry to be appointed by the~~
21 ~~governing board of the South Florida Water Management~~
22 ~~District. Two ex officio seats on the committee will be filled~~
23 ~~by one member of the Florida House of Representatives to be~~
24 ~~selected by the Speaker of the House of Representatives from~~
25 ~~among representatives whose districts, or some portion of~~
26 ~~whose districts, are included within the geographical scope of~~
27 ~~the committee as described in subsection (3), and one member~~
28 ~~of the Florida Senate to be selected by the President of the~~
29 ~~Senate from among senators whose districts, or some portion of~~
30 ~~whose districts, are included within the geographical scope of~~
31 ~~the committee as described in subsection (3). The committee~~

1 ~~may appoint other ex officio members, as needed, by a majority~~
2 ~~vote of all committee members. A committee member may~~
3 ~~designate in writing an alternate member who, in the member's~~
4 ~~absence, may participate and vote in committee meetings.~~

5 ~~(6) The committee shall develop Phase II of the Lake~~
6 ~~Belt Plan which shall:~~

7 ~~(a) Include a detailed master plan to further~~
8 ~~implementation;~~

9 ~~(b) Consider the feasibility of a common mitigation~~
10 ~~plan for nonrock mining uses, including a nonrock mining~~
11 ~~mitigation fee. Any mitigation fee shall be for the limited~~
12 ~~purpose of offsetting the loss of wetland functions and values~~
13 ~~and not as a revenue source for other purposes.~~

14 ~~(c) Further address compatible land uses,~~
15 ~~opportunities, and potential conflicts;~~

16 ~~(d) Provide for additional wellfield protection;~~

17 ~~(e) Provide measures to prevent the reclassification~~
18 ~~of the Northwest Miami-Dade County wells as groundwater under~~
19 ~~the direct influence of surface water;~~

20 ~~(f) Secure additional funding sources;~~

21 ~~(g) Consider the need to establish a land authority;~~

22 ~~and~~

23 ~~(h) Analyze the hydrological impacts resulting from~~
24 ~~the future mining included in the Lake Belt Plan and recommend~~
25 ~~appropriate mitigation measures, if needed, to be incorporated~~
26 ~~into the Lake Belt Mitigation Plan.~~

27 ~~(7) The committee shall remain in effect until January~~
28 ~~1, 2002, and shall meet as deemed necessary by the chair. The~~
29 ~~committee shall monitor and direct progress toward developing~~
30 ~~and implementing the plan. The committee shall submit progress~~
31 ~~reports to the governing board of the South Florida Water~~

1 ~~Management District and the Legislature by December 31 of each~~
2 ~~year. These reports shall include a summary of the activities~~
3 ~~of the committee, updates on all ongoing studies, any other~~
4 ~~relevant information gathered during the calendar year, and~~
5 ~~the committee recommendations for legislative and regulatory~~
6 ~~revisions. The committee shall submit a Phase II report and~~
7 ~~plan to the governing board of the South Florida Water~~
8 ~~Management District and the Legislature by December 31, 2000,~~
9 ~~to supplement the Phase I report submitted on February 28,~~
10 ~~1997. The Phase II report must include the detailed master~~
11 ~~plan for the Miami-Dade County Lake Belt Area together with~~
12 ~~the final reports on all studies, the final recommendations of~~
13 ~~the committee, the status of implementation of Phase I~~
14 ~~recommendations and other relevant information, and the~~
15 ~~committee's recommendation for legislative and regulatory~~
16 ~~revisions.~~

17 ~~(8) The committee shall report to the governing board~~
18 ~~of the South Florida Water Management District semiannually.~~

19 ~~(9) In carrying out its work, the committee shall~~
20 ~~solicit comments from scientific and economic advisors and~~
21 ~~governmental, public, and private interests. The committee~~
22 ~~shall provide meeting notes, reports, and the strategy~~
23 ~~document in a timely manner for public comment.~~

24 ~~(10) The committee is authorized to seek from the~~
25 ~~agencies or entities represented on the committee any grants~~
26 ~~or funds necessary to enable it to carry out its charge.~~

27 (5)~~(11)~~ The secretary of the Department of
28 Environmental Protection, the secretary of the Department of
29 Community Affairs, the secretary of the Department of
30 Transportation, the Commissioner of Agriculture, the executive
31 director of the Fish and Wildlife Conservation Commission, and

1 the executive director of the South Florida Water Management
2 District may enter into agreements with landowners,
3 developers, businesses, industries, individuals, and
4 governmental agencies as necessary to effectuate the
5 Miami-Dade Lake Belt Plan and the provisions of this section.

6 ~~(6)(12)~~(a) All agencies of the state shall review the
7 status of their landholdings within the boundaries of the
8 Miami-Dade County Lake Belt. Those lands for which no present
9 or future use is identified must be made available, together
10 with other suitable lands, to the Department of Environmental
11 Protection ~~committee~~ for its use in carrying out the
12 objectives of this act.

13 (b) It is the intent of the Legislature that lands
14 provided to the Department of Environmental Protection
15 ~~committee~~ be used for land exchanges to further the objectives
16 of this act.

17 Section 4. Section 373.4415, Florida Statutes, is
18 amended to read:

19 373.4415 Role of Miami-Dade County in processing
20 permits for limerock mining in Miami-Dade County Lake
21 Belt.--The department and Miami-Dade County shall cooperate to
22 establish and fulfill reasonable requirements for the
23 departmental delegation to the Miami-Dade County Department of
24 Environmental Resource Management of authority to implement
25 the permitting program under ss. 373.403-373.439 for limerock
26 mining activities within the geographic area of the Miami-Dade
27 County Lake Belt which was recommended for mining in the
28 report submitted to the Legislature in February 1997 ~~by the~~
29 ~~Miami-Dade County Lake Belt Plan Implementation Committee~~
30 under s. 373.4149. The delegation of authority must be
31 consistent with s. 373.441 and chapter 62-344, Florida

1 Administrative Code. To further streamline permitting within
2 the Miami-Dade County Lake Belt, the department and Miami-Dade
3 County are encouraged to work with the United States Army
4 Corps of Engineers to establish a general permit under s. 404
5 of the Clean Water Act for limerock mining activities within
6 the geographic area of the Miami-Dade County Lake Belt
7 consistent with the report submitted in February 1997.
8 Miami-Dade County is further encouraged to seek delegation
9 from the United States Army Corps of Engineers for the
10 implementation of any such general permit. This section does
11 not limit the authority of the department to delegate other
12 responsibilities to Miami-Dade County under this part.

13 Section 5. Section 378.4115, Florida Statutes, is
14 amended to read:

15 378.4115 County certification for limerock mining in
16 the Miami-Dade County Lake Belt.--The department and
17 Miami-Dade County shall cooperate to establish and fulfill
18 reasonable requirements for the departmental certification of
19 the Miami-Dade County Department of Environmental Resource
20 Management to implement the reclamation program under ss.
21 378.401-378.503 for limerock mining activities within the
22 geographic area of the Miami-Dade County Lake Belt which was
23 recommended for mining in the report submitted to the
24 Legislature in February 1997 ~~by the Miami-Dade County Lake~~
25 ~~Belt Plan Implementation Committee~~ under s. 373.4149. The
26 delegation of implementing authority must be consistent with
27 s. 378.411 and chapter 62C-36, Florida Administrative Code.
28 Further, the reclamation program shall maximize the efficient
29 mining of limestone, and the littoral area surrounding the
30 lake excavations shall not be required to be greater than 100
31 feet average in width.

1 Section 6. Paragraphs (b) and (d) of subsection (4) of
2 section 373.4595, Florida Statutes, are amended to read:

3 373.4595 Lake Okeechobee Protection Program.--

4 (4) LAKE OKEECHOBEE PROTECTION PERMITS.--

5 (b) Permits obtained pursuant to this section are in
6 lieu of all other permits under chapter 373 or chapter 403,
7 except those issued under s. 403.0885, if applicable. No
8 additional permits are required for the Lake Okeechobee
9 Construction Project or structures discharging into or from
10 Lake Okeechobee, if permitted under this section. Construction
11 activities related to implementation of the Lake Okeechobee
12 Construction Project may be initiated prior to final agency
13 action, or notice of intended agency action, on any permit
14 from the department under this section.

15 (d) The department shall require permits for Lake
16 Okeechobee Construction Project facilities. However, projects
17 identified in sub-subparagraph (3)(b)1.b. that qualify as
18 exempt pursuant to s. 373.406 shall not need permits under
19 this section.Such permits shall be issued for a term of 5
20 years upon the demonstration of reasonable assurances that:

21 1. The Lake Okeechobee Construction Project facility,
22 based upon the conceptual design documents and any subsequent
23 detailed design documents developed by the district, will
24 achieve the design objectives for phosphorus required in
25 paragraph (3)(b);

26 2. For water quality standards other than phosphorus,
27 the quality of water discharged from the facility is of equal
28 or better quality than the inflows;

29 3. Discharges from the facility do not pose a serious
30 danger to public health, safety, or welfare; and

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1 4. Any impacts on wetlands or state-listed species
2 resulting from implementation of that facility of the Lake
3 Okeechobee Construction Project are minimized and mitigated,
4 as appropriate.

5 Section 7. Subsection (7) of section 373.470, Florida
6 Statutes, is amended to read:

7 373.470 Everglades restoration.--

8 (7) ANNUAL REPORT.--To provide enhanced oversight of
9 and accountability for the financial commitments established
10 under this section and the progress made in the implementation
11 of the comprehensive plan, the following information must be
12 prepared annually:

13 (a) The district, in cooperation with the department,
14 shall provide the following information as it relates to
15 implementation of the comprehensive plan:

16 1. An identification of funds, by source and amount,
17 received by the state and by each local sponsor during the
18 fiscal year.

19 2. An itemization of expenditures, by source and
20 amount, made by the state and by each local sponsor during the
21 fiscal year.

22 3. A description of the purpose for which the funds
23 were expended.

24 4. The unencumbered balance of funds remaining in
25 trust funds or other accounts designated for implementation of
26 the comprehensive plan.

27 5. A schedule of anticipated expenditures for the next
28 fiscal year.

29 (b) The department shall prepare a detailed report on
30 all funds expended by the state and credited toward the

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1 state's share of funding for implementation of the
2 comprehensive plan. The report shall include:

3 1. A description of all expenditures, by source and
4 amount, from the Conservation and Recreation Lands Trust Fund,
5 the Land Acquisition Trust Fund, the Preservation 2000 Trust
6 Fund, the Florida Forever Trust Fund, the Save Our Everglades
7 Trust Fund, and other named funds or accounts for the
8 acquisition or construction of project components or other
9 features or facilities that benefit the comprehensive plan.

10 2. A description of the purposes for which the funds
11 were expended.

12 3. The unencumbered fiscal-year-end balance that
13 remains in each trust fund or account identified in
14 subparagraph 1.

15 (c) The district, in cooperation with the department,
16 shall provide a detailed report on progress made in the
17 implementation of the comprehensive plan, including the status
18 of all project components initiated after the effective date
19 of this act or the date of the last report prepared under this
20 subsection, whichever is later.

21
22 The information required in paragraphs (a), (b), and (c) shall
23 be provided annually in a single report to the Governor, the
24 President of the Senate, and the Speaker of the House of
25 Representatives, and copies of the report must be made
26 available to the public. The initial report is due by November
27 30, 2000, and each annual report thereafter is due by January
28 31 ~~November 30~~.

29 Section 8. Paragraph (g) of subsection (2) of section
30 403.088, Florida Statutes, is amended to read:

31

1 403.088 Water pollution operation permits;
2 conditions.--
3 (2)
4 (g) The Legislature finds that the restoration of the
5 South Florida ecosystem ~~Everglades Protection Area, including~~
6 ~~the construction, operation, and maintenance of stormwater~~
7 ~~treatment areas (STAs)~~ is in the public interest. Accordingly,
8 whenever a facility to be constructed, operated, or maintained
9 in accordance with s. 373.1501, s. 373.1502, s. 373.4595, or
10 s. 373.4592 is subjected to permitting requirements pursuant
11 to chapter 373 or this chapter, and the issuance of the
12 initial permit for a new source, a new discharger, or a
13 recommending discharger is subjected to a request for hearing
14 pursuant to s. 120.569, the administrative law judge may, upon
15 motion by the permittee, issue a recommended order to the
16 secretary who, within 5 days, shall issue an order authorizing
17 the interim construction, operation, and maintenance of the
18 facility if it complies with all uncontested conditions of the
19 proposed permit and all other conditions recommended by the
20 administrative law judge during the period until the final
21 agency action on the permit.
22 1. An order authorizing such interim construction,
23 operation, and maintenance shall be granted if requested by
24 motion and no party opposes it.
25 2. If a party to the administrative hearing pursuant
26 to ss. 120.569 and 120.57 opposes the motion, the
27 administrative law judge shall issue a recommended order
28 granting the motion if the administrative law judge finds
29 that:
30 a. The facility is likely to receive the permit; and
31

1 b. The environment will not be irreparably harmed by
2 the construction, operation, or maintenance of the facility
3 pending final agency action on the permit.

4 3. Prior to granting a contested motion for interim
5 construction, operation, or maintenance of a facility
6 regulated or otherwise permitted ~~authorized~~ by s. 373.1501, s.
7 373.1502, s. 373.4595, or s. 373.4592, the administrative law
8 judge shall conduct a hearing using the summary hearing
9 process defined in s. 120.574, which shall be mandatory for
10 motions made pursuant to this paragraph. Notwithstanding the
11 provisions of s. 120.574(1), summary hearing proceedings for
12 these facilities shall begin within 30 days of the motion made
13 by the permittee. Within 15 days of the conclusion of the
14 summary proceeding, the administrative law judge shall issue a
15 recommended order either denying or approving interim
16 construction, operation, or maintenance of the facility, which
17 shall be submitted to the secretary who shall within 5 days
18 thereafter, enter an order granting or denying interim
19 construction operation or maintenance of the facility. The
20 order shall remain in effect until final agency action is
21 taken on the permit.

22 Section 9. This act shall take effect upon becoming a
23 law.