

1                                   A bill to be entitled  
 2       An act relating to environmental control; amending s.  
 3       403.061, F.S.; authorizing the Department of Environmental  
 4       Protection to cooperate with the Department of Agriculture  
 5       and Consumer Services in implementing best management  
 6       practices; authorizing and ratifying certain  
 7       administrative agreements; amending ss. 311.105, 316.272,  
 8       373.414, 380.06, and 403.0882, F.S.; conforming cross  
 9       references; providing an effective date.

10

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

12

13           Section 1. Section 403.061, Florida Statutes, is amended  
 14 to read:

15           403.061 Department; powers and duties.--The department  
 16 shall have the power and the duty to control and prohibit  
 17 pollution of air and water in accordance with the law and rules  
 18 adopted and promulgated by it and, for this purpose, is  
 19 authorized to:

20           (1) Approve and promulgate current and long-range plans  
 21 developed to provide for air and water quality control and  
 22 pollution abatement.

23           (2) Hire only such employees as may be necessary to  
 24 effectuate the responsibilities of the department.

25           (3) Utilize the facilities and personnel of other state  
 26 agencies, including the Department of Health, and delegate to  
 27 any such agency any duties and functions as the department may  
 28 deem necessary to carry out the purposes of this act.

29           (4) Cooperate with the Department of Agriculture and  
 30 Consumer Services in the implementation of best management  
 31 practices consistent with ss. 373.4595, 403.067, 576.045, and  
 32 597.004.

33           ~~(5)~~(4) Secure necessary scientific, technical, research,  
 34 administrative, and operational services by interagency  
 35 agreement, by contract, or otherwise. All state agencies, upon  
 36 direction of the department, shall make these services and  
 37 facilities available.

38           ~~(6)~~(5) Accept state appropriations and loans and grants  
 39 from the Federal Government and from other sources, public or  
 40 private, which loans and grants shall not be expended for other  
 41 than the purposes of this act.

42           ~~(7)~~(6) Exercise general supervision of the administration  
 43 and enforcement of the laws, rules, and regulations pertaining  
 44 to air and water pollution.

45           ~~(8)~~(7) Adopt rules pursuant to ss. 120.536(1) and 120.54  
 46 to implement the provisions of this act. Any rule adopted  
 47 pursuant to this act shall be consistent with the provisions of  
 48 federal law, if any, relating to control of emissions from motor  
 49 vehicles, effluent limitations, pretreatment requirements, or  
 50 standards of performance. No county, municipality, or political  
 51 subdivision shall adopt or enforce any local ordinance, special  
 52 law, or local regulation requiring the installation of Stage II  
 53 vapor recovery systems, as currently defined by department rule,  
 54 unless such county, municipality, or political subdivision is or  
 55 has been in the past designated by federal regulation as a  
 56 moderate, serious, or severe ozone nonattainment area. Rules

57 | adopted pursuant to this act shall not require dischargers of  
58 | waste into waters of the state to improve natural background  
59 | conditions. Discharges from steam electric generating plants  
60 | existing or licensed under this chapter on July 1, 1984, shall  
61 | not be required to be treated to a greater extent than may be  
62 | necessary to assure that the quality of nonthermal components of  
63 | discharges from nonrecirculated cooling water systems is as high  
64 | as the quality of the makeup waters; that the quality of  
65 | nonthermal components of discharges from recirculated cooling  
66 | water systems is no lower than is allowed for blowdown from such  
67 | systems; or that the quality of noncooling system discharges  
68 | which receive makeup water from a receiving body of water which  
69 | does not meet applicable department water quality standards is  
70 | as high as the quality of the receiving body of water. The  
71 | department may not adopt standards more stringent than federal  
72 | regulations, except as provided in s. 403.804.

73 |        (9)~~(8)~~ Issue such orders as are necessary to effectuate  
74 | the control of air and water pollution and enforce the same by  
75 | all appropriate administrative and judicial proceedings.

76 |        (10)~~(9)~~ Adopt a comprehensive program for the prevention,  
77 | control, and abatement of pollution of the air and waters of the  
78 | state, and from time to time review and modify such program as  
79 | necessary.

80 |        (11)~~(10)~~ Develop a comprehensive program for the  
81 | prevention, abatement, and control of the pollution of the  
82 | waters of the state. In order to effect this purpose, a grouping  
83 | of the waters into classes may be made in accordance with the  
84 | present and future most beneficial uses. Such classifications

85 may from time to time be altered or modified. However, before  
 86 any such classification is made, or any modification made  
 87 thereto, public hearings shall be held by the department.

88 (12)~~(11)~~ Establish ambient air quality and water quality  
 89 standards for the state as a whole or for any part thereof, and  
 90 also standards for the abatement of excessive and unnecessary  
 91 noise. The department is authorized to establish reasonable  
 92 zones of mixing for discharges into waters.

93 (a) When a receiving body of water fails to meet a water  
 94 quality standard for pollutants set forth in department rules, a  
 95 steam electric generating plant discharge of pollutants that is  
 96 existing or licensed under this chapter on July 1, 1984, may  
 97 nevertheless be granted a mixing zone, provided that:

98 1. The standard would not be met in the water body in the  
 99 absence of the discharge;

100 2. The discharge is in compliance with all applicable  
 101 technology-based effluent limitations;

102 3. The discharge does not cause a measurable increase in  
 103 the degree of noncompliance with the standard at the boundary of  
 104 the mixing zone; and

105 4. The discharge otherwise complies with the mixing zone  
 106 provisions specified in department rules.

107 (b) No mixing zone for point source discharges shall be  
 108 permitted in Outstanding Florida Waters except for:

109 1. Sources that have received permits from the department  
 110 prior to April 1, 1982, or the date of designation, whichever is  
 111 later;

112           2. Blowdown from new power plants certified pursuant to  
113 the Florida Electrical Power Plant Siting Act;

114           3. Discharges of water necessary for water management  
115 purposes which have been approved by the governing board of a  
116 water management district and, if required by law, by the  
117 secretary; and

118           4. The discharge of demineralization concentrate which has  
119 been determined permittable under s. 403.0882 and which meets  
120 the specific provisions of s. 403.0882(4)(a) and (b), if the  
121 proposed discharge is clearly in the public interest.

122           (c) The department, by rule, shall establish water quality  
123 criteria for wetlands which criteria give appropriate  
124 recognition to the water quality of such wetlands in their  
125 natural state.

126  
127 Nothing in this act shall be construed to invalidate any  
128 existing department rule relating to mixing zones. The  
129 department shall cooperate with the Department of Highway Safety  
130 and Motor Vehicles in the development of regulations required by  
131 s. 316.272(1).

132           (13)~~(12)~~(a) Cause field studies to be made and samples to  
133 be taken out of the air and from the waters of the state  
134 periodically and in a logical geographic manner so as to  
135 determine the levels of air quality of the air and water quality  
136 of the waters of the state.

137           (b) Determine the source of the pollution whenever a study  
138 is made or a sample collected which proves to be below the air  
139 or water quality standard set for air or water.

140        (14)~~(13)~~ Require persons engaged in operations which may  
 141 result in pollution to file reports which may contain  
 142 information relating to locations, size of outlet, height of  
 143 outlet, rate and period of emission, and composition and  
 144 concentration of effluent and such other information as the  
 145 department shall prescribe to be filed relative to pollution.

146        (15)~~(14)~~ Establish a permit system whereby a permit may be  
 147 required for the operation, construction, or expansion of any  
 148 installation that may be a source of air or water pollution and  
 149 provide for the issuance and revocation of such permits and for  
 150 the posting of an appropriate bond to operate.

151        (a) Notwithstanding any other provision of this chapter,  
 152 the department may authorize, by rule, the Department of  
 153 Transportation to perform any activity requiring a permit from  
 154 the department covered by this chapter, upon certification by  
 155 the Department of Transportation that it will meet all  
 156 requirements imposed by statute, rule, or standard for  
 157 environmental control and protection as such statute, rule, or  
 158 standard applies to a governmental program. To this end, the  
 159 department may accept such certification of compliance for  
 160 programs of the Department of Transportation, may conduct  
 161 investigations for compliance, and, if a violation is found to  
 162 exist, may take all necessary enforcement action pertaining  
 163 thereto, including, but not limited to, the revocation of  
 164 certification. The authorization shall be by rule of the  
 165 department, shall be limited to the maintenance, repair, or  
 166 replacement of existing structures, and shall be conditioned  
 167 upon compliance by the Department of Transportation with

168 specific guidelines or requirements which are set forth in the  
 169 formal acceptance and deemed necessary by the department to  
 170 assure future compliance with this chapter and applicable  
 171 department rules. The failure of the Department of  
 172 Transportation to comply with any provision of the written  
 173 acceptance shall constitute grounds for its revocation by the  
 174 department.

175 (b) The provisions of chapter 120 shall be accorded any  
 176 person when substantial interests will be affected by an  
 177 activity proposed to be conducted by the Department of  
 178 Transportation pursuant to its certification and the acceptance  
 179 of the department. If a proceeding is conducted pursuant to ss.  
 180 120.569 and 120.57, the department may intervene as a party.  
 181 Should an administrative law judge of the Division of  
 182 Administrative Hearings of the Department of Management Services  
 183 submit a recommended order pursuant to ss. 120.569 and 120.57,  
 184 the department shall issue a final department order adopting,  
 185 rejecting, or modifying the recommended order pursuant to such  
 186 action.

187 ~~(16)~~~~(15)~~ Consult with any person proposing to construct,  
 188 install, or otherwise acquire a pollution control device or  
 189 system concerning the efficacy of such device or system, or the  
 190 pollution problem which may be related to the source, device, or  
 191 system. Nothing in any such consultation shall be construed to  
 192 relieve any person from compliance with this act, rules and  
 193 regulations of the department, or any other provision of law.

194 ~~(17)~~~~(16)~~ Encourage voluntary cooperation by persons and  
 195 affected groups to achieve the purposes of this act, alternative

196 or innovative methods of resource protection as authorized by  
 197 law, the January 1999 Agreement in Principle on Nutrient  
 198 Management in the Suwannee River Basin, and any subsequent dairy  
 199 administrative agreements entered into prior to January 1, 2004.  
 200 Such agreements are authorized by s. 403.0611 and this section  
 201 and are hereby ratified.

202 ~~(18)~~(17) Encourage local units of government to handle  
 203 pollution problems within their respective jurisdictions on a  
 204 cooperative basis and provide technical and consultative  
 205 assistance therefor.

206 ~~(19)~~(18) Encourage and conduct studies, investigations,  
 207 and research relating to pollution and its causes, effects,  
 208 prevention, abatement, and control.

209 ~~(20)~~(19) Make a continuing study of the effects of the  
 210 emission of air contaminants from motor vehicles on the quality  
 211 of the outdoor atmosphere of this state and the several parts  
 212 thereof and make recommendations to appropriate public and  
 213 private bodies with respect thereto.

214 ~~(21)~~(20) Collect and disseminate information and conduct  
 215 educational and training programs relating to pollution.

216 ~~(22)~~(21) Advise, consult, cooperate, and enter into  
 217 agreements with other agencies of the state, the Federal  
 218 Government, other states, interstate agencies, groups, political  
 219 subdivisions, and industries affected by the provisions of this  
 220 act, rules, or policies of the department. However, the  
 221 secretary of the department shall not enter into any interstate  
 222 agreement relating to the transport of ozone precursor  
 223 pollutants, nor modify its rules based upon a recommendation



224 from the Ozone Transport Assessment Group or any other such  
 225 organization that is not an official subdivision of the United  
 226 States Environmental Protection Agency but which studies issues  
 227 related to the transport of ozone precursor pollutants, without  
 228 prior review and specific legislative approval.

229 (23)~~(22)~~ Adopt, modify, and repeal rules governing the  
 230 specifications, construction, and maintenance of industrial  
 231 reservoirs, dams, and containers which store or retain  
 232 industrial wastes of a deleterious nature.

233 (24)~~(23)~~ Adopt rules and regulations to ensure that no  
 234 detergents are sold in Florida after December 31, 1972, which  
 235 are reasonably found to have a harmful or deleterious effect on  
 236 human health or on the environment. Any regulations adopted  
 237 pursuant to this subsection shall apply statewide. Subsequent to  
 238 the promulgation of such rules and regulations, no county,  
 239 municipality, or other local political subdivision shall adopt  
 240 or enforce any local ordinance, special law, or local regulation  
 241 governing detergents which is less stringent than state law or  
 242 regulation. Regulations, ordinances, or special acts adopted by  
 243 a county or municipality governing detergents shall be subject  
 244 to approval by the department, except that regulations,  
 245 ordinances, or special acts adopted by any county or  
 246 municipality with a local pollution control program approved  
 247 pursuant to s. 403.182 shall be approved as an element of the  
 248 local pollution control program.

249 (25)~~(24)~~(a) Establish a permit system to provide for spoil  
 250 site approval, as may be requested and required by local  
 251 governmental agencies as defined in s. 403.1822(3), or mosquito

252 control districts as defined in s. 388.011(5), to facilitate  
253 these agencies in providing spoil sites for the deposit of spoil  
254 from maintenance dredging of navigation channels, port harbors,  
255 turning basins, and harbor berths, as part of a federal project,  
256 when the agency is acting as sponsor of a contemplated dredge  
257 and fill operation involving an established navigation channel,  
258 harbor, turning basin, or harbor berth. A spoil site approval  
259 granted to the agency shall be granted for a period of 10 to 25  
260 years when such site is not inconsistent with an adopted local  
261 governmental comprehensive plan and the requirements of this  
262 chapter. The department shall periodically review each permit to  
263 determine compliance with the terms and conditions of the  
264 permit. Such review shall be conducted at least once every 10  
265 years.

266 (b) This subsection applies only to those maintenance  
267 dredging operations permitted after July 1, 1980, where the  
268 United States Army Corps of Engineers is the prime dredge and  
269 fill agent and the local governmental agency is acting as  
270 sponsor for the operation, and does not require the  
271 redesignation of currently approved spoil sites under such  
272 previous operations.

273 (26)~~(25)~~ Establish and administer a program for the  
274 restoration and preservation of bodies of water within the  
275 state. The department shall have the power to acquire lands, to  
276 cooperate with other applicable state or local agencies to  
277 enhance existing public access to such bodies of water, and to  
278 adopt all rules necessary to accomplish this purpose.

279        (27)~~(26)~~(a) Develop standards and criteria for waters used  
 280 for deepwater shipping which standards and criteria consider  
 281 existing water quality; appropriate mixing zones and other  
 282 requirements for maintenance dredging in previously constructed  
 283 deepwater navigation channels, port harbors, turning basins, or  
 284 harbor berths; and appropriate mixing zones for disposal of  
 285 spoil material from dredging and, where necessary, develop a  
 286 separate classification for such waters. Such classification,  
 287 standards, and criteria shall recognize that the present  
 288 dedicated use of these waters is for deepwater commercial  
 289 navigation.

290        (b) The provisions of paragraph (a) apply only to the port  
 291 waters, spoil disposal sites, port harbors, navigation channels,  
 292 turning basins, and harbor berths used for deepwater commercial  
 293 navigation in the ports of Jacksonville, Tampa, Port Everglades,  
 294 Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee,  
 295 Port St. Joe, Panama City, St. Petersburg, Port Bartow, Florida  
 296 Power Corporation's Crystal River Canal, Boca Grande, Green Cove  
 297 Springs, and Pensacola.

298        (28)~~(27)~~ Establish rules which provide for a special  
 299 category of water bodies within the state, to be referred to as  
 300 "Outstanding Florida Waters," which water bodies shall be worthy  
 301 of special protection because of their natural attributes.  
 302 Nothing in this subsection shall affect any existing rule of the  
 303 department.

304        (29)~~(28)~~ Perform any other act necessary to control and  
 305 prohibit air and water pollution, and to delegate any of its

306 responsibilities, authority, and powers, other than rulemaking  
307 powers, to any state agency now or hereinafter established.

308 (30)~~(29)~~ Adopt by rule special criteria to protect Class  
309 II shellfish harvesting waters. Rules previously adopted by the  
310 department in rule 17-4.28(8)(a), Florida Administrative Code,  
311 are hereby ratified and determined to be a valid exercise of  
312 delegated legislative authority and shall remain in effect  
313 unless amended by the Environmental Regulation Commission.

314 (31)~~(30)~~ Establish requirements by rule that reasonably  
315 protect the public health and welfare from electric and magnetic  
316 fields associated with existing 230 kV or greater electrical  
317 transmission lines, new 230 kV and greater electrical  
318 transmission lines for which an application for certification  
319 under the Transmission Line Siting Act, ss. 403.52-403.5365, is  
320 not filed, new or existing electrical transmission or  
321 distribution lines with voltage less than 230 kV, and substation  
322 facilities. Notwithstanding any other provision in this chapter  
323 or any other law of this state or political subdivision thereof,  
324 the department shall have exclusive jurisdiction in the  
325 regulation of electric and magnetic fields associated with all  
326 electrical transmission and distribution lines and substation  
327 facilities. However, nothing herein shall be construed as  
328 superseding or repealing the provisions of s. 403.523(1) and  
329 (10).

330 (32)~~(31)~~ Adopt rules necessary to obtain approval from the  
331 United States Environmental Protection Agency to administer the  
332 Federal National Pollution Discharge Elimination System (NPDES)  
333 permitting program in Florida under ss. 318, 402, and 405 of the

334 Federal Clean Water Act, Pub. L. No. 92-500, as amended. This  
 335 authority shall be implemented consistent with the provisions of  
 336 part II, which shall be applicable to facilities certified  
 337 thereunder. The department shall establish all rules, standards,  
 338 and requirements that regulate the discharge of pollutants into  
 339 waters of the United States as defined by and in a manner  
 340 consistent with federal regulations; provided, however, that the  
 341 department may adopt a standard that is stricter or more  
 342 stringent than one set by the United States Environmental  
 343 Protection Agency if approved by the Governor and Cabinet in  
 344 accordance with the procedures of s. 403.804(2).

345 (33)~~(32)~~ Coordinate the state's stormwater program.

346 (34)~~(33)~~ Establish and administer programs providing  
 347 appropriate incentives that have the following goals, in order  
 348 of importance:

- 349 (a) Preventing and reducing pollution at its source.
- 350 (b) Recycling contaminants that have the potential to  
 351 pollute.
- 352 (c) Treating and neutralizing contaminants that are  
 353 difficult to recycle.
- 354 (d) Disposing of contaminants only after other options  
 355 have been used to the greatest extent practicable.

356 (35)~~(34)~~ Adopt rules which may include stricter permitting  
 357 and enforcement provisions within Outstanding Florida Waters,  
 358 aquatic preserves, areas of critical state concern, and areas  
 359 subject to chapter 380 resource management plans adopted by rule  
 360 by the Administration Commission, when the plans for an area  
 361 include waters that are particularly identified as needing

362 additional protection, which provisions are not inconsistent  
 363 with the applicable rules adopted for the management of such  
 364 areas by the department and the Governor and Cabinet.

365 (36)~~(35)~~ Exercise the duties, powers, and responsibilities  
 366 required of the state under the federal Clean Air Act, 42 U.S.C.  
 367 ss. 7401 et seq. The department shall implement the programs  
 368 required under that act in conjunction with its other powers and  
 369 duties. Nothing in this subsection shall be construed to repeal  
 370 or supersede any of the department's existing rules.

371 (37)~~(36)~~ Establish statewide standards for persons engaged  
 372 in determining visible air emissions and to require these  
 373 persons to obtain training to meet such standards.

374 (38)~~(37)~~ Enter into a memorandum of agreement with the  
 375 Florida Ports Council which provides a supplemental permitting  
 376 process for the issuance of a joint coastal permit pursuant to  
 377 s. 161.055 or environmental resource permit pursuant to part IV  
 378 of chapter 373, to a port listed in s. 311.09(1), for  
 379 maintenance dredging and the management of dredged materials  
 380 from maintenance dredging of all navigation channels, port  
 381 harbors, turning basins, and harbor berths. Such permit shall be  
 382 issued for a period of 5 years and shall be annually extended  
 383 for an additional year if the port is in compliance with all  
 384 permit conditions at the time of extension. The department is  
 385 authorized to adopt rules to implement this subsection.

386 (39)~~(38)~~ Enter into a memorandum of agreement with the  
 387 Florida Ports Council which provides a supplemental permitting  
 388 process for the issuance of a conceptual joint coastal permit  
 389 pursuant to s. 161.055 or environmental resource permit pursuant

390 to part IV of chapter 373, to a port listed in s. 311.09(1), for  
 391 dredging and the management of materials from dredging and for  
 392 other related activities necessary for development, including  
 393 the expansion of navigation channels, port harbors, turning  
 394 basins, harbor berths, and associated facilities. Such permit  
 395 shall be issued for a period of up to 15 years. The department  
 396 is authorized to adopt rules to implement this subsection.

397 (40)~~(39)~~ Enter into a memorandum of agreement with the  
 398 Florida Inland Navigation District and the West Coast Inland  
 399 Navigation District, or their successor agencies, to provide a  
 400 supplemental process for issuance of joint coastal permits  
 401 pursuant to s. 161.055 or environmental resource permits  
 402 pursuant to part IV of chapter 373 for regional waterway  
 403 management activities, including, but not limited to,  
 404 maintenance dredging, spoil disposal, public recreation, inlet  
 405 management, beach nourishment, and environmental protection  
 406 directly related to public navigation and the construction,  
 407 maintenance, and operation of Florida's inland waterways. The  
 408 department is authorized to adopt rules to implement this  
 409 subsection.

410 (41)~~(40)~~ Serve as the state's single point of contact for  
 411 performing the responsibilities described in Presidential  
 412 Executive Order 12372, including administration and operation of  
 413 the Florida State Clearinghouse. The Florida State Clearinghouse  
 414 shall be responsible for coordinating interagency reviews of the  
 415 following: federal activities and actions subject to the federal  
 416 consistency requirements of s. 307 of the Coastal Zone  
 417 Management Act; documents prepared pursuant to the National

418 Environmental Policy Act, 42 U.S.C. ss. 4321 et seq., and the  
 419 Outer Continental Shelf Lands Act, 43 U.S.C. ss. 1331 et seq.;  
 420 applications for federal funding pursuant to s. 216.212; and  
 421 other notices and information regarding federal activities in  
 422 the state, as appropriate. The Florida State Clearinghouse shall  
 423 ensure that state agency comments and recommendations on the  
 424 environmental, social, and economic impact of proposed federal  
 425 actions are communicated to federal agencies, applicants, local  
 426 governments, and interested parties.

427  
 428 The department shall implement such programs in conjunction with  
 429 its other powers and duties and shall place special emphasis on  
 430 reducing and eliminating contamination that presents a threat to  
 431 humans, animals or plants, or to the environment.

432 Section 2. Subsections (2), (3), and (6) of section  
 433 311.105, Florida Statutes, are amended to read:

434 311.105 Florida Seaport Environmental Management  
 435 Committee; permitting; mitigation.--

436 (2) Each application for a permit authorized pursuant to  
 437 s. 403.061(38)~~(37)~~ must include:

438 (a) A description of maintenance dredging activities to be  
 439 conducted and proposed methods of dredged-material management.

440 (b) A characterization of the materials to be dredged and  
 441 the materials within dredged-material management sites.

442 (c) A description of dredged-material management sites and  
 443 plans.

444 (d) A description of measures to be undertaken, including  
 445 environmental compliance monitoring, to minimize adverse



446 environmental effects of maintenance dredging and dredged-  
 447 material management.

448 (e) Such scheduling information as is required to  
 449 facilitate state supplementary funding of federal maintenance  
 450 dredging and dredged-material management programs consistent  
 451 with beach restoration criteria of the Department of  
 452 Environmental Protection.

453 (3) Each application for a permit authorized pursuant to  
 454 s. 403.061(39)(~~38~~) must include the provisions of paragraphs  
 455 (2)(b)-(e) and the following:

456 (a) A description of dredging and dredged-material  
 457 management and other related activities associated with port  
 458 development, including the expansion of navigation channels,  
 459 dredged-material management sites, port harbors, turning basins,  
 460 harbor berths, and associated facilities.

461 (b) A discussion of environmental mitigation as is  
 462 proposed for dredging and dredged-material management for port  
 463 development, including the expansion of navigation channels,  
 464 dredged-material management sites, port harbors, turning basins,  
 465 harbor berths, and associated facilities.

466 (6) Dredged-material management activities authorized  
 467 pursuant to s. 403.061(38)(~~37~~) or (39)(~~38~~) shall be incorporated  
 468 into port master plans developed pursuant to s. 163.3178(2)(k).

469 Section 3. Subsection (1) of section 316.272, Florida  
 470 Statutes, is amended to read:

471 316.272 Exhaust systems, prevention of noise.--

472 (1) Every motor vehicle shall at all times be equipped  
 473 with an exhaust system in good working order and in constant

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474 operation, including muffler, manifold pipe, and tailpiping to  
475 prevent excessive or unusual noise. In no event shall an exhaust  
476 system allow noise at a level which exceeds a maximum decibel  
477 level to be established by regulation of the Department of  
478 Environmental Protection as provided in s. 403.061(14)(~~13~~) in  
479 cooperation with the Department of Highway Safety and Motor  
480 Vehicles. No person shall use a muffler cutout, bypass or  
481 similar device upon a vehicle on a highway.

482 Section 4. Subsection (9) of section 373.414, Florida  
483 Statutes, is amended to read:

484 373.414 Additional criteria for activities in surface  
485 waters and wetlands.--

486 (9) The department and the governing boards, on or before  
487 July 1, 1994, shall adopt rules to incorporate the provisions of  
488 this section, relying primarily on the existing rules of the  
489 department and the water management districts, into the rules  
490 governing the management and storage of surface waters. Such  
491 rules shall seek to achieve a statewide, coordinated and  
492 consistent permitting approach to activities regulated under  
493 this part. Variations in permitting criteria in the rules of  
494 individual water management districts or the department shall  
495 only be provided to address differing physical or natural  
496 characteristics. Such rules adopted pursuant to this subsection  
497 shall include the special criteria adopted pursuant to s.  
498 403.061(30)(~~29~~) and may include the special criteria adopted  
499 pursuant to s. 403.061(35)(~~34~~). Such rules shall include a  
500 provision requiring that a notice of intent to deny or a permit  
501 denial based upon this section shall contain an explanation of

502 the reasons for such denial and an explanation, in general  
 503 terms, of what changes, if any, are necessary to address such  
 504 reasons for denial. Such rules may establish exemptions and  
 505 general permits, if such exemptions and general permits do not  
 506 allow significant adverse impacts to occur individually or  
 507 cumulatively. Such rules may require submission of proof of  
 508 financial responsibility which may include the posting of a bond  
 509 or other form of surety prior to the commencement of  
 510 construction to provide reasonable assurance that any activity  
 511 permitted pursuant to this section, including any mitigation for  
 512 such permitted activity, will be completed in accordance with  
 513 the terms and conditions of the permit once the construction is  
 514 commenced. Until rules adopted pursuant to this subsection  
 515 become effective, existing rules adopted under this part and  
 516 rules adopted pursuant to the authority of ss. 403.91-403.929  
 517 shall be deemed authorized under this part and shall remain in  
 518 full force and effect. Neither the department nor the governing  
 519 boards are limited or prohibited from amending any such rules.

520 Section 5. Paragraph (c) of subsection (5) of section  
 521 380.06, Florida Statutes, is amended to read:

522 380.06 Developments of regional impact.--

523 (5) AUTHORIZATION TO DEVELOP.--

524 (c) Prior to the issuance of a final development order,  
 525 the developer may elect to be bound by the rules adopted  
 526 pursuant to chapters 373 and 403 in effect when such development  
 527 order is issued. The rules adopted pursuant to chapters 373 and  
 528 403 in effect at the time such development order is issued shall  
 529 be applicable to all applications for permits pursuant to those

530 chapters and which are necessary for and consistent with the  
 531 development authorized in such development order, except that a  
 532 later adopted rule shall be applicable to an application if:

533 1. The later adopted rule is determined by the rule-  
 534 adopting agency to be essential to the public health, safety, or  
 535 welfare;

536 2. The later adopted rule is adopted pursuant to s.  
 537 403.061 (28) ~~(27)~~;

538 3. The later adopted rule is being adopted pursuant to a  
 539 subsequently enacted statutorily mandated program;

540 4. The later adopted rule is mandated in order for the  
 541 state to maintain delegation of a federal program; or

542 5. The later adopted rule is required by state or federal  
 543 law.

544  
 545 Further, in order for any developer to apply for permits  
 546 pursuant to this provision, the application must be filed within  
 547 5 years from the issuance of the final development order and the  
 548 permit shall not be effective for more than 8 years from the  
 549 issuance of the final development order. Nothing in this  
 550 paragraph shall be construed to alter or change any permitting  
 551 agency's authority to approve permits or to determine applicable  
 552 criteria for longer periods of time.

553 Section 6. Subsection (7) of section 403.0882, Florida  
 554 Statutes, is amended to read:

555 403.0882 Discharge of demineralization concentrate.--

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556           (7) The department may adopt additional rules for the  
557 regulation of demineralization and to administer this section  
558 and s. 403.061(12)~~(11)~~(b).

559           Section 7. This act shall take effect July 1, 2005.