

1                                   A bill to be entitled  
2           An act relating to environmental protection;  
3           amending s. 373.414, F.S.; requiring that the  
4           Department of Environmental Protection adopt a  
5           uniform mitigation assessment method by rule by  
6           July 31, 2002; amending s. 373.406, F.S.;  
7           authorizing the district or department to adopt  
8           rules to exempt regulation for mining or mining  
9           related activities under certain circumstances;  
10          amending s. 403.08725, F.S.; extending the time  
11          by which the United States Environmental  
12          Protection Agency may approve the state's  
13          implementation plan for controlling air  
14          pollution from citrus juice processing  
15          facilities; amending s. 403.813, F.S.;  
16          clarifying the maintenance dredging permit  
17          exemption to allow for the discharge of return  
18          water from spoil material; providing an  
19          exemption from permitting requirements for  
20          certain floating vessel platforms or floating  
21          boat lifts of limited size that are not used  
22          for commercial purposes; authorizing the  
23          Department of Environmental Protection to adopt  
24          by rule a general permit for certain nonexempt  
25          floating vessel platforms or floating boat  
26          lifts; providing for use of certain state lands  
27          under such general permits; providing an  
28          exemption from local regulation; providing an  
29          exemption for certain county road repair;  
30          providing an effective date.  
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Subsection (18) and (19) of section 373.414  
4 are amended to read:

5 373.414 Additional criteria for activities in surface  
6 waters and wetlands.--

7 (18) The department and each water management district  
8 responsible for implementation of the environmental resource  
9 permitting program shall develop a uniform ~~wetland~~ mitigation  
10 assessment method for wetlands and other surface waters. no  
11 ~~later than October 1, 2001.~~The department shall adopt the  
12 uniform ~~wetland~~ mitigation assessment method by rule no later  
13 than July 31, January 31, 2002. The rule shall provide an  
14 exclusive and consistent process for determining the amount of  
15 mitigation required to offset impacts to wetlands and other  
16 surface waters, and, once effective, shall supersede all  
17 rules, ordinances, and variance procedures from ordinances  
18 that determine the amount of mitigation needed to offset such  
19 impacts.Once the department adopts the uniform ~~wetland~~  
20 mitigation assessment method by rule, the uniform ~~wetland~~  
21 mitigation assessment method shall be binding on the  
22 department, the water management districts, local governments,  
23 and any other governmental agencies and shall be the sole  
24 means to determine the amount of mitigation needed to offset  
25 adverse impacts to wetlands and other surface waters and to  
26 award and deduct mitigation bank credits. A water management  
27 district and any other governmental agency subject to chapter  
28 120 may apply the uniform ~~wetland~~ mitigation assessment method  
29 without the need to adopt it pursuant to s. 120.54. It shall  
30 be a goal of the department and water management districts  
31 that the uniform ~~wetland~~ mitigation assessment method

1 developed be practicable for use within the timeframes  
2 provided in the permitting process and result in a consistent  
3 process for determining mitigation requirements. It shall be  
4 recognized that any such method shall require the application  
5 of reasonable scientific judgment. The uniform ~~wetland~~  
6 mitigation assessment method must determine the value of  
7 functions provided by wetlands and other surface waters  
8 considering the current conditions of these areas, utilization  
9 by fish and wildlife, location, uniqueness, and hydrologic  
10 connection, and, when applied to mitigation banks,~~in addition~~  
11 ~~to the factors listed in s. 373.4136(4).~~ The uniform ~~wetland~~  
12 mitigation assessment method shall also account for the  
13 expected time-lag associated with offsetting impacts and the  
14 degree of risk associated with the proposed mitigation. The  
15 uniform ~~wetland~~ mitigation assessment method shall account for  
16 different ecological communities in different areas of the  
17 state. In developing the uniform ~~wetland~~ mitigation assessment  
18 method, the department and water management districts shall  
19 consult with approved local programs under s. 403.182 which  
20 have an established ~~wetland~~ mitigation program for wetlands or  
21 other surface waters. The department and water management  
22 districts shall consider the recommendations submitted by such  
23 approved local programs, including any recommendations  
24 relating to the adoption by the department and water  
25 management districts of any uniform ~~wetland~~ mitigation  
26 methodology that has been adopted and used by an approved  
27 local program in its established ~~wetland~~ mitigation program  
28 for wetlands or other surface waters. Environmental resource  
29 permitting rules may establish categories of permits or  
30 thresholds for minor impacts under which the use of the  
31 uniform ~~wetland~~ mitigation assessment method will not be

1 required. The application of the uniform ~~wetland~~ mitigation  
2 assessment method is not subject to s. 70.001. In the event  
3 the rule establishing the uniform ~~wetland~~ mitigation  
4 assessment method is deemed to be invalid, the applicable  
5 rules related to establishing needed mitigation in existence  
6 prior to the adoption of the uniform ~~wetland~~ mitigation  
7 assessment method, including those adopted by a county which  
8 is an approved local program under s. 403.182, and the method  
9 described in paragraph (b) for existing mitigation banks,  
10 shall be authorized for use by the department, water  
11 management districts, local governments, and other state  
12 agencies.

13 (a) In developing the uniform ~~wetland~~ mitigation  
14 assessment method, the department shall seek input from the  
15 United States Army Corps of Engineers in order to promote  
16 consistency in the mitigation assessment methods used by the  
17 state and federal permitting programs.

18 (b) An entity which has received a mitigation bank  
19 permit prior to the adoption of the uniform ~~wetland~~ mitigation  
20 assessment method shall have impact sites assessed, for the  
21 purpose of deducting bank credits, using the credit assessment  
22 method, including any functional assessment methodology, which  
23 was in place when the bank was permitted; unless the entity  
24 elects to have its credits redetermined, and thereafter have  
25 its credits deducted, using the uniform ~~wetland~~ mitigation  
26 assessment method.

27 ~~(19) The Office of Program Policy Analysis and~~  
28 ~~Government Accountability shall study the cumulative impact~~  
29 ~~consideration required by subsection (8) and issue a report by~~  
30 ~~July 1, 2001. The study shall address the justification for~~  
31 ~~the cumulative impact consideration, changes that can provide~~

1 ~~clarity and certainty in the cumulative impact consideration,~~  
2 ~~and whether a practicable, consistent, and equitable~~  
3 ~~methodology can be developed for considering cumulative~~  
4 ~~impacts within the environmental resource permitting program.~~

5 Section 2. Subsection (11) is added to section  
6 373.406, Florida Statutes, to read:

7 373.406 Exemptions.--The following exemptions shall  
8 apply:

9 (11) Any district or the department may adopt rules to  
10 exempt from regulation under this part any system for a mining  
11 or mining related activity that is described in or covered by  
12 an exemption confirmation letter issued by the district  
13 pursuant to applicable rules implementing this part that were  
14 in effect at the time the letter was issued, and that will not  
15 be harmful to the water resources. Such rules may include  
16 provisions for the duration of this exemption.

17 Section 3. Subsection (9) of section 403.08725,  
18 Florida Statutes, is amended to read:

19 403.08725 Citrus juice processing facilities.--

20 (9) ENVIRONMENTAL PROTECTION AGENCY APPROVAL.--No  
21 later than February 1, 2001, the department shall submit this  
22 act to the United States Environmental Protection Agency as a  
23 revision of Florida's state implementation plan and as a  
24 revision of Florida's approved state Title V program. If the  
25 United States Environmental Protection Agency fails to approve  
26 this act as a revision of Florida's state implementation plan  
27 within 3 ~~2~~ years after submittal, this act shall not apply  
28 with respect to construction requirements for facilities  
29 subject to regulation under the act, and the facilities  
30 subject to regulation thereunder must comply with all  
31 construction permitting requirements, including those for

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

14 Section 4. Subsection (2) of section 403.813, Florida  
15 Statutes, is amended, and subsection (3) of said section is  
16 reenacted, to read:

17 403.813 Permits issued at district centers;  
18 exceptions.--

19 (2) No permit under this chapter, chapter 373, chapter  
20 61-691, Laws of Florida, or chapter 25214 or chapter 25270,  
21 1949, Laws of Florida, shall be required for activities  
22 associated with the following types of projects; however,  
23 except as otherwise provided in this subsection, nothing in  
24 this subsection relieves an applicant from any requirement to  
25 obtain permission to use or occupy lands owned by the Board of  
26 Trustees of the Internal Improvement Trust Fund or any water  
27 management district in its governmental or proprietary  
28 capacity or from complying with applicable local pollution  
29 control programs authorized under this chapter or other  
30 requirements of county and municipal governments:

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

4 (b) The installation and repair of mooring pilings and  
5 dolphins associated with private docking facilities or piers  
6 and the installation of private docks, piers and recreational  
7 docking facilities, or piers and recreational docking  
8 facilities of local governmental entities when the local  
9 governmental entity's activities will not take place in any  
10 manatee habitat, any of which docks:

11 1. Has 500 square feet or less of over-water surface  
12 area for a dock which is located in an area designated as  
13 Outstanding Florida Waters or 1,000 square feet or less of  
14 over-water surface area for a dock which is located in an area  
15 which is not designated as Outstanding Florida Waters;

16 2. Is constructed on or held in place by pilings or is  
17 a floating dock which is constructed so as not to involve  
18 filling or dredging other than that necessary to install the  
19 pilings;

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

22 4. Is used for recreational, noncommercial activities  
23 associated with the mooring or storage of boats and boat  
24 paraphernalia; and

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

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1 Nothing in this paragraph shall prohibit the department from  
2 taking appropriate enforcement action pursuant to this chapter  
3 to abate or prohibit any activity otherwise exempt from  
4 permitting pursuant to this paragraph if the department can  
5 demonstrate that the exempted activity has caused water  
6 pollution in violation of this chapter.

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

19 (d) The replacement or repair of existing docks and  
20 piers, except that no fill material is to be used and provided  
21 that the replacement or repaired dock or pier is in the same  
22 location and of the same configuration and dimensions as the  
23 dock or pier being replaced or repaired.

24 (e) The restoration of seawalls at their previous  
25 locations or upland of, or within 1 foot waterward of, their  
26 previous locations. However, this shall not affect the  
27 permitting requirements of chapter 161, and department rules  
28 shall clearly indicate that this exception does not constitute  
29 an exception from the permitting requirements of chapter 161.

30 (f) The performance of maintenance dredging of  
31 existing manmade canals, channels, intake and discharge



1 structures, and previously dredged portions of natural water  
2 bodies within drainage rights-of-way or drainage easements  
3 which have been recorded in the public records of the county,  
4 where the spoil material is to be removed and deposited on a  
5 self-contained, upland spoil site which will prevent the  
6 escape of the spoil material into the waters of the state,  
7 provided that no more dredging is to be performed than is  
8 necessary to restore the canals, channels, and intake and  
9 discharge structures, and previously dredged portions of  
10 natural water bodies, to original design specifications or  
11 configurations, provided that the work is conducted in  
12 compliance with s. 370.12(2)(d), provided that no significant  
13 impacts occur to previously undisturbed natural areas, and  
14 provided that control devices for return flow and best  
15 management practices for erosion and sediment control are  
16 utilized to prevent bank erosion and scouring and to prevent  
17 turbidity, dredged material, and toxic or deleterious  
18 substances from discharging into adjacent waters during  
19 maintenance dredging. Further, for maintenance dredging of  
20 previously dredged portions of natural water bodies within  
21 recorded drainage rights-of-way or drainage easements, an  
22 entity that seeks an exemption must notify the department or  
23 water management district, as applicable, at least 30 days  
24 prior to dredging and provide documentation of original design  
25 specifications or configurations where such exist. This  
26 exemption applies to all canals and previously dredged  
27 portions of natural water bodies within recorded drainage  
28 rights-of-way or drainage easements constructed prior to April  
29 3, 1970, and to those canals and previously dredged portions  
30 of natural water bodies constructed on or after April 3, 1970,  
31 pursuant to all necessary state permits. This exemption does

1 not apply to the removal of a natural or manmade barrier  
2 separating a canal or canal system from adjacent waters. When  
3 no previous permit has been issued by the Board of Trustees of  
4 the Internal Improvement Trust Fund or the United States Army  
5 Corps of Engineers for construction or maintenance dredging of  
6 the existing manmade canal or intake or discharge structure,  
7 such maintenance dredging shall be limited to a depth of no  
8 more than 5 feet below mean low water. The Board of Trustees  
9 of the Internal Improvement Trust Fund may fix and recover  
10 from the permittee an amount equal to the difference between  
11 the fair market value and the actual cost of the maintenance  
12 dredging for material removed during such maintenance  
13 dredging. However, no charge shall be exacted by the state for  
14 material removed during such maintenance dredging by a public  
15 port authority. The removing party may subsequently sell such  
16 material; however, proceeds from such sale that exceed the  
17 costs of maintenance dredging shall be remitted to the state  
18 and deposited in the Internal Improvement Trust Fund.

19 (g) The maintenance of existing insect control  
20 structures, dikes, and irrigation and drainage ditches,  
21 provided that spoil material is deposited on a self-contained,  
22 upland spoil site which will prevent the escape of the spoil  
23 material into waters of the state. In the case of insect  
24 control structures, if the cost of using a self-contained  
25 upland spoil site is so excessive, as determined by the  
26 Department of Health, pursuant to s. 403.088(1), that it will  
27 inhibit proposed insect control, then-existing spoil sites or  
28 dikes may be used, upon notification to the department. In  
29 the case of insect control where upland spoil sites are not  
30 used pursuant to this exemption, turbidity control devices  
31 shall be used to confine the spoil material discharge to that

1 area previously disturbed when the receiving body of water is  
2 used as a potable water supply, is designated as shellfish  
3 harvesting waters, or functions as a habitat for commercially  
4 or recreationally important shellfish or finfish. In all  
5 cases, no more dredging is to be performed than is necessary  
6 to restore the dike or irrigation or drainage ditch to its  
7 original design specifications.

8 (h) The repair or replacement of existing functional  
9 pipes or culverts the purpose of which is the discharge or  
10 conveyance of stormwater. In all cases, the invert elevation,  
11 the diameter, and the length of the culvert shall not be  
12 changed. However, the material used for the culvert may be  
13 different from the original.

14 (i) The construction of private docks and seawalls in  
15 artificially created waterways where such construction will  
16 not violate existing water quality standards, impede  
17 navigation, or affect flood control. This exemption does not  
18 apply to the construction of vertical seawalls in estuaries or  
19 lagoons unless the proposed construction is within an existing  
20 manmade canal where the shoreline is currently occupied in  
21 whole or part by vertical seawalls.

22 (j) The construction and maintenance of swales.

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

26 (l) The replacement or repair of existing open-trestle  
27 foot bridges and vehicular bridges that are 100 feet or less  
28 in length and two lanes or less in width, provided that no  
29 more dredging or filling of submerged lands is performed other  
30 than that which is necessary to replace or repair pilings and  
31 that the structure to be replaced or repaired is the same

1 length, the same configuration, and in the same location as  
2 the original bridge. No debris from the original bridge shall  
3 be allowed to remain in the waters of the state.

4 (m) The installation of subaqueous transmission and  
5 distribution lines laid on, or embedded in, the bottoms of  
6 waters in the state, except in Class I and Class II waters and  
7 aquatic preserves, provided no dredging or filling is  
8 necessary.

9 (n) The replacement or repair of subaqueous  
10 transmission and distribution lines laid on, or embedded in,  
11 the bottoms of waters of the state.

12 (o) The construction of private seawalls in wetlands  
13 or other surface waters where such construction is between and  
14 adjoins at both ends existing seawalls; follows a continuous  
15 and uniform seawall construction line with the existing  
16 seawalls; is no more than 150 feet in length; and does not  
17 violate existing water quality standards, impede navigation,  
18 or affect flood control. However, in estuaries and lagoons the  
19 construction of vertical seawalls is limited to the  
20 circumstances and purposes stated in s. 373.414(5)(b)1.-4.  
21 This paragraph does not affect the permitting requirements of  
22 chapter 161, and department rules must clearly indicate that  
23 this exception does not constitute an exception from the  
24 permitting requirements of chapter 161.

25 (p) The restoration of existing insect control  
26 impoundment dikes which are less than 100 feet in length. Such  
27 impoundments shall be connected to tidally influenced waters  
28 for 6 months each year beginning September 1 and ending  
29 February 28 if feasible or operated in accordance with an  
30 impoundment management plan approved by the department. A  
31 dike restoration may involve no more dredging than is

1 necessary to restore the dike to its original design  
2 specifications. For the purposes of this paragraph,  
3 restoration does not include maintenance of impoundment dikes  
4 of operating insect control impoundments.

5 (q) The construction, operation, or maintenance of  
6 stormwater management facilities which are designed to serve  
7 single-family residential projects, including duplexes,  
8 triplexes, and quadruplexes, if they are less than 10 acres  
9 total land and have less than 2 acres of impervious surface  
10 and if the facilities:

11 1. Comply with all regulations or ordinances  
12 applicable to stormwater management and adopted by a city or  
13 county;

14 2. Are not part of a larger common plan of development  
15 or sale; and

16 3. Discharge into a stormwater discharge facility  
17 exempted or permitted by the department under this chapter  
18 which has sufficient capacity and treatment capability as  
19 specified in this chapter and is owned, maintained, or  
20 operated by a city, county, special district with drainage  
21 responsibility, or water management district; however, this  
22 exemption does not authorize discharge to a facility without  
23 the facility owner's prior written consent.

24 (r) The removal of aquatic plants, the removal of  
25 tussocks, the associated replanting of indigenous aquatic  
26 plants, or the associated removal from lakes of organic  
27 material when such planting or removal is performed and  
28 authorized by permit or exemption granted under s. 369.20 or  
29 s. 369.25, if:

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

4           2. All organic material removal pursuant to this  
5 subsection shall be deposited in an upland site in a manner  
6 that will prevent the reintroduction of the material into  
7 waters in the state except when spoil material is permitted to  
8 be used to create wildlife islands in freshwater bodies of the  
9 state when a governmental entity is permitted pursuant to this  
10 section to create such islands as a part of a restoration or  
11 enhancement project.

12           3. All activities are performed in a manner consistent  
13 with state water quality standards.

14  
15 The department may not adopt implementing rules for this  
16 paragraph, notwithstanding any other provision of law.

17           (s) The construction, installation, operation, or  
18 maintenance of floating vessel platforms or floating boat  
19 lifts, provided that such structures:

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

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

30           3. Are not used for any commercial purpose or for  
31 mooring vessels that remain in the water when not in use, and

1 do not substantially impede the flow of water, create a  
2 navigational hazard, or unreasonably infringe upon the  
3 riparian rights of adjacent property owners, as defined in s.  
4 253.141;

5 4. Are constructed and used so as to minimize adverse  
6 impacts to submerged lands, wetlands, shellfish areas, aquatic  
7 plant and animal species, and other biological communities,  
8 including locating such structures in areas where no  
9 seagrasses exist if such areas are present adjacent to the  
10 dock; and

11 5. Are not constructed in areas specifically  
12 prohibited for boat mooring under conditions of a permit  
13 issued in accordance with ss. 403.91-403.929, 1984 Supplement  
14 to the Florida Statutes 1983, as amended, or part IV of  
15 chapter 373, or other form of authorization issued by a local  
16 government.

17  
18 Structures that qualify for this exemption are relieved from  
19 any requirement to obtain permission to use or occupy lands  
20 owned by the Board of Trustees of the Internal Improvement  
21 Trust Fund and shall not be subject to any more stringent  
22 regulation by any local government. The exemption provided in  
23 this paragraph shall be in addition to the exemption provided  
24 in paragraph (b). By January 1, 2003, the department shall  
25 adopt a general permit by rule for the construction,  
26 installation, operation, or maintenance of those floating  
27 vessel platforms or floating boat lifts that do not qualify  
28 for the exemption provided in this paragraph but do not cause  
29 significant adverse impacts to occur individually or  
30 cumulatively. The issuance of such general permit shall also  
31 constitute permission to use or occupy lands owned by the

1 Board of Trustees of the Internal Improvement Trust Fund. Upon  
2 the adoption of the rule creating such general permit, no  
3 local government shall impose a more stringent regulation on  
4 floating vessel platforms or floating boat lifts covered by  
5 such general permit.

6 (t) The repair, stabilization, or paving of existing  
7 county maintained roads and the repair or replacement of  
8 bridges that are part of the roadway, within the Northwest  
9 Florida Water Management District, provided:

10 1. The road and associated bridge were in existence  
11 and in use as a public road or bridge, and were maintained by  
12 the county as a public road or bridge on or before January 1,  
13 2002;

14 2. The construction activity does not realign the road  
15 or expand the number of existing traffic lanes of the existing  
16 road; however, the work may include the provision of safety  
17 shoulders, clearance of vegetation, and other work reasonably  
18 necessary to repair, stabilize, pave, or repave the road,  
19 provided that the work is constructed by generally accepted  
20 engineering standards;

21 3. The construction activity does not expand the  
22 existing width of an existing vehicular bridge in excess of  
23 that reasonably necessary to properly connect the bridge with  
24 the road being repaired, stabilized, paved, or repaved to  
25 safely accommodate the traffic expected on the road, which may  
26 include expanding the width of the bridge to match the  
27 existing connected road. However, no debris from the original  
28 bridge shall be allowed to remain in waters of the state,  
29 including wetlands;

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



1           5. Roadside swales or other effective means of  
2 stormwater treatment must be incorporated as part of the  
3 project; and

4           6. No more dredging or filling of wetlands or water of  
5 the state is performed than that which is reasonably necessary  
6 to repair, stabilize, pave, or repave the road or to repair or  
7 replace the bridge, in accordance with generally accepted  
8 engineering standards.

9  
10           The department shall submit a report to the Governor and the  
11 Legislature by March 1, 2004, to evaluate the effects of this  
12 exemption and make recommendations for the exemption to apply  
13 statewide.

14           (3) The provisions of subsection (2) are superseded by  
15 general permits established pursuant to ss. 373.118 and  
16 403.814 which include the same activities. Until such time as  
17 general permits are established, or should general permits be  
18 suspended or repealed, the exemptions under subsection (2)  
19 shall remain or shall be reestablished in full force and  
20 effect.

21           Section 5. This act shall take effect upon becoming a  
22 law.