

By the Council for Ready Infrastructure and
 Representatives Clarke, Harrington, Ross, Needelman, Pickens,
 Dockery and Paul

1 A bill to be entitled
 2 An act relating to environmental protection;
 3 amending s. 403.08725, F.S.; extending the time
 4 by which the United States Environmental
 5 Protection Agency may approve the state's
 6 implementation plan for controlling air
 7 pollution from citrus juice processing
 8 facilities; amending s. 403.813, F.S.;
 9 clarifying the maintenance dredging permit
 10 exemption to allow for the discharge of return
 11 water from spoil material; providing an
 12 exemption from permitting requirements for
 13 certain floating vessel platforms or floating
 14 boat lifts of limited size that are not used
 15 for commercial purposes; authorizing the
 16 Department of Environmental Protection to adopt
 17 by rule a general permit for certain nonexempt
 18 floating vessel platforms or floating boat
 19 lifts; providing for use of certain state lands
 20 under such general permits; providing an
 21 exemption from local regulation; providing an
 22 exemption for certain county road repair;
 23 providing an effective date.

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

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 27 Section 1. Subsection (9) of section 403.08725,
 28 Florida Statutes, is amended to read:
 29 403.08725 Citrus juice processing facilities.--
 30 (9) ENVIRONMENTAL PROTECTION AGENCY APPROVAL.--No
 31 later than February 1, 2001, the department shall submit this

1 act to the United States Environmental Protection Agency as a
2 revision of Florida's state implementation plan and as a
3 revision of Florida's approved state Title V program. If the
4 United States Environmental Protection Agency fails to approve
5 this act as a revision of Florida's state implementation plan
6 within 3 ~~2~~ years after submittal, this act shall not apply
7 with respect to construction requirements for facilities
8 subject to regulation under the act, and the facilities
9 subject to regulation thereunder must comply with all
10 construction permitting requirements, including those for
11 prevention of significant deterioration, and must make
12 application for construction permits for any construction or
13 modification at the facility which was not undertaken in
14 compliance with all permitting requirements of Florida's state
15 implementation plan, within 3 months thereafter. If the United
16 States Environmental Protection Agency fails to approve this
17 act as a revision of Florida's approved state Title V program
18 within 3 ~~2~~ years after submittal, this act shall not apply
19 with respect to operation requirements, and all facilities
20 subject to regulation under the act must immediately comply
21 with all Title V program requirements and must make
22 application for Title V operation permits within 3 months
23 thereafter.

24 Section 2. Subsection (2) of section 403.813, Florida
25 Statutes, is amended, and subsection (3) of said section is
26 reenacted, to read:

27 403.813 Permits issued at district centers;
28 exceptions.--

29 (2) No permit under this chapter, chapter 373, chapter
30 61-691, Laws of Florida, or chapter 25214 or chapter 25270,
31 1949, Laws of Florida, shall be required for activities

1 associated with the following types of projects; however,
2 except as otherwise provided in this subsection, nothing in
3 this subsection relieves an applicant from any requirement to
4 obtain permission to use or occupy lands owned by the Board of
5 Trustees of the Internal Improvement Trust Fund or any water
6 management district in its governmental or proprietary
7 capacity or from complying with applicable local pollution
8 control programs authorized under this chapter or other
9 requirements of county and municipal governments:

10 (a) The installation of overhead transmission lines,
11 with support structures which are not constructed in waters of
12 the state and which do not create a navigational hazard.

13 (b) The installation and repair of mooring pilings and
14 dolphins associated with private docking facilities or piers
15 and the installation of private docks, piers and recreational
16 docking facilities, or piers and recreational docking
17 facilities of local governmental entities when the local
18 governmental entity's activities will not take place in any
19 manatee habitat, any of which docks:

20 1. Has 500 square feet or less of over-water surface
21 area for a dock which is located in an area designated as
22 Outstanding Florida Waters or 1,000 square feet or less of
23 over-water surface area for a dock which is located in an area
24 which is not designated as Outstanding Florida Waters;

25 2. Is constructed on or held in place by pilings or is
26 a floating dock which is constructed so as not to involve
27 filling or dredging other than that necessary to install the
28 pilings;

29 3. Shall not substantially impede the flow of water or
30 create a navigational hazard;

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1 4. Is used for recreational, noncommercial activities
2 associated with the mooring or storage of boats and boat
3 paraphernalia; and

4 5. Is the sole dock constructed pursuant to this
5 exemption as measured along the shoreline for a distance of 65
6 feet, unless the parcel of land or individual lot as platted
7 is less than 65 feet in length along the shoreline, in which
8 case there may be one exempt dock allowed per parcel or lot.

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10 Nothing in this paragraph shall prohibit the department from
11 taking appropriate enforcement action pursuant to this chapter
12 to abate or prohibit any activity otherwise exempt from
13 permitting pursuant to this paragraph if the department can
14 demonstrate that the exempted activity has caused water
15 pollution in violation of this chapter.

16 (c) The installation and maintenance to design
17 specifications of boat ramps on artificial bodies of water
18 where navigational access to the proposed ramp exists or the
19 installation of boat ramps open to the public in any waters of
20 the state where navigational access to the proposed ramp
21 exists and where the construction of the proposed ramp will be
22 less than 30 feet wide and will involve the removal of less
23 than 25 cubic yards of material from the waters of the state,
24 and the maintenance to design specifications of such ramps;
25 however, the material to be removed shall be placed upon a
26 self-contained upland site so as to prevent the escape of the
27 spoil material into the waters of the state.

28 (d) The replacement or repair of existing docks and
29 piers, except that no fill material is to be used and provided
30 that the replacement or repaired dock or pier is in the same
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1 location and of the same configuration and dimensions as the
2 dock or pier being replaced or repaired.

3 (e) The restoration of seawalls at their previous
4 locations or upland of, or within 1 foot waterward of, their
5 previous locations. However, this shall not affect the
6 permitting requirements of chapter 161, and department rules
7 shall clearly indicate that this exception does not constitute
8 an exception from the permitting requirements of chapter 161.

9 (f) The performance of maintenance dredging of
10 existing manmade canals, channels, intake and discharge
11 structures, and previously dredged portions of natural water
12 bodies within drainage rights-of-way or drainage easements
13 which have been recorded in the public records of the county,
14 where the spoil material is to be removed and deposited on a
15 self-contained, upland spoil site which will prevent the
16 escape of the spoil material into the waters of the state,
17 provided that no more dredging is to be performed than is
18 necessary to restore the canals, channels, and intake and
19 discharge structures, and previously dredged portions of
20 natural water bodies, to original design specifications or
21 configurations, provided that the work is conducted in
22 compliance with s. 370.12(2)(d), provided that no significant
23 impacts occur to previously undisturbed natural areas, and
24 provided that control devices for return flow and best
25 management practices for erosion and sediment control are
26 utilized to prevent bank erosion and scouring and to prevent
27 turbidity, dredged material, and toxic or deleterious
28 substances from discharging into adjacent waters during
29 maintenance dredging. Further, for maintenance dredging of
30 previously dredged portions of natural water bodies within
31 recorded drainage rights-of-way or drainage easements, an

1 entity that seeks an exemption must notify the department or
2 water management district, as applicable, at least 30 days
3 prior to dredging and provide documentation of original design
4 specifications or configurations where such exist. This
5 exemption applies to all canals and previously dredged
6 portions of natural water bodies within recorded drainage
7 rights-of-way or drainage easements constructed prior to April
8 3, 1970, and to those canals and previously dredged portions
9 of natural water bodies constructed on or after April 3, 1970,
10 pursuant to all necessary state permits. This exemption does
11 not apply to the removal of a natural or manmade barrier
12 separating a canal or canal system from adjacent waters. When
13 no previous permit has been issued by the Board of Trustees of
14 the Internal Improvement Trust Fund or the United States Army
15 Corps of Engineers for construction or maintenance dredging of
16 the existing manmade canal or intake or discharge structure,
17 such maintenance dredging shall be limited to a depth of no
18 more than 5 feet below mean low water. The Board of Trustees
19 of the Internal Improvement Trust Fund may fix and recover
20 from the permittee an amount equal to the difference between
21 the fair market value and the actual cost of the maintenance
22 dredging for material removed during such maintenance
23 dredging. However, no charge shall be exacted by the state for
24 material removed during such maintenance dredging by a public
25 port authority. The removing party may subsequently sell such
26 material; however, proceeds from such sale that exceed the
27 costs of maintenance dredging shall be remitted to the state
28 and deposited in the Internal Improvement Trust Fund.

29 (g) The maintenance of existing insect control
30 structures, dikes, and irrigation and drainage ditches,
31 provided that spoil material is deposited on a self-contained,

1 upland spoil site which will prevent the escape of the spoil
2 material into waters of the state. In the case of insect
3 control structures, if the cost of using a self-contained
4 upland spoil site is so excessive, as determined by the
5 Department of Health, pursuant to s. 403.088(1), that it will
6 inhibit proposed insect control, then-existing spoil sites or
7 dikes may be used, upon notification to the department. In
8 the case of insect control where upland spoil sites are not
9 used pursuant to this exemption, turbidity control devices
10 shall be used to confine the spoil material discharge to that
11 area previously disturbed when the receiving body of water is
12 used as a potable water supply, is designated as shellfish
13 harvesting waters, or functions as a habitat for commercially
14 or recreationally important shellfish or finfish. In all
15 cases, no more dredging is to be performed than is necessary
16 to restore the dike or irrigation or drainage ditch to its
17 original design specifications.

18 (h) The repair or replacement of existing functional
19 pipes or culverts the purpose of which is the discharge or
20 conveyance of stormwater. In all cases, the invert elevation,
21 the diameter, and the length of the culvert shall not be
22 changed. However, the material used for the culvert may be
23 different from the original.

24 (i) The construction of private docks and seawalls in
25 artificially created waterways where such construction will
26 not violate existing water quality standards, impede
27 navigation, or affect flood control. This exemption does not
28 apply to the construction of vertical seawalls in estuaries or
29 lagoons unless the proposed construction is within an existing
30 manmade canal where the shoreline is currently occupied in
31 whole or part by vertical seawalls.

1 (j) The construction and maintenance of swales.

2 (k) The installation of aids to navigation and buoys
3 associated with such aids, provided the devices are marked
4 pursuant to s. 327.40.

5 (l) The replacement or repair of existing open-trestle
6 foot bridges and vehicular bridges that are 100 feet or less
7 in length and two lanes or less in width, provided that no
8 more dredging or filling of submerged lands is performed other
9 than that which is necessary to replace or repair pilings and
10 that the structure to be replaced or repaired is the same
11 length, the same configuration, and in the same location as
12 the original bridge. No debris from the original bridge shall
13 be allowed to remain in the waters of the state.

14 (m) The installation of subaqueous transmission and
15 distribution lines laid on, or embedded in, the bottoms of
16 waters in the state, except in Class I and Class II waters and
17 aquatic preserves, provided no dredging or filling is
18 necessary.

19 (n) The replacement or repair of subaqueous
20 transmission and distribution lines laid on, or embedded in,
21 the bottoms of waters of the state.

22 (o) The construction of private seawalls in wetlands
23 or other surface waters where such construction is between and
24 adjoins at both ends existing seawalls; follows a continuous
25 and uniform seawall construction line with the existing
26 seawalls; is no more than 150 feet in length; and does not
27 violate existing water quality standards, impede navigation,
28 or affect flood control. However, in estuaries and lagoons the
29 construction of vertical seawalls is limited to the
30 circumstances and purposes stated in s. 373.414(5)(b)1.-4.
31 This paragraph does not affect the permitting requirements of

1 chapter 161, and department rules must clearly indicate that
2 this exception does not constitute an exception from the
3 permitting requirements of chapter 161.

4 (p) The restoration of existing insect control
5 impoundment dikes which are less than 100 feet in length. Such
6 impoundments shall be connected to tidally influenced waters
7 for 6 months each year beginning September 1 and ending
8 February 28 if feasible or operated in accordance with an
9 impoundment management plan approved by the department. A
10 dike restoration may involve no more dredging than is
11 necessary to restore the dike to its original design
12 specifications. For the purposes of this paragraph,
13 restoration does not include maintenance of impoundment dikes
14 of operating insect control impoundments.

15 (q) The construction, operation, or maintenance of
16 stormwater management facilities which are designed to serve
17 single-family residential projects, including duplexes,
18 triplexes, and quadruplexes, if they are less than 10 acres
19 total land and have less than 2 acres of impervious surface
20 and if the facilities:

21 1. Comply with all regulations or ordinances
22 applicable to stormwater management and adopted by a city or
23 county;

24 2. Are not part of a larger common plan of development
25 or sale; and

26 3. Discharge into a stormwater discharge facility
27 exempted or permitted by the department under this chapter
28 which has sufficient capacity and treatment capability as
29 specified in this chapter and is owned, maintained, or
30 operated by a city, county, special district with drainage
31 responsibility, or water management district; however, this

1 exemption does not authorize discharge to a facility without
2 the facility owner's prior written consent.

3 (r) The removal of aquatic plants, the removal of
4 tussocks, the associated replanting of indigenous aquatic
5 plants, or the associated removal from lakes of organic
6 material when such planting or removal is performed and
7 authorized by permit or exemption granted under s. 369.20 or
8 s. 369.25, if:

9 1. Organic material that exists on the surface of
10 natural mineral soil shall be allowed to be removed to a depth
11 of 3 feet or to the natural mineral soils, whichever is less.

12 2. All organic material removal pursuant to this
13 subsection shall be deposited in an upland site in a manner
14 that will prevent the reintroduction of the material into
15 waters in the state except when spoil material is permitted to
16 be used to create wildlife islands in freshwater bodies of the
17 state when a governmental entity is permitted pursuant to this
18 section to create such islands as a part of a restoration or
19 enhancement project.

20 3. All activities are performed in a manner consistent
21 with state water quality standards.

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23 The department may not adopt implementing rules for this
24 paragraph, notwithstanding any other provision of law.

25 (s) The construction, installation, operation, or
26 maintenance of floating vessel platforms or floating boat
27 lifts, provided that such structures:

28 1. Float at all times in the water for the sole
29 purpose of supporting a vessel so that the vessel is out of
30 the water when not in use;

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1 2. Are wholly contained within a boat slip previously
2 permitted under ss. 403.91-403.929, 1984 Supplement to the
3 Florida Statutes 1983, as amended, or part IV of chapter 373,
4 or, when associated with a dock that is exempt under this
5 subsection or a permitted dock with no defined boat slip, do
6 not exceed a combined total of 500 square feet, or 200 square
7 feet in an Outstanding Florida Water;

8 3. Are not used for any commercial purpose or for
9 mooring vessels that remain in the water when not in use, and
10 do not substantially impede the flow of water, create a
11 navigational hazard, or unreasonably infringe upon the
12 riparian rights of adjacent property owners, as defined in s.
13 253.141;

14 4. Are constructed and used so as to minimize adverse
15 impacts to submerged lands, wetlands, shellfish areas, aquatic
16 plant and animal species, and other biological communities,
17 including locating such structures in areas where no
18 seagrasses exist if such areas are present adjacent to the
19 dock; and

20 5. Are not constructed in areas specifically
21 prohibited for boat mooring under conditions of a permit
22 issued in accordance with ss. 403.91-403.929, 1984 Supplement
23 to the Florida Statutes 1983, as amended, or part IV of
24 chapter 373, or other form of authorization issued by a local
25 government.

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27 Structures that qualify for this exemption are relieved from
28 any requirement to obtain permission to use or occupy lands
29 owned by the Board of Trustees of the Internal Improvement
30 Trust Fund and shall not be subject to any more stringent
31 regulation by any local government. The exemption provided in

1 this paragraph shall be in addition to the exemption provided
2 in paragraph (b). By January 1, 2003, the department shall
3 adopt a general permit by rule for the construction,
4 installation, operation, or maintenance of those floating
5 vessel platforms or floating boat lifts that do not qualify
6 for the exemption provided in this paragraph but do not cause
7 significant adverse impacts to occur individually or
8 cumulatively. The issuance of such general permit shall also
9 constitute permission to use or occupy lands owned by the
10 Board of Trustees of the Internal Improvement Trust Fund. Upon
11 the adoption of the rule creating such general permit, no
12 local government shall impose a more stringent regulation on
13 floating vessel platforms or floating boat lifts covered by
14 such general permit.

15 (t) The repair, stabilization, or paving of existing
16 county maintained roads and the repair or replacement of
17 bridges that are part of the roadway, within the Northwest
18 Florida Water Management District, provided:

19 1. The road and associated bridge were in existence
20 and in use as a public road or bridge, and were maintained by
21 the county as a public road or bridge on or before January 1,
22 2002;

23 2. The construction activity does not realign the road
24 or expand the number of existing traffic lanes of the existing
25 road; however, the work may include the provision of safety
26 shoulders, clearance of vegetation, and other work reasonably
27 necessary to repair, stabilize, pave, or repave the road,
28 provided that the work is constructed by generally accepted
29 engineering standards;

30 3. The construction activity does not expand the
31 existing width of an existing vehicular bridge in excess of

1 that reasonably necessary to properly connect the bridge with
2 the road being repaired, stabilized, paved, or repaved to
3 safely accommodate the traffic expected on the road, which may
4 include expanding the width of the bridge to match the
5 existing connected road. However, no debris from the original
6 bridge shall be allowed to remain in waters of the state,
7 including wetlands;

8 4. Best management practices for erosion control shall
9 be employed as necessary to prevent water quality violations;

10 5. Roadside swales or other effective means of
11 stormwater treatment must be incorporated as part of the
12 project; and

13 6. No more dredging or filling of wetlands or water of
14 the state is performed than that which is reasonably necessary
15 to repair, stabilize, pave, or repave the road or to repair or
16 replace the bridge, in accordance with generally accepted
17 engineering standards.

18 (3) The provisions of subsection (2) are superseded by
19 general permits established pursuant to ss. 373.118 and
20 403.814 which include the same activities. Until such time as
21 general permits are established, or should general permits be
22 suspended or repealed, the exemptions under subsection (2)
23 shall remain or shall be reestablished in full force and
24 effect.

25 Section 3. This act shall take effect upon becoming a
26 law.

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