

By the Committee on Natural Resources; and Senators Lawson,  
Lynn, Haridopolos, Peaden, Cowin, Posey, Lee and Clary

312-2433-03

1                                   A bill to be entitled  
2           An act relating to the Everglades Forever Act;  
3           amending s. 373.4592, F.S.; providing  
4           definitions; re-naming the Everglades Swim Plan  
5           as the Everglades Long-Term Plan; establishing  
6           legislative findings and providing legislative  
7           intent; providing that revisions to the  
8           Long-Term Plan be incorporated into the plan;  
9           requiring implementation of the initial phase  
10          of the Long-Term Plan; providing for review by  
11          the Department of Environmental Protection of  
12          certain projects and incremental phosphorus  
13          reduction measures; requiring that the initial  
14          phase of the Long-Term Plan achieve water  
15          quality standards relating to phosphorus  
16          criterion in the Everglades Protection Area;  
17          providing for the use of ad valorem tax  
18          proceeds; providing a schedule for enhancements  
19          to the Everglades Construction Project;  
20          deleting obsolete provisions; requiring that  
21          rules adopting phosphorus criterion include  
22          moderating provisions; requiring that permits  
23          issued by the department be based on best  
24          available phosphorus reduction technology and  
25          include technology-based effluent limitations;  
26          providing for computation of the Everglades  
27          Agricultural Area privilege tax; implementing  
28          the provisions of s. 7(b), Art. II of the State  
29          Constitution; providing for the computation of  
30          the C-139 agricultural privilege tax; providing  
31          permit requirements for long-term compliance

1           permits; repealing s. 3 of chapter 96-412, Laws  
2           of Florida; repealing s. 84 of chapter 96-321,  
3           Laws of Florida; providing an effective date.  
4

5 Be It Enacted by the Legislature of the State of Florida:  
6

7           Section 1. Subsections (2), (3), and (4), paragraphs  
8           (c) and (h) of subsection (6), and subsections (7), (10), and  
9           (16), of section 373.4592, Florida Statutes, are amended, and  
10          subsection (17) of that section is reenacted, to read:

11           373.4592 Everglades improvement and management.--

12           (2) DEFINITIONS.--As used in this section:

13           (a) "Best available phosphorus reduction technology"  
14          or "BAPRT" means a combination of BMPs and STAs which includes  
15          a continuing research and monitoring program to reduce outflow  
16          concentrations of phosphorus so as to achieve the phosphorus  
17          criterion in the Everglades Protection Area at the earliest  
18          practicable date.

19           (b)(a) "Best management practice" or "BMP" means a  
20          practice or combination of practices determined by the  
21          district, in cooperation with the department, based on  
22          research, field-testing, and expert review, to be the most  
23          effective and practicable, including economic and  
24          technological considerations, on-farm means of improving water  
25          quality in agricultural discharges to a level that balances  
26          water quality improvements and agricultural productivity.

27           (c)(b) "C-139 Basin" or "Basin" means those lands  
28          described in subsection (16).

29           (d)(c) "Department" means the Florida Department of  
30          Environmental Protection.  
31

1           ~~(e)(d)~~ "District" means the South Florida Water  
2 Management District.

3           ~~(f)(e)~~ "Everglades Agricultural Area" or "EAA" means  
4 the Everglades Agricultural Area, which are those lands  
5 described in subsection (15).

6           ~~(g)(f)~~ "Everglades Construction Project" means the  
7 project described in the February 15, 1994, conceptual design  
8 document together with construction and operation schedules on  
9 file with the South Florida Water Management District, except  
10 as modified by this section and further described in the  
11 Long-Term Plan.

12           ~~(h)(g)~~ "Everglades Program" means the program of  
13 projects, regulations, and research provided by this section,  
14 including the Everglades Construction Project.

15           ~~(i)(h)~~ "Everglades Protection Area" means Water  
16 Conservation Areas 1, 2A, 2B, 3A, and 3B, the Arthur R.  
17 Marshall Loxahatchee National Wildlife Refuge, and the  
18 Everglades National Park.

19           ~~(j)~~ "Long-Term Plan" or "Plan" means the district's  
20 "Everglades Protection Area Tributary Basins Conceptual Plan  
21 for Achieving Long-Term Water Quality Goals Final Report"  
22 dated March 2003, as modified herein.

23           ~~(k)(i)~~ "Master permit" means a single permit issued to  
24 a legally responsible entity defined by rule, authorizing the  
25 construction, alteration, maintenance, or operation of  
26 multiple stormwater management systems that may be owned or  
27 operated by different persons and which provides an  
28 opportunity to achieve collective compliance with applicable  
29 department and district rules and the provisions of this  
30 section.

31

1           (l) "Optimization" shall mean maximizing the potential  
2 treatment effectiveness of the STAs through measures such as  
3 additional compartmentalization, improved flow control,  
4 vegetation management, or operation refinements, in  
5 combination with improvements where practicable in urban and  
6 agricultural BMPs, and includes integration with  
7 Congressionally authorized components of the Comprehensive  
8 Everglades Restoration Plan or "CERP".

9           ~~(m)(j)~~ "Phosphorus criterion" means a numeric  
10 interpretation for phosphorus of the Class III narrative  
11 nutrient criterion.

12           ~~(n)(k)~~ "Stormwater management program" shall have the  
13 meaning set forth in s. 403.031(15).

14           ~~(o)(l)~~ "Stormwater treatment areas" or "STAs" means  
15 those treatment areas described and depicted in the district's  
16 conceptual design document of February 15, 1994, and any  
17 modifications as provided in this section.

18           (p) "Technology-based effluent limitation" or "TBEL"  
19 means the technology-based treatment requirements as defined  
20 in Rule 62-650.200, Florida Administrative Code.

21           (3) EVERGLADES LONG-TERM SWIM PLAN.--

22           (a) The Legislature finds that the Everglades Program  
23 required by this section establishes more extensive and  
24 comprehensive requirements for surface water improvement and  
25 management within the Everglades than the SWIM plan  
26 requirements provided in ss. 373.451-373.456. In order to  
27 avoid duplicative requirements, and in order to conserve the  
28 resources available to the district, the SWIM plan  
29 requirements of those sections shall not apply to the  
30 Everglades Protection Area and the EAA during the term of the  
31 Everglades Program, and the district will neither propose, nor

1 take final agency action on, any Everglades SWIM plan for  
2 those areas until the Everglades Program is fully  
3 implemented. ~~7 however,~~ Funds under s. 259.101(3)(b) may be  
4 used for acquisition of lands necessary to implement the  
5 Everglades Construction Project, to the extent these funds are  
6 identified in the Statement of Principles of July 1993. The  
7 district's actions in implementing the Everglades Construction  
8 Project relating to the responsibilities of the EAA and C-139  
9 Basin for funding and water quality compliance in the EAA and  
10 the Everglades Protection Area shall be governed by this  
11 section. Other strategies or activities in the March 1992  
12 Everglades SWIM plan may be implemented if otherwise  
13 authorized by law.

14 (b) The Legislature finds that the most reliable means  
15 of optimizing the performance of STAs and achieving reasonable  
16 further progress in reducing phosphorus entering the  
17 Everglades Protection Area is to utilize a long-term planning  
18 process. The Legislature finds that the Long-Term Plan  
19 provides the best available phosphorus reduction technology  
20 based upon a combination of the BMPs and STAs described in the  
21 Plan provided that the Plan shall seek to achieve the  
22 phosphorus criterion in the Everglades Protection Area at the  
23 earliest practicable date. Revisions to the Long-Term Plan  
24 shall be incorporated through an adaptive management approach  
25 including a process development and engineering component to  
26 identify and implement incremental optimization measures for  
27 further phosphorus reductions at the earliest practicable  
28 date.

29 (c) It is the intent of the Legislature that  
30 implementation of the Long-Term Plan shall be integrated and  
31 consistent with the implementation of the projects and

1 activities in the Congressionally authorized components of the  
2 CERP so that unnecessary and duplicative costs will be  
3 avoided. Nothing in this section shall modify any existing  
4 cost share or responsibility provided for projects listed in  
5 s. 528 of the Water Resources Development Act of 1996 (110  
6 Stat. 3769) or provided for projects listed in section 601 of  
7 the Water Resources Development Act of 2000 (114 Stat. 2572).  
8 The Legislature further finds that the rulemaking process  
9 under the provisions of paragraph (4)(e) and the Long-Term  
10 Plan are intended by the state to meet the provisions of  
11 United States Environmental Protection Agency regulations at  
12 40 CFR 131.10(g) and to maintain consistency with the  
13 settlement agreement referenced in paragraph (4)(e).

14 (d) The Legislature recognizes that the Long-Term Plan  
15 contains an initial phase and a 10-year second phase. The  
16 Legislature intends that a review of this act at least 10  
17 years after implementation of the initial phase is appropriate  
18 and necessary to the public interest. The review is the best  
19 way to ensure that the Everglades Construction Project is  
20 achieving state water quality standards, including phosphorus  
21 reduction to the maximum extent practicable, and is using the  
22 best technology available. A 10-year second phase of the  
23 Long-Term Plan must be approved by the Legislature and  
24 codified in this act prior to implementation of projects, but  
25 not prior to development, review, and approval of projects by  
26 the department.

27 (e) The Long-Term Plan shall be implemented for an  
28 initial 13-year phase (2003-2016) and shall, to the maximum  
29 extent practicable, achieve water quality standards relating  
30 to the phosphorus criterion in the Everglades Protection Area  
31 as determined by a network of monitoring stations established

1 for this purpose. Not later than December 31, 2008, and each 5  
2 years thereafter, the department shall review and approve  
3 incremental phosphorus reduction measures to be implemented at  
4 the earliest practicable date. During the initial phase of the  
5 Long-Term Plan, STAs of the Everglades Construction Project  
6 will not be expanded by acquiring additional privately owned  
7 lands involuntarily.

8 (4) EVERGLADES PROGRAM.--

9 (a) Everglades Construction Project.--The district  
10 shall implement the Everglades Construction Project. By the  
11 time of completion of the project, the state, district, or  
12 other governmental authority shall purchase the inholdings in  
13 the Rotenberger and such other lands necessary to achieve a  
14 2:1 mitigation ratio for the use of Brown's Farm and other  
15 similar lands, including those needed for the STA 1 Inflow and  
16 Distribution Works. The inclusion of public lands as part of  
17 the project is for the purpose of treating waters not coming  
18 from the EAA for hydroperiod restoration. It is the intent of  
19 the Legislature that the district aggressively pursue the  
20 implementation of the Everglades Construction Project in  
21 accordance with the schedule in this subsection. The  
22 Legislature recognizes that adherence to the schedule is  
23 dependent upon factors beyond the control of the district,  
24 including the timely receipt of funds from all contributors.  
25 The district shall take all reasonable measures to complete  
26 timely performance of the schedule in this section in order to  
27 finish the Everglades Construction Project. The district shall  
28 not delay implementation of the project beyond the time delay  
29 caused by those circumstances and conditions that prevent  
30 timely performance. The district shall not levy ad valorem  
31 taxes in excess of 0.1 mill within the Okeechobee Basin for

1 the purposes of the design, construction, and acquisition of  
2 the Everglades Construction Project. The ad valorem tax  
3 proceeds not exceeding 0.1 mill levied within the Okeechobee  
4 Basin for such purposes shall be used for design,  
5 construction, and implementation of the initial phase of the  
6 Long-Term Plan, including operation and maintenance, and  
7 research for the projects and strategies in the initial phase  
8 of the Long-Term Plan, and including the enhancements and  
9 operation and maintenance of the Everglades Construction  
10 Project and shall be the sole direct district contribution  
11 from district ad valorem taxes appropriated or expended for  
12 the design, construction, and acquisition of the Everglades  
13 Construction Project unless the Legislature by specific  
14 amendment to this section increases the 0.1 mill ad valorem  
15 tax contribution, increases the agricultural privilege taxes,  
16 or otherwise reallocates the relative contribution by ad  
17 valorem taxpayers and taxpayers paying the agricultural  
18 privilege taxes toward the funding of the design,  
19 construction, and acquisition of the Everglades Construction  
20 Project. Notwithstanding the provisions of s. 200.069 to the  
21 contrary, any millage levied under the 0.1 mill limitation in  
22 this paragraph shall be included as a separate entry on the  
23 Notice of Proposed Property Taxes pursuant to s. 200.069. Once  
24 the STAs are completed, the district shall allow these areas  
25 to be used by the public for recreational purposes in the  
26 manner set forth in s. 373.1391(1)~~s. 373.59(11)~~, considering  
27 the suitability of these lands for such uses. These lands  
28 shall be made available for recreational use unless the  
29 district governing board can demonstrate that such uses are  
30 incompatible with the restoration goals of the Everglades  
31 Construction Project or the water quality and hydrological



1 purposes of the STAs or would otherwise adversely impact the  
2 implementation of the project. The district shall give  
3 preferential consideration to the hiring of agricultural  
4 workers displaced as a result of the Everglades Construction  
5 Project, consistent with their qualifications and abilities,  
6 for the construction and operation of these STAs. The  
7 following milestones apply to the completion of the Everglades  
8 Construction Project as depicted in the February 15, 1994,  
9 conceptual design document:

10       1. The district must complete the final design of the  
11 STA 1 East and West and pursue STA 1 East project components  
12 as part of a cost-shared program with the Federal Government.  
13 The district must be the local sponsor of the federal project  
14 that will include STA 1 East, and STA 1 West if so authorized  
15 by federal law. ~~Land acquisition shall be completed for STA 1~~  
16 ~~West by April 1, 1996, and for STA 1 East by July 1, 1998;~~

17       2. Construction of STA 1 East is to be completed under  
18 the direction of the United States Army Corps of Engineers in  
19 conjunction with the currently authorized C-51 flood control  
20 project ~~by July 1, 2002;~~

21       3. The district must complete construction of STA 1  
22 West and STA 1 Inflow and Distribution Works under the  
23 direction of the United States Army Corps of Engineers, if the  
24 direction is authorized under federal law, in conjunction with  
25 the currently authorized C-51 flood control project, ~~by~~  
26 ~~January 1, 1999;~~

27       ~~4. The district must complete construction of STA 2 by~~  
28 ~~February 1, 1999;~~

29       4.5. The district must complete construction of STA  
30 3/4 by October 1, 2003;

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1           ~~6. The district must complete construction of STA 5 by~~  
2 ~~January 1, 1999; and~~

3           5.7. The district must complete construction of STA 6;  
4 ~~by October 1, 1997.~~

5           6. The district must, by December 31, 2006, complete  
6 construction of enhancements to the Everglades Construction  
7 Project recommended in the Long-Term Plan and initiate other  
8 pre-2006 strategies in the plan; and

9           ~~7.8.~~ East Beach Water Control District, South Shore  
10 Drainage District, South Florida Conservancy District, East  
11 Shore Water Control District, and the lessee of agricultural  
12 lease number 3420 shall complete any system modifications  
13 described in the Everglades Construction Project to the extent  
14 that funds are available from the Everglades Fund. These  
15 entities shall divert the discharges described within the  
16 Everglades Construction Project within 60 days of completion  
17 of construction of the appropriate STA. Such required  
18 modifications shall be deemed to be a part of each district's  
19 plan of reclamation pursuant to chapter 298.

20           (b) Everglades water supply and hydroperiod  
21 improvement and restoration.--

22           1. A comprehensive program to revitalize the  
23 Everglades shall include programs and projects to improve the  
24 water quantity reaching the Everglades Protection Area at  
25 optimum times and improve hydroperiod deficiencies in the  
26 Everglades ecosystem. To the greatest extent possible,  
27 wasteful discharges of fresh water to tide shall be reduced,  
28 and water conservation practices and reuse measures shall be  
29 implemented by water users, consistent with law. Water supply  
30 management must include improvement of water quantity reaching  
31 the Everglades, correction of long-standing hydroperiod

1 problems, and an increase in the total quantity of water  
2 flowing through the system. Water supply management must  
3 provide water supply for the Everglades National Park, the  
4 urban and agricultural areas, and the Florida Bay and must  
5 replace water previously available from the coastal ridge  
6 areas of southern Dade County. The Everglades Construction  
7 Project redirects some water currently lost to tide. It is an  
8 important first step in completing hydroperiod improvement.

9         2. The district shall operate the Everglades  
10 Construction Project as specified in the February 15, 1994,  
11 conceptual design document, to provide additional inflows to  
12 the Everglades Protection Area. The increased flow from the  
13 project shall be directed to the Everglades Protection Area as  
14 needed to achieve an average annual increase of 28 percent  
15 compared to the baseline years of 1979 to 1988. Consistent  
16 with the design of the Everglades Construction Project and  
17 without demonstratively reducing water quality benefits, the  
18 regulatory releases will be timed and distributed to the  
19 Everglades Protection Area to maximize environmental benefits.

20         3. The district shall operate the Everglades  
21 Construction Project in accordance with the February 15, 1994,  
22 conceptual design document to maximize the water quantity  
23 benefits and improve the hydroperiod of the Everglades  
24 Protection Area. All reductions of flow to the Everglades  
25 Protection Area from BMP implementation will be replaced. The  
26 district shall develop a model to be used for quantifying the  
27 amount of water to be replaced. ~~The district shall publish in~~  
28 ~~the Florida Administrative Weekly a notice of rule development~~  
29 ~~on the model no later than July 1, 1994, and a notice of~~  
30 ~~rulemaking no later than July 1, 1995.~~The timing and  
31 distribution of this replaced water will be directed to the

1 Everglades Protection Area to maximize the natural balance of  
2 the Everglades Protection Area.

3           4. The Legislature recognizes the complexity of the  
4 Everglades watershed, as well as legal mandates under Florida  
5 and federal law. As local sponsor of the Central and Southern  
6 Florida Flood Control Project, the district must coordinate  
7 its water supply and hydroperiod programs with the Federal  
8 Government. Federal planning, research, operating guidelines,  
9 and restrictions for the Central and Southern Florida Flood  
10 Control Project now under review by federal agencies will  
11 provide important components of the district's Everglades  
12 Program. The department and district shall use their best  
13 efforts to seek the amendment of the authorized purposes of  
14 the project to include water quality protection, hydroperiod  
15 restoration, and environmental enhancement as authorized  
16 purposes of the Central and Southern Florida Flood Control  
17 Project, in addition to the existing purposes of water supply,  
18 flood protection, and allied purposes. Further, the department  
19 and the district shall use their best efforts to request that  
20 the Federal Government include in the evaluation of the  
21 regulation schedule for Lake Okeechobee a review of the  
22 regulatory releases, so as to facilitate releases of water  
23 into the Everglades Protection Area which further improve  
24 hydroperiod restoration.

25           5. The district, through cooperation with the federal  
26 and state agencies, shall develop other programs and methods  
27 to increase the water flow and improve the hydroperiod of the  
28 Everglades Protection Area.

29           6. Nothing in this section is intended to provide an  
30 allocation or reservation of water or to modify the provisions  
31

1 of part II. All decisions regarding allocations and  
2 reservations of water shall be governed by applicable law.

3 7. The district shall proceed to expeditiously  
4 implement the minimum flows and levels for the Everglades  
5 Protection Area as required by s. 373.042 and shall  
6 expeditiously complete the Lower East Coast Water Supply Plan.

7 (c) STA 3/4 modification.--The Everglades Program will  
8 contribute to the restoration of the Rotenberger and Holey  
9 Land tracts. The Everglades Construction Project provides a  
10 first step toward restoration by improving hydroperiod with  
11 treated water for the Rotenberger tract and by providing a  
12 source of treated water for the Holey Land. It is further the  
13 intent of the Legislature that the easternmost tract of the  
14 Holey Land, known as the "Toe of the Boot," be removed from  
15 STA 3/4 under the circumstances set forth in this paragraph.  
16 The district shall proceed to modify the Everglades  
17 Construction Project, provided that the redesign achieves at  
18 least as many environmental and hydrological benefits as are  
19 included in the original design, including treatment of waters  
20 from sources other than the EAA, and does not delay  
21 construction of STA 3/4. The district is authorized to use  
22 eminent domain to acquire alternative lands, only if such  
23 lands are located within 1 mile of the northern border of STA  
24 3/4.

25 (d) Everglades research and monitoring program.--

26 1. ~~By January 1996,~~The department and the district  
27 shall review and evaluate available water quality data for the  
28 Everglades Protection Area and tributary waters and identify  
29 any additional information necessary to adequately describe  
30 water quality in the Everglades Protection Area and tributary  
31 waters. ~~By such date,~~The department and the district shall

1 also initiate a research and monitoring program to generate  
2 such additional information identified and to evaluate the  
3 effectiveness of the BMPs and STAs, as they are implemented,  
4 in improving water quality and maintaining designated and  
5 existing beneficial uses of the Everglades Protection Area and  
6 tributary waters. As part of the program, the district shall  
7 monitor all discharges into the Everglades Protection Area for  
8 purposes of determining compliance with state water quality  
9 standards.

10           2. The research and monitoring program shall evaluate  
11 the ecological and hydrological needs of the Everglades  
12 Protection Area, including the minimum flows and levels.  
13 Consistent with such needs, the program shall also evaluate  
14 water quality standards for the Everglades Protection Area and  
15 for the canals of the EAA, so that these canals can be  
16 classified in the manner set forth in paragraph (e) and  
17 protected as an integral part of the water management system  
18 which includes the STAs of the Everglades Construction Project  
19 and allows landowners in the EAA to achieve applicable water  
20 quality standards compliance by BMPs and STA treatment to the  
21 extent this treatment is available and effective.

22           3. The research and monitoring program shall include  
23 research seeking to optimize the design and operation of the  
24 STAs, including research to reduce outflow concentrations, and  
25 to identify other treatment and management methods and  
26 regulatory programs that are superior to STAs in achieving the  
27 intent and purposes of this section.

28           4. The research and monitoring program shall be  
29 conducted ~~to allow completion by December 2001 of any research~~  
30 ~~necessary~~ to allow the department to propose a phosphorus  
31 criterion in the Everglades Protection Area, and to evaluate

1 existing state water quality standards applicable to the  
2 Everglades Protection Area and existing state water quality  
3 standards and classifications applicable to the EAA canals. In  
4 developing the phosphorus criterion, the department shall also  
5 consider the minimum flows and levels for the Everglades  
6 Protection Area and the district's water supply plans for the  
7 Lower East Coast.

8 ~~5. The district, in cooperation with the department,~~  
9 ~~shall prepare a peer-reviewed interim report regarding the~~  
10 ~~research and monitoring program, which shall be submitted no~~  
11 ~~later than January 1, 1999, to the Governor, the President of~~  
12 ~~the Senate, and the Speaker of the House of Representatives~~  
13 ~~for their review. The interim report shall summarize all data~~  
14 ~~and findings available as of July 1, 1998, on the~~  
15 ~~effectiveness of STAs and BMPs in improving water quality. The~~  
16 ~~interim report shall also include a summary of the~~  
17 ~~then-available data and findings related to the following: the~~  
18 ~~Lower East Coast Water Supply Plan of the district, the United~~  
19 ~~States Environmental Protection Agency Everglades Mercury~~  
20 ~~Study, the United States Army Corps of Engineers South Florida~~  
21 ~~Ecosystem Restoration Study, the results of research and~~  
22 ~~monitoring of water quality and quantity in the Everglades~~  
23 ~~region, the degree of phosphorus discharge reductions achieved~~  
24 ~~by BMPs and agricultural operations in the region, the current~~  
25 ~~information on the ecological and hydrological needs of the~~  
26 ~~Everglades, and the costs and benefits of phosphorus reduction~~  
27 ~~alternatives. Prior to finalizing the interim report, the~~  
28 ~~district shall conduct at least one scientific workshop and~~  
29 ~~two public hearings on its proposed interim report. One public~~  
30 ~~hearing must be held in Palm Beach County and the other must~~  
31 ~~be held in either Dade or Broward County. The interim report~~

1 ~~shall be used by the department and the district in making any~~  
2 ~~decisions regarding the implementation of the Everglades~~  
3 ~~Construction Project subsequent to the completion of the~~  
4 ~~interim report. The construction of STAs 3/4 shall not be~~  
5 ~~commenced until 90 days after the interim report has been~~  
6 ~~submitted to the Governor and the Legislature.~~

7       5.6. Beginning January 1, 2000, the district and the  
8 department shall annually issue a peer-reviewed report  
9 regarding the research and monitoring program that summarizes  
10 all data and findings. The department shall provide copies of  
11 the report to the Governor, the President of the Senate, and  
12 the Speaker of the House of Representatives. The report shall  
13 identify water quality parameters, in addition to phosphorus,  
14 which exceed state water quality standards or are causing or  
15 contributing to adverse impacts in the Everglades Protection  
16 Area.

17       6.7. The district shall continue research seeking to  
18 optimize the design and operation of STAs and to identify  
19 other treatment and management methods that are superior to  
20 STAs in achieving optimum water quality and water quantity for  
21 the benefit of the Everglades. The district shall optimize the  
22 design and operation of the STAs described in the Everglades  
23 Construction Project prior to expanding their size. Additional  
24 methods to achieve compliance with water quality standards  
25 shall not be limited to more intensive management of the STAs.

26       (e) Evaluation of water quality standards.--

27       1. The department and the district shall employ all  
28 means practicable to complete by December 31, 1998, any  
29 additional research necessary to:

30  
31



1           a. Numerically interpret for phosphorus the Class III  
2 narrative nutrient criterion necessary to meet water quality  
3 standards in the Everglades Protection Area; and

4           b. Evaluate existing water quality standards  
5 applicable to the Everglades Protection Area and EAA canals.

6  
7 ~~This research shall be completed no later than December 31,~~  
8 ~~2001.~~

9           2. ~~By December 31, 2001, the department shall file a~~  
10 ~~notice of rulemaking in the Florida Administrative Weekly to~~  
11 ~~establish a phosphorus criterion in the Everglades Protection~~  
12 ~~Area.~~In no case shall such phosphorus criterion allow waters  
13 in the Everglades Protection Area to be altered so as to cause  
14 an imbalance in the natural populations of aquatic flora or  
15 fauna. The phosphorus criterion shall be 10 parts per billion  
16 (ppb) in the Everglades Protection Area in the event the  
17 department does not adopt by rule such criterion by December  
18 31, 2003. However, in the event the department fails to adopt  
19 a phosphorus criterion on or before December 31, 2002, any  
20 person whose substantial interests would be affected by the  
21 rulemaking shall have the right, on or before February 28,  
22 2003, to petition for a writ of mandamus to compel the  
23 department to adopt by rule such criterion. Venue for the  
24 mandamus action must be Leon County. The court may stay  
25 implementation of the 10 parts per billion (ppb) criterion  
26 during the pendency of the mandamus proceeding upon a  
27 demonstration by the petitioner of irreparable harm in the  
28 absence of such relief. The department's phosphorus criterion,  
29 whenever adopted, shall supersede the 10 parts per billion  
30 (ppb) criterion otherwise established by this section, but  
31 shall not be lower than the natural conditions of the

1 Everglades Protection Area and shall take into account spatial  
2 and temporal variability. The department's rule adopting a  
3 phosphorus criterion shall include moderating provisions  
4 during the implementation of the initial phase of the  
5 Long-Term Plan authorizing discharges based upon BAPRT  
6 providing net improvement to impacted areas. Discharges to  
7 unimpacted areas may also be authorized by moderating  
8 provisions, which shall require BAPRT, and which must be based  
9 upon a determination by the department that the environmental  
10 benefits of the discharge clearly outweigh potential adverse  
11 impacts.

12 3. The department shall use the best available  
13 information to define relationships between waters discharged  
14 to, and the resulting water quality in, the Everglades  
15 Protection Area. The department or the district shall use  
16 these relationships to establish discharge limits in permits  
17 for discharges into the EAA canals and the Everglades  
18 Protection Area necessary to prevent an imbalance in the  
19 natural populations of aquatic flora or fauna in the  
20 Everglades Protection Area, and to provide a net improvement  
21 in the areas already impacted. During the implementation of  
22 the initial phase of the Long-Term Plan, permits issued by the  
23 department shall be based on BAPRT, and shall include  
24 technology-based effluent limitations consistent with the  
25 Long-Term Plan. Compliance with the phosphorus criterion shall  
26 be based upon a long-term geometric mean of concentration  
27 levels to be measured at sampling stations recognized from the  
28 research to be reasonably representative of receiving waters  
29 in the Everglades Protection Area, and so located so as to  
30 assure that the Everglades Protection Area is not altered so  
31 as to cause an imbalance in natural populations of aquatic

1 flora and fauna and to assure a net improvement in the areas  
2 already impacted. For the Everglades National Park and the  
3 Arthur R. Marshall Loxahatchee National Wildlife Refuge, the  
4 method for measuring compliance with the phosphorus criterion  
5 shall be in a manner consistent with Appendices A and B,  
6 respectively, of the settlement agreement dated July 26, 1991,  
7 entered in case No. 88-1886-Civ-Hoeveler, United States  
8 District Court for the Southern District of Florida, that  
9 recognizes and provides for incorporation of relevant  
10 research.

11 4. The department's evaluation of any other water  
12 quality standards must include the department's  
13 antidegradation standards and EAA canal classifications. In  
14 recognition of the special nature of the conveyance canals of  
15 the EAA, as a component of the classification process, the  
16 department is directed to formally recognize by rulemaking  
17 existing actual beneficial uses of the conveyance canals in  
18 the EAA. This shall include recognition of the Class III  
19 designated uses of recreation, propagation and maintenance of  
20 a healthy, well-balanced population of fish and wildlife, the  
21 integrated water management purposes for which the Central and  
22 Southern Florida Flood Control Project was constructed, flood  
23 control, conveyance of water to and from Lake Okeechobee for  
24 urban and agricultural water supply, Everglades hydroperiod  
25 restoration, conveyance of water to the STAs, and navigation.

26 (f) EAA best management practices.--

27 1. The district, in cooperation with the department,  
28 shall develop and implement a water quality monitoring program  
29 to evaluate the effectiveness of the BMPs in achieving and  
30 maintaining compliance with state water quality standards and  
31 restoring and maintaining designated and existing beneficial

1 uses. The program shall include an analysis of the  
2 effectiveness of the BMPs in treating constituents that are  
3 not being significantly improved by the STAs. The monitoring  
4 program shall include monitoring of appropriate parameters at  
5 representative locations.

6           2. The district shall continue to require and enforce  
7 the BMP and other requirements of chapters 40E-61 and 40E-63,  
8 Florida Administrative Code, during the terms of the existing  
9 permits issued pursuant to those rules. Chapter 40E-61,  
10 Florida Administrative Code, may be amended to include the  
11 BMPs required by chapter 40E-63, Florida Administrative Code.  
12 Prior to the expiration of existing permits, and during each  
13 5-year term of subsequent permits as provided for in this  
14 section, those rules shall be amended to implement a  
15 comprehensive program of research, testing, and implementation  
16 of BMPs that will address all water quality standards within  
17 the EAA and Everglades Protection Area. Under this program:

18           a. EAA landowners, through the EAA Environmental  
19 Protection District or otherwise, shall sponsor a program of  
20 BMP research with qualified experts to identify appropriate  
21 BMPs.

22           b. Consistent with the water quality monitoring  
23 program, BMPs will be field-tested in a sufficient number of  
24 representative sites in the EAA to reflect soil and crop types  
25 and other factors that influence BMP design and effectiveness.

26           c. BMPs as required for varying crops and soil types  
27 shall be included in permit conditions in the 5-year permits  
28 issued pursuant to this section.

29           d. The district shall conduct research in cooperation  
30 with EAA landowners to identify water quality parameters that  
31 are not being significantly improved either by the STAs or the

1 BMPs, and to identify further BMP strategies needed to address  
2 these parameters.

3           3. The Legislature finds that through the  
4 implementation of the Everglades BMPs Program and the  
5 implementation of the Everglades Construction Project,  
6 reasonable further progress will be made towards addressing  
7 water quality requirements of the EAA canals and the  
8 Everglades Protection Area. Permittees within the EAA and the  
9 C-139 Basin who are in full compliance with the conditions of  
10 permits under chapters 40E-61 and 40E-63, Florida  
11 Administrative Code, have made all payments required under the  
12 Everglades Program, and are in compliance with subparagraph  
13 (a)8., if applicable, shall not be required to implement  
14 additional water quality improvement measures, prior to  
15 December 31, 2006, other than those required by subparagraph  
16 2., with the following exceptions:

17           a. Nothing in this subparagraph shall limit the  
18 existing authority of the department or the district to limit  
19 or regulate discharges that pose a significant danger to the  
20 public health and safety; and

21           b. New land uses and new stormwater management  
22 facilities other than alterations to existing agricultural  
23 stormwater management systems for water quality improvements  
24 shall not be accorded the compliance established by this  
25 section. Permits may be required to implement improvements or  
26 alterations to existing agricultural water management systems.

27           4. As of December 31, 2006, all permits, including  
28 those issued prior to that date, shall require implementation  
29 of additional water quality measures, taking into account the  
30 water quality treatment actually provided by the STAs and the  
31 effectiveness of the BMPs. As of that date, no permittee's

1 discharge shall cause or contribute to any violation of water  
2 quality standards in the Everglades Protection Area.

3           5. Effective immediately, landowners within the C-139  
4 Basin shall not collectively exceed an annual average loading  
5 of phosphorus ~~of 28.7 metric tons~~ based proportionately on the  
6 historical rainfall for the C-139 Basin over the period of  
7 October 1, 1978, to September 30, 1988. New surface inflows  
8 shall not increase the annual average loading of phosphorus  
9 stated above. Provided that the C-139 Basin does not exceed  
10 this annual average loading, all landowners within the Basin  
11 shall be in compliance for that year. Compliance  
12 determinations for individual landowners within the C-139  
13 Basin for remedial action, if the Basin is determined by the  
14 district to be out of compliance for that year, shall be based  
15 on the landowners' proportional share of the total phosphorus  
16 loading ~~of 28.7 metric tons~~. The total phosphorus discharge  
17 load shall be determined as set forth in Appendix B2 of Rule  
18 40E-63-43, Everglades Program, Florida Administrative Code ~~by~~  
19 ~~a method consistent with Appendix 40E-63-3, Florida~~  
20 ~~Administrative Code, disregarding the 25-percent phosphorus~~  
21 ~~reduction factor.~~

22           6. The district, in cooperation with the department,  
23 shall develop and implement a water quality monitoring program  
24 to evaluate the quality of the discharge from the C-139 Basin.  
25 Upon determination by the department or the district that the  
26 C-139 Basin is exceeding any presently existing water quality  
27 standards, the district shall require landowners within the  
28 C-139 Basin to implement BMPs appropriate to the land uses  
29 within the C-139 Basin consistent with subparagraph 2.  
30 Thereafter, the provisions of subparagraphs 2.-4. shall apply  
31 to the landowners within the C-139 Basin.

1 (g) Monitoring and control of exotic species.--

2 1. The district shall establish a biological  
3 monitoring network throughout the Everglades Protection Area  
4 and shall prepare a survey of exotic species at least every 2  
5 years.

6 2. In addition, the district shall establish a program  
7 to coordinate with federal, state, or other governmental  
8 entities the control of continued expansion and the removal of  
9 these exotic species. The district's program shall give high  
10 priority to species affecting the largest areal extent within  
11 the Everglades Protection Area.

12 (6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.--

13 (c) The initial Everglades agricultural privilege tax  
14 roll shall be certified for the tax notices mailed in November  
15 1994. Incentive credits to the Everglades agricultural  
16 privilege taxes to be included on the initial Everglades  
17 agricultural privilege tax roll, if any, shall be based upon  
18 the total phosphorus load reduction for the year ending April  
19 30, 1993. The Everglades agricultural privilege taxes for each  
20 year shall be computed in the following manner:

21 1. Annual Everglades agricultural privilege taxes  
22 shall be charged for the privilege of conducting an  
23 agricultural trade or business on each acre of real property  
24 or portion thereof. The annual Everglades agricultural  
25 privilege tax shall be \$24.89 per acre for the tax notices  
26 mailed in November 1994 through November 1997; \$27 per acre  
27 for the tax notices mailed in November 1998 through November  
28 2001; \$31 per acre for the tax notices mailed in November 2002  
29 through November 2005; and \$35 per acre for the tax notices  
30 mailed in November 2006 through November 2013.

31

1           2. It is the intent of the Legislature to encourage  
2 the performance of best management practices to maximize the  
3 reduction of phosphorus loads at points of discharge from the  
4 EAA by providing an incentive credit against the Everglades  
5 agricultural privilege taxes set forth in subparagraph 1. The  
6 total phosphorus load reduction shall be measured for the  
7 entire EAA by comparing the actual measured total phosphorus  
8 load attributable to the EAA for each annual period ending on  
9 April 30 to the total estimated phosphorus load that would  
10 have occurred during the 1979-1988 base period using the model  
11 for total phosphorus load determinations provided in chapter  
12 40E-63, Florida Administrative Code, utilizing the technical  
13 information and procedures contained in Section IV-EAA Period  
14 of Record Flow and Phosphorus Load Calculations; Section  
15 V-Monitoring Requirements; and Section VI-Phosphorus Load  
16 Allocations and Compliance Calculations of the Draft Technical  
17 Document in Support of chapter 40E-63, Florida Administrative  
18 Code - Works of the District within the Everglades, March 3,  
19 1992, and the Standard Operating Procedures for Water Quality  
20 Collection in Support of the Everglades Water Condition  
21 Report, dated February 18, 1994. The model estimates the total  
22 phosphorus load that would have occurred during the 1979-1988  
23 base period by substituting the rainfall conditions for such  
24 annual period ending April 30 for the conditions that were  
25 used to calibrate the model for the 1979-1988 base period. The  
26 data utilized to calculate the actual loads attributable to  
27 the EAA shall be adjusted to eliminate the effect of any load  
28 and flow that were not included in the 1979-1988 base period  
29 as defined in chapter 40E-63, Florida Administrative Code. The  
30 incorporation of the method of measuring the total phosphorus  
31 load reduction provided in this subparagraph is intended to



1 provide a legislatively approved aid to the governing board of  
2 the district in making an annual ministerial determination of  
3 any incentive credit.

4           3. Phosphorus load reductions calculated in the manner  
5 described in subparagraph 2. and rounded to the nearest whole  
6 percentage point for each annual period beginning on May 1 and  
7 ending on April 30 shall be used to compute incentive credits  
8 to the Everglades agricultural privilege taxes to be included  
9 on the annual tax notices mailed in November of the next  
10 ensuing calendar year. Incentive credits, if any, will reduce  
11 the Everglades agricultural privilege taxes set forth in  
12 subparagraph 1. only to the extent that the phosphorus load  
13 reduction exceeds 25 percent. Subject to subparagraph 4., the  
14 reduction of phosphorus load by each percentage point in  
15 excess of 25 percent, computed for the 12-month period ended  
16 on April 30 of the calendar year immediately preceding  
17 certification of the Everglades agricultural privilege tax,  
18 shall result in the following incentive credits: \$0.33 per  
19 acre for the tax notices mailed in November 1994 through  
20 November 1997; \$0.54 per acre for the tax notices mailed in  
21 November 1998 through November 2001; \$0.61 per acre for the  
22 tax notices mailed in November 2002 through November 2005, and  
23 \$0.65 per acre for the tax notices mailed in November 2006  
24 through November 2013. The determination of incentive credits,  
25 if any, shall be documented by resolution of the governing  
26 board of the district adopted prior to or at the time of the  
27 adoption of its resolution certifying the annual Everglades  
28 agricultural privilege tax roll to the appropriate tax  
29 collector.

30           4. Notwithstanding subparagraph 3., incentive credits  
31 for the performance of best management practices shall not

1 reduce the minimum annual Everglades agricultural privilege  
2 tax to less than \$24.89 per acre, which annual Everglades  
3 agricultural privilege tax as adjusted in the manner required  
4 by paragraph (e) shall be known as the "minimum tax." To the  
5 extent that the application of incentive credits for the  
6 performance of best management practices would reduce the  
7 annual Everglades agricultural privilege tax to an amount less  
8 than the minimum tax, then the unused or excess incentive  
9 credits for the performance of best management practices shall  
10 be carried forward, on a phosphorus load percentage basis, to  
11 be applied as incentive credits in subsequent years. Any  
12 unused or excess incentive credits remaining after  
13 certification of the Everglades agricultural privilege tax  
14 roll for the tax notices mailed in November 2013 shall be  
15 canceled.

16           5. Notwithstanding the schedule of Everglades  
17 agricultural privilege taxes set forth in subparagraph 1., the  
18 owner, lessee, or other appropriate interestholder of any  
19 property shall be entitled to have the Everglades agricultural  
20 privilege tax for any parcel of property reduced to the  
21 minimum tax, commencing with the tax notices mailed in  
22 November 1996 for parcels of property participating in the  
23 early baseline option as defined in chapter 40E-63, Florida  
24 Administrative Code, and with the tax notices mailed in  
25 November 1997 for parcels of property not participating in the  
26 early baseline option, upon compliance with the requirements  
27 set forth in this subparagraph. The owner, lessee, or other  
28 appropriate interestholder shall file an application with the  
29 executive director of the district prior to July 1 for  
30 consideration of reduction to the minimum tax on the  
31 Everglades agricultural privilege tax roll to be certified for

1 the tax notice mailed in November of the same calendar year  
2 and shall have the burden of proving the reduction in  
3 phosphorus load attributable to such parcel of property. The  
4 phosphorus load reduction for each discharge structure serving  
5 the parcel shall be measured as provided in chapter 40E-63,  
6 Florida Administrative Code, and the permit issued for such  
7 property pursuant to chapter 40E-63, Florida Administrative  
8 Code. A parcel of property which has achieved the following  
9 annual phosphorus load reduction standards shall have the  
10 minimum tax included on the annual tax notice mailed in  
11 November of the next ensuing calendar year: 30 percent or more  
12 for the tax notices mailed in November 1994 through November  
13 1997; 35 percent or more for the tax notices mailed in  
14 November 1998 through November 2001; 40 percent or more for  
15 the tax notices mailed in November 2002 through November 2005;  
16 and 45 percent or more for the tax notices mailed in November  
17 2006 through November 2013. In addition, any parcel of  
18 property that achieves an annual flow weighted mean  
19 concentration of 50 parts per billion (ppb) of phosphorus at  
20 each discharge structure serving the property for any year  
21 ending April 30 shall have the minimum tax included on the  
22 annual tax notice mailed in November of the next ensuing  
23 calendar year. Any annual phosphorus reductions that exceed  
24 the amount necessary to have the minimum tax included on the  
25 annual tax notice for any parcel of property shall be carried  
26 forward to the subsequent years' phosphorus load reduction to  
27 determine if the minimum tax shall be included on the annual  
28 tax notice. The governing board of the district shall deny or  
29 grant the application by resolution adopted prior to or at the  
30 time of the adoption of its resolution certifying the annual  
31

1 Everglades agricultural privilege tax roll to the appropriate  
2 tax collector.

3           6. The annual Everglades agricultural privilege tax  
4 for the tax notices mailed in November 2014 through November  
5 2016 shall be \$25 per acre and for tax notices mailed in  
6 November 2017 and thereafter shall be \$10 per acre.

7           (h) In recognition of the findings set forth in  
8 subsection (1), the Legislature finds that the assessment and  
9 use of the Everglades agricultural privilege tax is a matter  
10 of concern to all areas of Florida and the Legislature intends  
11 this act to be a general law authorization of the tax within  
12 the meaning of s. 9, Art. VII of the State Constitution and  
13 that payment of the tax complies with the obligations of  
14 owners and users of land under s. 7(b), Art. II of the State  
15 Constitution.

16           (7) C-139 AGRICULTURAL PRIVILEGE TAX.--

17           (a) There is hereby imposed an annual C-139  
18 agricultural privilege tax for the privilege of conducting an  
19 agricultural trade or business on:

20           1. All real property located within the C-139 Basin  
21 that is classified as agricultural under the provisions of  
22 chapter 193; and

23           2. Leasehold or other interests in real property  
24 located within the C-139 Basin owned by the United States, the  
25 state, or any agency thereof permitting the property to be  
26 used for agricultural purposes in a manner that would result  
27 in such property being classified as agricultural under the  
28 provisions of chapter 193 if not governmentally owned, whether  
29 or not such property is actually classified as agricultural  
30 under the provisions of chapter 193.

31

1 It is hereby determined by the Legislature that the privilege  
2 of conducting an agricultural trade or business on such  
3 property constitutes a reasonable basis for imposing the C-139  
4 agricultural privilege tax and that logical differences exist  
5 between the agricultural use of such property and the use of  
6 other property within the C-139 Basin for residential or  
7 nonagricultural commercial use. The C-139 agricultural  
8 privilege tax shall constitute a lien against the property, or  
9 the leasehold or other interest in governmental property  
10 permitting such property to be used for agricultural purposes,  
11 described on the C-139 agricultural privilege tax roll. The  
12 lien shall be in effect from January 1 of the year the tax  
13 notice is mailed until discharged by payment and shall be  
14 equal in rank and dignity with the liens of all state, county,  
15 district, or municipal taxes and non-ad valorem assessments  
16 imposed pursuant to general law, special act, or local  
17 ordinance and shall be superior in dignity to all other liens,  
18 titles, and claims.

19 (b) The C-139 agricultural privilege tax, other than  
20 for leasehold or other interests in governmental property  
21 permitting such property to be used for agricultural purposes,  
22 shall be collected in the manner provided for ad valorem  
23 taxes. By September 15 of each year, the governing board of  
24 the district shall certify by resolution a C-139 agricultural  
25 privilege tax roll on compatible electronic medium to the tax  
26 collector of each county in which a portion of the C-139 Basin  
27 is located. The district shall also produce one copy of the  
28 roll in printed form which shall be available for inspection  
29 by the public. The district shall post the C-139 agricultural  
30 privilege tax for each parcel on the roll. The tax collector  
31 shall not accept any such roll that is not certified on

1 compatible electronic medium and that does not contain the  
2 posting of the C-139 agricultural privilege tax for each  
3 parcel. It is the responsibility of the district that such  
4 rolls be free of errors and omissions. Alterations to such  
5 rolls may be made by the executive director of the district,  
6 or a designee, up to 10 days before certification. If the tax  
7 collector or any taxpayer discovers errors or omissions on  
8 such roll, such person may request the district to file a  
9 corrected roll or a correction of the amount of any C-139  
10 agricultural privilege tax. Other than for leasehold or other  
11 interests in governmental property permitting such property to  
12 be used for agricultural purposes, C-139 agricultural  
13 privilege taxes collected pursuant to this section shall be  
14 included in the combined notice for ad valorem taxes and  
15 non-ad valorem assessments provided for in s. 197.3635. Such  
16 C-139 agricultural privilege taxes shall be listed in the  
17 portion of the combined notice utilized for non-ad valorem  
18 assessments. A separate mailing is authorized only as a  
19 solution to the most exigent factual circumstances. However,  
20 if a tax collector cannot merge a C-139 agricultural privilege  
21 tax roll to produce such a notice, the tax collector shall  
22 mail a separate notice of C-139 agricultural privilege taxes  
23 or shall direct the district to mail such a separate notice.  
24 In deciding whether a separate mailing is necessary, the tax  
25 collector shall consider all costs to the district and  
26 taxpayers of such a separate mailing and the adverse effects  
27 to the taxpayers of delayed and multiple notices. The district  
28 shall bear all costs associated with any separate notice.  
29 C-139 agricultural privilege taxes collected pursuant to this  
30 section shall be subject to all collection provisions of  
31 chapter 197, including provisions relating to discount for

1 early payment, prepayment by installment method, deferred  
2 payment, penalty for delinquent payment, and issuance and sale  
3 of tax certificates and tax deeds for nonpayment. C-139  
4 agricultural privilege taxes for leasehold or other interests  
5 in property owned by the United States, the state, or any  
6 agency thereof permitting such property to be used for  
7 agricultural purposes shall be included on the notice provided  
8 pursuant to s. 196.31, a copy of which shall be provided to  
9 lessees or other interestholders registering with the  
10 district, and shall be collected from the lessee or other  
11 appropriate interestholder and remitted to the district  
12 immediately upon collection. C-139 agricultural privilege  
13 taxes included on the statement provided pursuant to s. 196.31  
14 shall be due and collected on or prior to the next April 1  
15 following provision of the notice. Proceeds of the C-139  
16 agricultural privilege taxes shall be distributed by the tax  
17 collector to the district. Each tax collector shall be paid a  
18 commission equal to the actual cost of collection, not to  
19 exceed 2 percent, on the amount of C-139 agricultural  
20 privilege taxes collected and remitted. Notwithstanding any  
21 general law or special act to the contrary, C-139 agricultural  
22 privilege taxes shall not be included on the notice of  
23 proposed property taxes provided in s. 200.069.

24 (c)1. The initial C-139 agricultural privilege tax  
25 roll shall be certified for the tax notices mailed in November  
26 1994. The C-139 agricultural privilege taxes for the tax  
27 notices mailed in November 1994 through November 2002 ~~2013~~  
28 shall be computed by dividing \$654,656 by the number of acres  
29 included on the C-139 agricultural privilege tax roll for such  
30 year, excluding any property located within the C-139 Annex.

31

1           2. The C-139 agricultural privilege taxes for the tax  
2 notices mailed in November 2003 through November 2013 shall be  
3 computed by dividing \$654,656 by the number of acres included  
4 on the C-139 agricultural privilege tax roll for November  
5 2001, excluding any property located within the C-139 Annex.

6           3. The C-139 agricultural privilege taxes for the tax  
7 notices mailed in November 2014 and thereafter shall be \$1.80  
8 per acre.

9           (d) For purposes of this paragraph, "vegetable  
10 acreage" means, for each tax year, any portion of a parcel of  
11 property used for a period of not less than 8 months for the  
12 production of vegetable crops, including sweet corn, during  
13 the 12 months ended September 30 of the year preceding the tax  
14 year. Land preparation, crop rotation, and fallow periods  
15 shall not disqualify property from classification as vegetable  
16 acreage if such property is actually used for the production  
17 of vegetable crops.

18           1. If either the Governor, the President of the United  
19 States, or the United States Department of Agriculture  
20 declares the existence of a state of emergency or disaster  
21 resulting from extreme natural conditions impairing the  
22 ability of vegetable acreage to produce crops, payment of the  
23 C-139 agricultural privilege taxes imposed for the privilege  
24 of conducting an agricultural trade or business on such  
25 property shall be deferred for a period of 1 year, and all  
26 subsequent annual payments shall be deferred for the same  
27 period.

28           a. If the declaration occurs between April 1 and  
29 October 31, the C-139 agricultural privilege tax to be  
30 included on the next annual tax notice will be deferred to the  
31 subsequent annual tax notice.



1           b. If the declaration occurs between November 1 and  
2 March 31 and the C-139 agricultural privilege tax included on  
3 the most recent tax notice has not been paid, such C-139  
4 agricultural privilege tax will be deferred to the next annual  
5 tax notice.

6           c. If the declaration occurs between November 1 and  
7 March 31 and the C-139 agricultural privilege tax included on  
8 the most recent tax notice has been paid, the C-139  
9 agricultural privilege tax to be included on the next annual  
10 tax notice will be deferred to the subsequent annual tax  
11 notice.

12           2. In the event payment of C-139 agricultural  
13 privilege taxes is deferred pursuant to this paragraph, the  
14 district must record a notice in the official records of each  
15 county in which vegetable acreage subject to such deferment is  
16 located. The recorded notice must describe each parcel of  
17 property as to which C-139 agricultural privilege taxes have  
18 been deferred and the amount deferred for such property. If  
19 all or any portion of the property as to which C-139  
20 agricultural privilege taxes have been deferred ceases to be  
21 classified as agricultural under the provisions of chapter 193  
22 or otherwise subject to the C-139 agricultural privilege tax,  
23 all deferred amounts must be included on the tax notice for  
24 such property mailed in November of the first tax year for  
25 which such property is not subject to the C-139 agricultural  
26 privilege tax. After a property owner has paid all outstanding  
27 C-139 agricultural privilege taxes, including any deferred  
28 amounts, the district shall provide the property owner with a  
29 recordable instrument evidencing the payment of all  
30 outstanding amounts.

31

1           3. The owner, lessee, or other appropriate  
2 interestholder shall file an application with the executive  
3 director of the district prior to July 1 for classification of  
4 a portion of the property as vegetable acreage on the C-139  
5 agricultural privilege tax roll to be certified for the tax  
6 notice mailed in November of the same calendar year and shall  
7 have the burden of proving the number of acres used for the  
8 production of vegetable crops during the year in which  
9 incentive credits are determined and the period of such use.  
10 The governing board of the district shall deny or grant the  
11 application by resolution adopted prior to or at the time of  
12 the adoption of its resolution certifying the annual C-139  
13 agricultural privilege tax roll to the appropriate tax  
14 collector.

15           4. This paragraph does not relieve vegetable acreage  
16 from the performance of best management practices specified in  
17 chapter 40E-63, Florida Administrative Code.

18           (e) Any owner, lessee, or other appropriate  
19 interestholder of property subject to the C-139 agricultural  
20 privilege tax may contest the C-139 agricultural privilege tax  
21 by filing an action in circuit court.

22           1. No action may be brought to contest the C-139  
23 agricultural privilege tax after 60 days from the date the tax  
24 notice that includes the C-139 agricultural privilege tax is  
25 mailed by the tax collector. Before an action to contest the  
26 C-139 agricultural privilege tax may be brought, the taxpayer  
27 shall pay to the tax collector the amount of the C-139  
28 agricultural privilege tax which the taxpayer admits in good  
29 faith to be owing. The tax collector shall issue a receipt for  
30 the payment and the receipt shall be filed with the complaint.  
31 Payment of an C-139 agricultural privilege tax shall not be

1 deemed an admission that such tax was due and shall not  
2 prejudice the right to bring a timely action to challenge such  
3 tax and seek a refund. No action to contest the C-139  
4 agricultural privilege tax may be maintained, and such action  
5 shall be dismissed, unless all C-139 agricultural privilege  
6 taxes imposed in years after the action is brought, which the  
7 taxpayer in good faith admits to be owing, are paid before  
8 they become delinquent. The requirements of this paragraph are  
9 jurisdictional.

10           2. In any action involving a challenge of the C-139  
11 agricultural privilege tax, the court shall assess all costs.  
12 If the court finds that the amount of tax owed by the taxpayer  
13 is greater than the amount the taxpayer has in good faith  
14 admitted and paid, it shall enter judgment against the  
15 taxpayer for the deficiency and for interest on the deficiency  
16 at the rate of 12 percent per year from the date the tax  
17 became delinquent. If it finds that the amount of tax which  
18 the taxpayer has admitted to be owing is grossly  
19 disproportionate to the amount of tax found to be due and that  
20 the taxpayer's admission was not made in good faith, the court  
21 shall also assess a penalty at the rate of 25 percent of the  
22 deficiency per year from the date the tax became delinquent.  
23 The court may issue injunctions to restrain the sale of  
24 property for any C-139 agricultural privilege tax which  
25 appears to be contrary to law or equity.

26           (f) Notwithstanding any contrary provisions in chapter  
27 120, or any provision of any other law, an action in circuit  
28 court shall be the exclusive remedy to challenge the  
29 assessment of an C-139 agricultural privilege tax and owners  
30 of property subject to the C-139 agricultural privilege tax  
31 shall have no right or standing to initiate administrative

1 proceedings under chapter 120 to challenge the assessment of  
2 an C-139 agricultural privilege tax including specifically,  
3 and without limitation, the annual certification by the  
4 district governing board of the C-139 agricultural privilege  
5 tax roll to the appropriate tax collector, the denial of an  
6 application for exclusion from the C-139 agricultural  
7 privilege tax, and the denial of any application for  
8 classification as vegetable acreage, deferment of payment for  
9 vegetable acreage, or correction of any alleged error in the  
10 C-139 agricultural privilege tax roll.

11 (g) In recognition of the findings set forth in  
12 subsection (1), the Legislature finds that the assessment and  
13 use of the C-139 agricultural privilege tax is a matter of  
14 concern to all areas of Florida and the Legislature intends  
15 this section to be a general law authorization of the tax  
16 within the meaning of s. 9, Art. VII of the State  
17 Constitution.

18 (10) LONG-TERM COMPLIANCE PERMITS.--By December 31,  
19 2006, the department and the district shall take such action  
20 as may be necessary to implement the pre-2006 projects and  
21 strategies of the Long-Term Plan so that water delivered to  
22 the Everglades Protection Area achieves in all parts of the  
23 Everglades Protection Area state water quality standards,  
24 including the phosphorus criterion and moderating provisions,  
25 to the maximum extent practicable, ~~in all parts of the~~  
26 ~~Everglades Protection Area.~~

27 (a) By December 31, 2003, the district shall submit to  
28 the department an application for permit modification to  
29 incorporate proposed changes to the Everglades Construction  
30 Project and other district works delivering water to the  
31 Everglades Protection Area as needed to implement the pre-2006

1 projects and strategies of the Long-Term Plan in all permits  
2 issued by the department, including the permits issued  
3 pursuant to subsection (9). These changes shall be designed to  
4 achieve state water quality standards, including the  
5 phosphorus criterion and moderating provisions, to the maximum  
6 extent practicable. Under no circumstances shall the project  
7 or strategy cause or contribute to violation of state water  
8 quality standards. During the implementation of the initial  
9 phase of the Long-Term Plan, permits issued by the department  
10 shall be based on BAPRT, and shall include technology-based  
11 effluent limitations consistent with the Long-Term Plan, as  
12 provided in subparagraph (4)(e)3.~~By December 31, 2003, the~~  
13 ~~district shall submit to the department a permit modification~~  
14 ~~to incorporate proposed changes to the Everglades Construction~~  
15 ~~Project and the permits issued pursuant to subsection (9).~~  
16 ~~These changes shall be designed to achieve compliance with the~~  
17 ~~phosphorus criterion and the other state water quality~~  
18 ~~standards by December 31, 2006.~~

19 ~~(b) If the Everglades Construction Project or other~~  
20 ~~discharges to the Everglades Protection Area are not in~~  
21 ~~compliance with state water quality standards, the permit~~  
22 ~~application shall include:~~

23 ~~1. A plan for achieving compliance with the phosphorus~~  
24 ~~criterion in the Everglades Protection Area.~~

25 ~~2. A plan for achieving compliance in the Everglades~~  
26 ~~Protection Area with state water quality standards other than~~  
27 ~~the phosphorus criterion.~~

28 ~~3. Proposed cost estimates for the plans referred to~~  
29 ~~in subparagraphs 1. and 2.~~

30 ~~4. Proposed funding mechanisms for the plans referred~~  
31 ~~to in subparagraphs 1. and 2.~~

1           ~~5. Proposed schedules for implementation of the plans~~  
2 ~~referred to in subparagraphs 1. and 2.~~

3           (b)~~(c)~~ If the Everglades Construction Project or other  
4 discharges to the Everglades Protection Area are in compliance  
5 with state water quality standards, including the phosphorus  
6 criterion, the permit application shall include:

7           1. A plan for maintaining compliance with the  
8 phosphorus criterion in the Everglades Protection Area.

9           2. A plan for maintaining compliance in the Everglades  
10 Protection Area with state water quality standards other than  
11 the phosphorus criterion.

12           (16) DEFINITION OF C-139 BASIN.--For purposes of this  
13 section:

14           (a) "C-139 Basin" or "Basin" means the following  
15 described property: beginning at the intersection of an  
16 easterly extension of the south bank of Deer Fence Canal with  
17 the center line of South Florida Water Management District's  
18 Levee 3 in Section 33, Township 46 South, Range 34 East,  
19 Hendry County, Florida; thence, westerly along said easterly  
20 extension and along the South bank of said Deer Fence Canal to  
21 where it intersects the center line of State Road 846 in  
22 Section 33, Township 46 South, Range 32 East; thence,  
23 departing from said top of bank to the center line of said  
24 State Road 846, westerly along said center line of said State  
25 Road 846 to the West line of Section 4, Township 47 South,  
26 Range 31 East; thence, northerly along the West line of said  
27 section 4, and along the west lines of Sections 33 and 28,  
28 Township 46 South, Range 31 East, to the northwest corner of  
29 said Section 28; thence, easterly along the North line of said  
30 Section 28 to the North one-quarter (N 1/4 ) corner of said  
31 Section 28; thence, northerly along the West line of the

1 Southeast one-quarter (SE 1/4 ) of Section 21, Township 46  
2 South, Range 31 East, to the northwest corner of said  
3 Southeast one-quarter (SE 1/4 ) of Section 21; thence,  
4 easterly along the North line of said Southeast one-quarter  
5 (SE 1/4 ) of Section 21 to the northeast corner of said  
6 Southeast one-quarter (SE 1/4 ) of Section 21; thence,  
7 northerly along the East line of said Section 21 and the East  
8 line of Section 16, Township 46 South, Range 31, East, to the  
9 northeast corner thereof; thence, westerly along the North  
10 line of said Section 16, to the northwest corner thereof;  
11 thence, northerly along the West line of Sections 9 and 4,  
12 Township 46 South, Range 31, East, to the northwest corner of  
13 said Section 4; thence, westerly along the North lines of  
14 Section 5 and Section 6, Township 46 South, Range 31 East, to  
15 the South one-quarter (S 1/4 ) corner of Section 31, Township  
16 45 South, Range 31 East; thence, northerly to the South  
17 one-quarter (S 1/4 ) corner of Section 30, Township 45 South,  
18 Range 31 East; thence, easterly along the South line of said  
19 Section 30 and the South lines of Sections 29 and 28, Township  
20 45 South, Range 31 East, to the Southeast corner of said  
21 Section 28; thence, northerly along the East line of said  
22 Section 28 and the East lines of Sections 21 and 16, Township  
23 45 South, Range 31 East, to the Northwest corner of the  
24 Southwest one-quarter of the Southwest one-quarter (SW 1/4 of  
25 the SW 1/4 ) of Section 15, Township 45 South, Range 31 East;  
26 thence, northeasterly to the east one-quarter (E 1/4 ) corner  
27 of Section 15, Township 45 South, Range 31 East; thence,  
28 northerly along the East line of said Section 15, and the East  
29 line of Section 10, Township 45 South, Range 31 East, to the  
30 center line of a road in the Northeast one-quarter (NE 1/4 )  
31 of said Section 10; thence, generally easterly and

1 northeasterly along the center line of said road to its  
2 intersection with the center line of State Road 832; thence,  
3 easterly along said center line of said State Road 832 to its  
4 intersection with the center line of State Road 833; thence,  
5 northerly along said center line of said State Road 833 to the  
6 north line of Section 9, Township 44 South, Range 32 East;  
7 thence, easterly along the North line of said Section 9 and  
8 the north lines of Sections 10, 11 and 12, Township 44 South,  
9 Range 32 East, to the northeast corner of Section 12, Township  
10 44 South, Range 32 East; thence, easterly along the North line  
11 of Section 7, Township 44 South, Range 33 East, to the center  
12 line of Flaghole Drainage District Levee, as it runs to the  
13 east near the northwest corner of said Section 7, Township 44  
14 South, Range 33 East; thence, easterly along said center line  
15 of the Flaghole Drainage District Levee to where it meets the  
16 center line of South Florida Water Management District's Levee  
17 1 at Flag Hole Road; thence, continue easterly along said  
18 center line of said Levee 1 to where it turns south near the  
19 Northwest corner of Section 12, Township 44 South, Range 33  
20 East; thence, Southerly along said center line of said Levee 1  
21 to where the levee turns east near the Southwest corner of  
22 said Section 12; thence, easterly along said center line of  
23 said Levee 1 to where it turns south near the Northeast corner  
24 of Section 17, Township 44 South, Range 34 East; thence,  
25 southerly along said center line of said Levee 1 and the  
26 center line of South Florida Water Management District's Levee  
27 2 to the intersection with the north line of Section 33,  
28 Township 45 South, Range 34 East; thence, easterly along the  
29 north line of said Section 33 to the northeast corner of said  
30 Section 33; thence, southerly along the east line of said  
31 Section 33 to the southeast corner of said Section 33; thence,



1 southerly along the east line of Section 4, Township 46 South,  
2 Range 34 East to the southeast corner of said Section 4;  
3 thence, westerly along the south line of said Section 4 to the  
4 intersection with the centerline of South Florida Water  
5 Management District's Levee 2; thence, southerly along said  
6 Levee 2 centerline and South Florida Water Management  
7 District's Levee 3 centerline to the POINT OF BEGINNING.

8 (b) Sections 21, 28, and 33, Township 46 South, Range  
9 31 East, are not included within the boundary of the C-139  
10 Basin.

11 (c)~~(b)~~ If the district issues permits in accordance  
12 with all applicable rules allowing water from the "C-139  
13 Annex" to flow into the drainage system for the C-139 Basin,  
14 the C-139 Annex shall be added to the C-139 Basin for all tax  
15 years thereafter, commencing with the next C-139 agricultural  
16 privilege tax roll certified after issuance of such permits.  
17 "C-139 Annex" means the following described property: that  
18 part of the S.E. 1/4 of Section 32, Township 46 South, Range  
19 34 East and that portion of Sections 5 and 6, Township 47  
20 South, Range 34 East lying west of the L-3 Canal and South of  
21 the Deer Fence Canal; all of Sections 7, 17, 18, 19, 20, 28,  
22 29, 30, 31, 32, 33, and 34, and that portion of Sections 8, 9,  
23 16, 21, 22, 26, 27, 35, and 36 lying south and west of the L-3  
24 Canal, in Township 47 South, Range 34 East; and all of  
25 Sections 2, 3, 4, 5, 6, 8, 9, 10, and 11 and that portion of  
26 Section 1 lying south and west of the L-3 Canal all in  
27 Township 48 South, Range 34 East.

28 (17) SHORT TITLE.--This section shall be known as the  
29 "Everglades Forever Act."  
30  
31

1           Section 2. Section 3 of chapter 96-412, Laws of  
2 Florida, and section 84 of chapter 96-321, Laws of Florida,  
3 are repealed.

4           Section 3. This act shall take effect upon becoming a  
5 law.

6  
7                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
8   COMMITTEE SUBSTITUTE FOR  
9   Senate Bill 626

10 The committee substitute proposes revisions to the Everglades  
11 Forever Act created in s. 373.4592, Florida Statutes, relating  
12 to the reduction of phosphorus levels in water discharged  
13 through stormwater treatment areas for delivery to the  
14 Everglades Protection Area. The committee substitute  
15 establishes the use of a long-term planning process as the  
16 best way to ensure that stormwater treatment areas will  
17 perform at the optimal levels to achieve the maximum  
18 phosphorus reduction possible.

19 The committee substitute establishes the Legislature's intent  
20 that implementation of a long-term plan will be integrated and  
21 consistent with the implementation of the Comprehensive  
22 Everglades Restoration Program to avoid unnecessary and  
23 duplicative costs. Changes to the Okeechobee Basin ad valorem  
24 assessment are proposed, and the agricultural privilege tax in  
25 the Everglades Agricultural Area is revised.

26 The committee substitute proposes to implement the "Polluters  
27 Pay" provisions contained in s. 7(b), Art. II, of the State  
28 Constitution. The Department of Environmental Protection and  
29 the South Florida Water Management District are directed to  
30 ensure that discharges of water to the Everglades Protection  
31 Area will meet state water quality standards, including  
32 phosphorus criterion and moderating provisions, to the maximum  
33 extent practicable by December 31, 2006.