

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. The Long-Term Plan will be
24 implemented and revised with the planning goal and objective
25 of achieving the phosphorus criterion to be adopted pursuant
26 to subparagraph (4)(e)2. in the Everglades Protection Area at
27 the earliest practicable date, and not based on any planning
28 goal or objective in the Plan that is inconsistent with this
29 section. Revisions to the Long-Term Plan shall be incorporated
30 through an adaptive management approach including a process
31 development and engineering component to identify and

1 implement incremental optimization measures for further
2 phosphorus reductions at the earliest practicable date.

3 (c) It is the intent of the Legislature that
4 implementation of the Long-Term Plan shall be integrated and
5 consistent with the implementation of the projects and
6 activities in the Congressionally authorized components of the
7 CERP so that unnecessary and duplicative costs will be
8 avoided. Nothing in this section shall modify any existing
9 cost share or responsibility provided for projects listed in
10 s. 528 of the Water Resources Development Act of 1996 (110
11 Stat. 3769) or provided for projects listed in section 601 of
12 the Water Resources Development Act of 2000 (114 Stat. 2572).
13 The Legislature does not intend for the provisions of this
14 section to diminish commitments made by the State of Florida
15 to restore and maintain water quality in the Everglades
16 Protection Area, including the federal lands in the settlement
17 agreement referenced in paragraph (4)(e).

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

31

1 (e) The Long-Term Plan shall be implemented for an
2 initial 13-year phase (2003-2016) and shall, to the maximum
3 extent practicable, achieve water quality standards relating
4 to the phosphorus criterion in the Everglades Protection Area
5 as determined by a network of monitoring stations established
6 for this purpose. Not later than December 31, 2008, and each 5
7 years thereafter, the department shall review and approve
8 incremental phosphorus reduction measures to be implemented at
9 the earliest practicable date.

10 (4) EVERGLADES PROGRAM.--

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

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

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

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

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

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

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

31

1 ~~4.5.~~ The district must complete construction of STA
2 3/4 by October 1, 2003; however, the district may modify this
3 schedule to incorporate and accelerate enhancements to STA 3/4
4 as directed in the Long-Term Plan;

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

7 ~~5.7.~~ The district must complete construction of STA 6;
8 ~~by October 1, 1997.~~

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

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

24 (b) Everglades water supply and hydroperiod
25 improvement and restoration.--

26 1. A comprehensive program to revitalize the
27 Everglades shall include programs and projects to improve the
28 water quantity reaching the Everglades Protection Area at
29 optimum times and improve hydroperiod deficiencies in the
30 Everglades ecosystem. To the greatest extent possible,
31 wasteful discharges of fresh water to tide shall be reduced,

1 and water conservation practices and reuse measures shall be
2 implemented by water users, consistent with law. Water supply
3 management must include improvement of water quantity reaching
4 the Everglades, correction of long-standing hydroperiod
5 problems, and an increase in the total quantity of water
6 flowing through the system. Water supply management must
7 provide water supply for the Everglades National Park, the
8 urban and agricultural areas, and the Florida Bay and must
9 replace water previously available from the coastal ridge
10 areas of southern Dade County. The Everglades Construction
11 Project redirects some water currently lost to tide. It is an
12 important first step in completing hydroperiod improvement.

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

24 3. The district shall operate the Everglades
25 Construction Project in accordance with the February 15, 1994,
26 conceptual design document to maximize the water quantity
27 benefits and improve the hydroperiod of the Everglades
28 Protection Area. All reductions of flow to the Everglades
29 Protection Area from BMP implementation will be replaced. The
30 district shall develop a model to be used for quantifying the
31 amount of water to be replaced. ~~The district shall publish in~~

1 ~~the Florida Administrative Weekly a notice of rule development~~
2 ~~on the model no later than July 1, 1994, and a notice of~~
3 ~~rulemaking no later than July 1, 1995.~~The timing and
4 distribution of this replaced water will be directed to the
5 Everglades Protection Area to maximize the natural balance of
6 the Everglades Protection Area.

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

29 5. The district, through cooperation with the federal
30 and state agencies, shall develop other programs and methods
31

1 to increase the water flow and improve the hydroperiod of the
2 Everglades Protection Area.

3 6. Nothing in this section is intended to provide an
4 allocation or reservation of water or to modify the provisions
5 of part II. All decisions regarding allocations and
6 reservations of water shall be governed by applicable law.

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

11 (c) STA 3/4 modification.--The Everglades Program will
12 contribute to the restoration of the Rotenberger and Holey
13 Land tracts. The Everglades Construction Project provides a
14 first step toward restoration by improving hydroperiod with
15 treated water for the Rotenberger tract and by providing a
16 source of treated water for the Holey Land. It is further the
17 intent of the Legislature that the easternmost tract of the
18 Holey Land, known as the "Toe of the Boot," be removed from
19 STA 3/4 under the circumstances set forth in this paragraph.
20 The district shall proceed to modify the Everglades
21 Construction Project, provided that the redesign achieves at
22 least as many environmental and hydrological benefits as are
23 included in the original design, including treatment of waters
24 from sources other than the EAA, and does not delay
25 construction of STA 3/4. The district is authorized to use
26 eminent domain to acquire alternative lands, only if such
27 lands are located within 1 mile of the northern border of STA
28 3/4.

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

30 1. ~~By January 1996,~~The department and the district
31 shall review and evaluate available water quality data for the

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

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

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

1 4. The research and monitoring program shall be
2 conducted ~~to allow completion by December 2001 of any research~~
3 ~~necessary~~ to allow the department to propose a phosphorus
4 criterion in the Everglades Protection Area, and to evaluate
5 existing state water quality standards applicable to the
6 Everglades Protection Area and existing state water quality
7 standards and classifications applicable to the EAA canals. In
8 developing the phosphorus criterion, the department shall also
9 consider the minimum flows and levels for the Everglades
10 Protection Area and the district's water supply plans for the
11 Lower East Coast.

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

1 ~~district shall conduct at least one scientific workshop and~~
2 ~~two public hearings on its proposed interim report. One public~~
3 ~~hearing must be held in Palm Beach County and the other must~~
4 ~~be held in either Dade or Broward County. The interim report~~
5 ~~shall be used by the department and the district in making any~~
6 ~~decisions regarding the implementation of the Everglades~~
7 ~~Construction Project subsequent to the completion of the~~
8 ~~interim report. The construction of STAs 3/4 shall not be~~
9 ~~commenced until 90 days after the interim report has been~~
10 ~~submitted to the Governor and the Legislature.~~

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

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

30 (e) Evaluation of water quality standards.--
31

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

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

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

9
10 ~~This research shall be completed no later than December 31,~~
11 ~~2001.~~

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

1 whenever adopted, shall supersede the 10 parts per billion
2 (ppb) criterion otherwise established by this section, but
3 shall not be lower than the natural conditions of the
4 Everglades Protection Area and shall take into account spatial
5 and temporal variability. The department's rule adopting a
6 phosphorus criterion shall include moderating provisions
7 during the implementation of the initial phase of the
8 Long-Term Plan authorizing discharges based upon BAPRT
9 providing net improvement to impacted areas. Discharges to
10 unimpacted areas may also be authorized by moderating
11 provisions, which shall require BAPRT, and which must be based
12 upon a determination by the department that the environmental
13 benefits of the discharge clearly outweigh potential adverse
14 impacts.

15 3. The department shall use the best available
16 information to define relationships between waters discharged
17 to, and the resulting water quality in, the Everglades
18 Protection Area. The department or the district shall use
19 these relationships to establish discharge limits in permits
20 for discharges into the EAA canals and the Everglades
21 Protection Area necessary to prevent an imbalance in the
22 natural populations of aquatic flora or fauna in the
23 Everglades Protection Area, and to provide a net improvement
24 in the areas already impacted. During the implementation of
25 the initial phase of the Long-Term Plan, permits issued by the
26 department shall be based on BAPRT, and shall include
27 technology-based effluent limitations consistent with the
28 Long-Term Plan. Compliance with the phosphorus criterion shall
29 be based upon a long-term geometric mean of concentration
30 levels to be measured at sampling stations recognized from the
31 research to be reasonably representative of receiving waters

1 in the Everglades Protection Area, and so located so as to
2 assure that the Everglades Protection Area is not altered so
3 as to cause an imbalance in natural populations of aquatic
4 flora and fauna and to assure a net improvement in the areas
5 already impacted. For the Everglades National Park and the
6 Arthur R. Marshall Loxahatchee National Wildlife Refuge, the
7 method for measuring compliance with the phosphorus criterion
8 shall be in a manner consistent with Appendices A and B,
9 respectively, of the settlement agreement dated July 26, 1991,
10 entered in case No. 88-1886-Civ-Hoeveler, United States
11 District Court for the Southern District of Florida, that
12 recognizes and provides for incorporation of relevant
13 research.

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

29 (f) EAA best management practices.--

30 1. The district, in cooperation with the department,
31 shall develop and implement a water quality monitoring program

1 to evaluate the effectiveness of the BMPs in achieving and
2 maintaining compliance with state water quality standards and
3 restoring and maintaining designated and existing beneficial
4 uses. The program shall include an analysis of the
5 effectiveness of the BMPs in treating constituents that are
6 not being significantly improved by the STAs. The monitoring
7 program shall include monitoring of appropriate parameters at
8 representative locations.

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

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

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

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

1 d. The district shall conduct research in cooperation
2 with EAA landowners to identify water quality parameters that
3 are not being significantly improved either by the STAs or the
4 BMPs, and to identify further BMP strategies needed to address
5 these parameters.

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

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

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

30 4. As of December 31, 2006, all permits, including
31 those issued prior to that date, shall require implementation

1 of additional water quality measures, taking into account the
2 water quality treatment actually provided by the STAs and the
3 effectiveness of the BMPs. As of that date, no permittee's
4 discharge shall cause or contribute to any violation of water
5 quality standards in the Everglades Protection Area.

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

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

1 within the C-139 Basin consistent with subparagraph 2.

2 Thereafter, the provisions of subparagraphs 2.-4. shall apply
3 to the landowners within the C-139 Basin.

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

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

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

15 (6) EVERGLADES AGRICULTURAL PRIVILEGE TAX.--

16 (c) The initial Everglades agricultural privilege tax
17 roll shall be certified for the tax notices mailed in November
18 1994. Incentive credits to the Everglades agricultural
19 privilege taxes to be included on the initial Everglades
20 agricultural privilege tax roll, if any, shall be based upon
21 the total phosphorus load reduction for the year ending April
22 30, 1993. The Everglades agricultural privilege taxes for each
23 year shall be computed in the following manner:

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

1 through November 2005; and \$35 per acre for the tax notices
2 mailed in November 2006 through November 2013.

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

1 incorporation of the method of measuring the total phosphorus
2 load reduction provided in this subparagraph is intended to
3 provide a legislatively approved aid to the governing board of
4 the district in making an annual ministerial determination of
5 any incentive credit.

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

1 4. Notwithstanding subparagraph 3., incentive credits
2 for the performance of best management practices shall not
3 reduce the minimum annual Everglades agricultural privilege
4 tax to less than \$24.89 per acre, which annual Everglades
5 agricultural privilege tax as adjusted in the manner required
6 by paragraph (e) shall be known as the "minimum tax." To the
7 extent that the application of incentive credits for the
8 performance of best management practices would reduce the
9 annual Everglades agricultural privilege tax to an amount less
10 than the minimum tax, then the unused or excess incentive
11 credits for the performance of best management practices shall
12 be carried forward, on a phosphorus load percentage basis, to
13 be applied as incentive credits in subsequent years. Any
14 unused or excess incentive credits remaining after
15 certification of the Everglades agricultural privilege tax
16 roll for the tax notices mailed in November 2013 shall be
17 canceled.

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

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

1 time of the adoption of its resolution certifying the annual
2 Everglades agricultural privilege tax roll to the appropriate
3 tax collector.

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

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

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

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

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

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

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

20 (b) The C-139 agricultural privilege tax, other than
21 for leasehold or other interests in governmental property
22 permitting such property to be used for agricultural purposes,
23 shall be collected in the manner provided for ad valorem
24 taxes. By September 15 of each year, the governing board of
25 the district shall certify by resolution a C-139 agricultural
26 privilege tax roll on compatible electronic medium to the tax
27 collector of each county in which a portion of the C-139 Basin
28 is located. The district shall also produce one copy of the
29 roll in printed form which shall be available for inspection
30 by the public. The district shall post the C-139 agricultural
31 privilege tax for each parcel on the roll. The tax collector

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

1 chapter 197, including provisions relating to discount for
2 early payment, prepayment by installment method, deferred
3 payment, penalty for delinquent payment, and issuance and sale
4 of tax certificates and tax deeds for nonpayment. C-139
5 agricultural privilege taxes for leasehold or other interests
6 in property owned by the United States, the state, or any
7 agency thereof permitting such property to be used for
8 agricultural purposes shall be included on the notice provided
9 pursuant to s. 196.31, a copy of which shall be provided to
10 lessees or other interestholders registering with the
11 district, and shall be collected from the lessee or other
12 appropriate interestholder and remitted to the district
13 immediately upon collection. C-139 agricultural privilege
14 taxes included on the statement provided pursuant to s. 196.31
15 shall be due and collected on or prior to the next April 1
16 following provision of the notice. Proceeds of the C-139
17 agricultural privilege taxes shall be distributed by the tax
18 collector to the district. Each tax collector shall be paid a
19 commission equal to the actual cost of collection, not to
20 exceed 2 percent, on the amount of C-139 agricultural
21 privilege taxes collected and remitted. Notwithstanding any
22 general law or special act to the contrary, C-139 agricultural
23 privilege taxes shall not be included on the notice of
24 proposed property taxes provided in s. 200.069.

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

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 Westline 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."
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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.

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