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2 An act relating to environmental control;  
3 amending s. 403.813, F.S.; providing an  
4 exemption from permitting requirements for the  
5 removal of organic detrital material from  
6 certain freshwater rivers or lakes; providing  
7 an exemption from permitting requirements for  
8 specified types of floating vessel platforms or  
9 floating boat lifts; providing that such  
10 structures are also exempt from certain  
11 requirements relating to use or occupancy of  
12 lands owned by the Board of Trustees of the  
13 Internal Improvement Trust Fund; requiring the  
14 Department of Environmental Protection to adopt  
15 a rule creating a general permit for certain  
16 floating vessel platforms by a specified date;  
17 limiting local government regulation of  
18 floating vessel platforms and floating boat  
19 lifts; providing requirements for a report to  
20 the Governor and the Legislature; providing an  
21 effective date.

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

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25 Section 1. Subsection (2) of section 403.813, Florida  
26 Statutes, is amended to read:

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

29 (2) A No permit is not required under this chapter,  
30 chapter 373, chapter 61-691, Laws of Florida, or chapter 25214  
31 or chapter 25270, 1949, Laws of Florida, ~~shall be required~~ for

1 activities associated with the following types of projects;  
2 however, except as otherwise provided in this subsection,  
3 nothing in this subsection relieves an applicant from any  
4 requirement to obtain permission to use or occupy lands owned  
5 by the Board of Trustees of the Internal Improvement Trust  
6 Fund or any water management district in its governmental or  
7 proprietary capacity or from complying with applicable local  
8 pollution control programs authorized under this chapter or  
9 other 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 and best management practices  
25 for erosion and sediment control are utilized to prevent bank  
26 erosion and scouring and to prevent turbidity, dredged  
27 material, and toxic or deleterious substances from discharging  
28 into adjacent waters during maintenance dredging. Further, for  
29 maintenance dredging of previously dredged portions of natural  
30 water bodies within recorded drainage rights-of-way or  
31 drainage easements, an entity that seeks an exemption must

1 notify the department or water management district, as  
2 applicable, at least 30 days prior to dredging and provide  
3 documentation of original design specifications or  
4 configurations where such exist. This exemption applies to all  
5 canals and previously dredged portions of natural water bodies  
6 within recorded drainage rights-of-way or drainage easements  
7 constructed prior to April 3, 1970, and to those canals and  
8 previously dredged portions of natural water bodies  
9 constructed on or after April 3, 1970, pursuant to all  
10 necessary state permits. This exemption does not apply to the  
11 removal of a natural or manmade barrier separating a canal or  
12 canal system from adjacent waters. When no previous permit  
13 has been issued by the Board of Trustees of the Internal  
14 Improvement Trust Fund or the United States Army Corps of  
15 Engineers for construction or maintenance dredging of the  
16 existing manmade canal or intake or discharge structure, such  
17 maintenance dredging shall be limited to a depth of no more  
18 than 5 feet below mean low water. The Board of Trustees of the  
19 Internal Improvement Trust Fund may fix and recover from the  
20 permittee an amount equal to the difference between the fair  
21 market value and the actual cost of the maintenance dredging  
22 for material removed during such maintenance dredging.  
23 However, no charge shall be exacted by the state for material  
24 removed during such maintenance dredging by a public port  
25 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, and ~~or~~ the associated removal from lakes of organic  
6 detrital material when such planting or removal is performed  
7 and authorized by permit or exemption granted under s. 369.20  
8 or s. 369.25, provided that if:

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

13 2. All ~~organic~~ material removed ~~removal~~ pursuant to  
14 this paragraph ~~subsection~~ shall be deposited in an upland site  
15 in a manner that will prevent the reintroduction of the  
16 material into waters in the state except when spoil material  
17 is permitted to be used to create wildlife islands in  
18 freshwater bodies of the state when a governmental entity is  
19 permitted pursuant to s. 369.20 ~~this section~~ to create such  
20 islands as a part of a restoration or enhancement project; ~~:-~~

21 3. All activities are performed in a manner consistent  
22 with state water quality standards; ~~and~~:-

23 4. No activities under this exemption are conducted in  
24 wetland areas, as defined by s. 373.019(22), which are  
25 supported by a natural soil as shown in applicable United  
26 States Department of Agriculture county soil surveys, except  
27 when a governmental entity is permitted pursuant to s. 369.20  
28 to conduct such activities as a part of a restoration or  
29 enhancement project.

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

3 (s) Notwithstanding any provision to the contrary in  
4 this subsection, a permit or other authorization under chapter  
5 253, chapter 369, chapter 373, or chapter 403 is not required  
6 for an individual residential property owner for the removal  
7 of organic detrital material from freshwater rivers or lakes  
8 that have a natural sand or rocky substrate and that are not  
9 Aquatic Preserves or for the associated removal and replanting  
10 of aquatic vegetation for the purpose of environmental  
11 enhancement, providing that:

12 1. No activities under this exemption are conducted in  
13 wetland areas, as defined by s. 373.019(22), which are  
14 supported by a natural soil as shown in applicable U.S.  
15 Department of Agriculture county soil surveys.

16 2. No filling or peat mining is allowed.

17 3. No removal of native wetland trees, including, but  
18 not limited to, ash, bay, cypress, gum, maple, or tupelo,  
19 occurs.

20 4. When removing organic detrital material, no portion  
21 of the underlying natural mineral substrate or rocky substrate  
22 is removed.

23 5. Organic detrital material and plant material  
24 removed is deposited in an upland site in a manner that will  
25 not cause water-quality violations.

26 6. All activities are conducted in such a manner, and  
27 with appropriate turbidity controls, so as to prevent any  
28 water-quality violations outside the immediate work area.

29 7. Replanting with a variety of aquatic plants native  
30 to the state shall occur in a minimum of 25 percent of the  
31 preexisting vegetated areas where organic detrital material is

1 removed, except for areas where the material is removed to  
2 bare rocky substrate; however, an area may be maintained clear  
3 of vegetation as an access corridor. The access corridor width  
4 may not exceed 50 percent of the property owner's frontage or  
5 50 feet, whichever is less, and may be a sufficient length  
6 waterward to create a corridor to allow access for a boat or  
7 swimmer to reach open water. Replanting must be at a minimum  
8 density of 2 feet on center and be completed within 90 days  
9 after removal of existing aquatic vegetation, except that  
10 under dewatered conditions replanting must be completed within  
11 90 days after reflooding. The area to be replanted must extend  
12 waterward from the ordinary high water line to a point where  
13 normal water depth would be 3 feet or the preexisting  
14 vegetation line, whichever is less. Individuals are required  
15 to make a reasonable effort to maintain planting density for a  
16 period of 6 months after replanting is complete and the  
17 plants, including naturally recruited native aquatic plants,  
18 must be allowed to expand and fill in the revegetation area.  
19 Native aquatic plants to be used for revegetation must be  
20 salvaged from the enhancement project site or obtained from an  
21 aquatic plant nursery regulated by the Department of  
22 Agriculture and Consumer Services. Plants that are not native  
23 to the state may not be used for replanting.

24 8. No activity occurs any farther than 100 feet  
25 waterward of the ordinary high water line, and all activities  
26 must be designed and conducted in a manner that will not  
27 unreasonably restrict or infringe upon the riparian rights of  
28 adjacent upland riparian owners.

29 9. The person seeking this exemption notifies the  
30 applicable department district office in writing at least 30  
31 days before commencing work and allows the department to

1 conduct a preconstruction site inspection. Notice must  
2 include an organic-detrital-material removal and disposal plan  
3 and, if applicable, a vegetation-removal and revegetation  
4 plan.

5 10. The department is provided written certification  
6 of compliance with the terms and conditions of this paragraph  
7 within 30 days after completion of any activity occurring  
8 under this exemption.

9 (t) Floating vessel platforms or floating boat lifts  
10 if such structures:

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

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

21 3. Are not used for any commercial purpose or for  
22 mooring vessels that remain in the water when not in use and  
23 do not substantially impede the flow of water, create a  
24 navigational hazard, or unreasonably infringe upon the  
25 riparian rights of adjacent property owners, as defined in s.  
26 253.141;

27 4. Are constructed and used so as to minimize adverse  
28 impacts to submerged lands, wetlands, shellfish areas, aquatic  
29 plant and animal species, and other biological communities,  
30 including locating such structures in areas where no  
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1 seagrasses exist if such areas are present adjacent to the  
2 dock; and

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

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10 Structures exempt under this paragraph are also exempt from  
11 any requirement to obtain permission to use or occupy lands  
12 owned by the Board of Trustees of the Internal Improvement  
13 Trust Fund and shall not be subject to regulation by any local  
14 government which is more stringent than the regulation  
15 provided under this part. The exemption provided by this  
16 paragraph is in addition to the exemption provided in  
17 paragraph (b). By January 1, 2003, the department shall adopt  
18 a rule creating a general permit for those floating vessel  
19 platforms that do not qualify for the exemptions provided in  
20 this paragraph but do not cause significant adverse impacts to  
21 occur individually or cumulatively. The issuance of a general  
22 permit shall also constitute permission to use or occupy lands  
23 owned by the Board of Trustees of the Internal Improvement  
24 Trust Fund. Upon the adoption of the rule creating the  
25 general permit, a local government may not impose a regulation  
26 on floating vessel platforms covered by the general permit  
27 which is more stringent than the regulation provided under  
28 such permit.

29 Section 2. The Department of Environmental Protection  
30 and the Fish and Wildlife Conservation Commission shall  
31 jointly prepare a report evaluating the effects of

1 implementing the exemption provisions of section  
2 403.813(2)(s), Florida Statutes, on the overall water quality  
3 and aquatic and fishery habitat of waterbodies where the  
4 statutory exemptions have been used. The report must be  
5 submitted to the Governor and the Legislature by November 1,  
6 2004. The report shall also make recommendations for improving  
7 the implementation of these provisions.

8           Section 3. This act shall take effect July 1, 2002.

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