

1 A bill to be entitled
 2 An act relating to total maximum daily loads; amending s.
 3 403.067, F.S.; providing for the attainment of pollutant
 4 reductions for the restoration of impaired waters;
 5 revising provisions for the allocation of allowable
 6 pollutant loads; authorizing the Department of
 7 Environmental Protection to adopt phased total maximum
 8 daily loads for specific purposes; providing for the
 9 development of basin management action plans; revising
 10 provisions for the implementation of total maximum daily
 11 loads; authorizing the department to adopt rules for the
 12 permitting of basin management action plans; requiring the
 13 department to submit a report to the Governor, the
 14 President of the Senate, and the Speaker of the House of
 15 Representatives prior to adopting rules for pollutant
 16 trading; amending ss. 373.4595 and 570.085, F.S.;
 17 correcting cross references; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Paragraph (d) of subsection (2) and subsections
 22 (6), (7), (8), and (11) of section 403.067, Florida Statutes,
 23 are amended to read:

24 403.067 Establishment and implementation of total maximum
 25 daily loads.--

26 (2) LIST OF SURFACE WATERS OR SEGMENTS.--In accordance
 27 with s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
 28 U.S.C. ss. 1251 et seq., the department must submit periodically

29 | to the United States Environmental Protection Agency a list of
30 | surface waters or segments for which total maximum daily load
31 | assessments will be conducted. The assessments shall evaluate
32 | the water quality conditions of the listed waters and, if such
33 | waters are determined not to meet water quality standards, total
34 | maximum daily loads shall be established, subject to the
35 | provisions of subsection (4). The department shall establish a
36 | priority ranking and schedule for analyzing such waters.

37 | (d) If the department proposes to implement total maximum
38 | daily load calculations or allocations established prior to the
39 | effective date of this act, the department shall adopt those
40 | calculations and allocations by rule by the secretary pursuant
41 | to ss. 120.536(1) and 120.54 and paragraph (6)(c)~~(d)~~.

42 | (6) CALCULATION AND ALLOCATION.--

43 | (a) Calculation of total maximum daily load.--

44 | 1. Prior to developing a total maximum daily load
45 | calculation for each water body or water body segment on the
46 | list specified in subsection (4), the department shall
47 | coordinate with applicable local governments, water management
48 | districts, the Department of Agriculture and Consumer Services,
49 | other appropriate state agencies, local soil and water
50 | conservation districts, environmental groups, regulated
51 | interests, and affected pollution sources to determine the
52 | information required, accepted methods of data collection and
53 | analysis, and quality control/quality assurance requirements.
54 | The analysis may include mathematical water quality modeling
55 | using approved procedures and methods.

56 2. The department shall develop total maximum daily load
57 calculations for each water body or water body segment on the
58 list described in subsection (4) according to the priority
59 ranking and schedule unless the impairment of such waters is due
60 solely to activities other than point and nonpoint sources of
61 pollution. For waters determined to be impaired due solely to
62 factors other than point and nonpoint sources of pollution, no
63 total maximum daily load will be required. A total maximum daily
64 load may be required for those waters that are impaired
65 predominantly due to activities other than point and nonpoint
66 sources. The total maximum daily load calculation shall
67 establish the amount of a pollutant that a water body or water
68 body segment may receive from all sources without exceeding
69 water quality standards, and shall account for seasonal
70 variations and include a margin of safety that takes into
71 account any lack of knowledge concerning the relationship
72 between effluent limitations and water quality. The total
73 maximum daily load may be based on a pollutant load reduction
74 goal developed by a water management district, provided that
75 such pollutant load reduction goal is promulgated by the
76 department in accordance with the procedural and substantive
77 requirements of this subsection.

78 (b) Allocation of total maximum daily loads.--The total
79 maximum daily loads shall include establishment of reasonable
80 and equitable allocations of the total maximum daily load
81 between or among point and nonpoint sources that will alone, or
82 in conjunction with other management and restoration activities,
83 provide for the attainment of the pollutant reductions

84 established pursuant to paragraph (a) to restore the designated
 85 uses water quality standards and the restoration of impaired
 86 waters. The allocations may establish the maximum amount of the
 87 water pollutant ~~from a given source or category of sources~~ that
 88 may be discharged or released into the water body or water body
 89 segment in combination with other discharges or releases.
 90 Allocations may also be made to individual basins and sources or
 91 as a whole to all basins and sources or categories of sources of
 92 inflow to the water body or water body segments. A preliminary
 93 allocation of allowable pollutant loads among point and nonpoint
 94 sources may be developed as part of the total maximum daily
 95 load. However, in such cases, the final allocation to specific
 96 point sources and specific categories of nonpoint sources shall
 97 be established in the basin management action plan pursuant to
 98 subsection (7). The preliminary and final allocations shall be
 99 designed to attain the pollutant reductions established pursuant
 100 to paragraph (a) water quality standards and shall be based on
 101 consideration of the following:
 102 1. Existing treatment levels and management practices;
 103 2. Best management practices established and implemented
 104 pursuant to paragraph (7)(c);
 105 3. Enforceable treatment levels established pursuant to
 106 state or local law or permit;
 107 4.2- Differing impacts pollutant sources may have on water
 108 quality;
 109 5.3- The availability of treatment technologies,
 110 management practices, or other pollutant reduction measures;

- 111 6.4. Environmental, economic, and technological
- 112 feasibility of achieving the allocation;
- 113 7.5. The cost benefit associated with achieving the
- 114 allocation;
- 115 8.6. Reasonable timeframes for implementation;
- 116 9.7. Potential applicability of any moderating provisions
- 117 such as variances, exemptions, and mixing zones; and
- 118 10.8. The extent to which nonattainment of water quality
- 119 standards is caused by pollution sources outside of Florida,
- 120 discharges that have ceased, or alterations to water bodies
- 121 prior to the date of this act.

122 ~~(c) Not later than February 1, 2001, the department shall~~

123 ~~submit a report to the Governor, the President of the Senate,~~

124 ~~and the Speaker of the House of Representatives containing~~

125 ~~recommendations, including draft legislation, for any~~

126 ~~modifications to the process for allocating total maximum daily~~

127 ~~loads, including the relationship between allocations and the~~

128 ~~watershed or basin management planning process. Such~~

129 ~~recommendations shall be developed by the department in~~

130 ~~cooperation with a technical advisory committee which includes~~

131 ~~representatives of affected parties, environmental~~

132 ~~organizations, water management districts, and other appropriate~~

133 ~~local, state, and federal government agencies. The technical~~

134 ~~advisory committee shall also include such members as may be~~

135 ~~designated by the President of the Senate and the Speaker of the~~

136 ~~House of Representatives.~~

137 (c)(d) Adoption of rules.--The total maximum daily load

138 calculations and allocations established under this subsection

139 for each water body or water body segment shall be adopted by
 140 rule by the secretary pursuant to ss. 120.536(1), 120.54, and
 141 403.805. Where additional data collection and analysis are
 142 needed to increase the scientific precision and accuracy of the
 143 total maximum daily load, the department is authorized to adopt
 144 phased total maximum daily loads that establish interim total
 145 maximum daily loads until the additional data is available. The
 146 rules adopted pursuant to this paragraph shall not be subject to
 147 approval by the Environmental Regulation Commission. As part of
 148 the rule development process, the department shall hold at least
 149 one public workshop in the vicinity of the water body or water
 150 body segment for which the total maximum daily load is being
 151 developed. Notice of the public workshop shall be published not
 152 less than 5 days nor more than 15 days before the public
 153 workshop in a newspaper of general circulation in the county or
 154 counties containing the water bodies or water body segments for
 155 which the total maximum daily load calculation and allocation
 156 are being developed.

157 (7) DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS;

158 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

159 (a) Basin management action plans.--

160 1. In developing and implementing the total maximum daily
 161 load for a water body, the department, or the department in
 162 conjunction with a water management district, may develop a basin
 163 management action plan that addresses some or all of the
 164 watersheds and basins tributary to the water body. Such a plan
 165 shall integrate the appropriate management strategies to achieve
 166 the total maximum daily load and shall provide for phased

167 implementation of these management strategies to promote timely,
168 cost-effective actions as provided for in s. 403.151. The plan
169 shall establish a schedule for implementing the management
170 strategies, establish a basis for evaluating the plan's
171 effectiveness, and identify feasible funding strategies to
172 implement the plan's management strategies. The management
173 strategies may include regional treatment systems or other
174 public works, where appropriate, to achieve the needed pollutant
175 load reductions.

176 2. A basin management action plan shall, pursuant to
177 paragraph (6)(b), equitably allocate pollutant reductions to
178 individual basins, as a whole to all basins, or to each
179 identified point source or category of nonpoint sources, as
180 appropriate. For nonpoint sources for which best management
181 practices have been adopted, the initial requirement specified
182 by the plan shall be those practices developed pursuant to
183 paragraph (c). Where appropriate, the plan may provide pollutant
184 load reduction credit to those dischargers that have implemented
185 management strategies to reduce pollutant loads, including best
186 management practices, prior to the development of the basin
187 management action plan. The plan also shall identify the
188 mechanisms by which potential future increases in pollutant
189 loading will be addressed.

190 3. The basin management action planning process is intended
191 to involve the broadest possible range of interested parties,
192 with the objective of encouraging the greatest amount of
193 cooperation and consensus possible. In developing a basin
194 management action plan, the department shall ensure that key

195 stakeholders, including, but not limited to, applicable local
 196 governments, water management districts, the Department of
 197 Agriculture and Consumer Services, other appropriate state
 198 agencies, local soil and water conservation districts,
 199 environmental groups, regulated interests, and affected pollution
 200 sources, are invited to participate in the process. The
 201 department shall hold at least one public meeting in the vicinity
 202 of the watershed or basin to discuss and receive comments during
 203 the planning process and shall otherwise encourage public
 204 participation to the greatest practical extent. Notice of the
 205 public meeting shall be published in a newspaper of general
 206 circulation in each county in which the watershed or basin lies
 207 not fewer than 5 days nor more than 15 days before the public
 208 meeting. A basin management action plan shall not supplant or
 209 otherwise alter any assessment made under subsection (3) or
 210 subsection (4), or any calculation or preliminary allocation made
 211 under subsection (6), except through rulemaking.

212 4. The department shall adopt all or any part of a basin
 213 management action plan by secretarial order pursuant to chapter
 214 120 to implement the provisions of this section. Where a basin
 215 management action plan alters the calculation or preliminary
 216 allocation made under subsection (6), the revised calculation or
 217 final allocation shall be adopted by rule.

218 5. The basin management action plan shall be evaluated on a
 219 periodic basis to determine whether its management strategies are
 220 leading to pollutant load reductions in a timely manner and
 221 whether revisions are needed to achieve the pollutant load
 222 reductions specified in the adopted total maximum daily load

223 calculation or allocation. Revisions to the basin management
 224 action plan shall be made by the department in cooperation with
 225 basin stakeholders. Revisions to the management strategies
 226 required for nonpoint sources shall follow the procedures set
 227 forth in subparagraph (c)4. Revised basin management action plans
 228 shall be adopted pursuant to subparagraph 4.

229 (b) Total maximum daily load implementation.--

230 1.(a) The department shall be the lead agency in
 231 coordinating the implementation of the total maximum daily loads
 232 through water quality protection programs. Application of a
 233 total maximum daily load by a water management district shall be
 234 consistent with this section and shall not require the issuance
 235 of an order or a separate action pursuant to s. 120.536(1) or s.
 236 120.54 for adoption of the calculation and allocation previously
 237 established by the department. Such programs may include, but
 238 are not limited to:

239 a.1- Permitting and other existing regulatory programs;

240 b.2- Nonregulatory and incentive-based programs, including
 241 best management practices, cost sharing, waste minimization,
 242 pollution prevention, agreements established pursuant to s.
 243 403.061(21), and public education;

244 c.3- Other water quality management and restoration
 245 activities, for example surface water improvement and management
 246 plans approved by water management districts ~~or watershed~~ or
 247 basin management action plans developed pursuant to this
 248 subsection;

249 d.4- Pollutant trading or other equitable economically
 250 based agreements;

251 e.5. Public works including capital facilities; ~~or~~
 252 f.6. Land acquisition; ~~or~~
 253 g. Water quality based effluent limitations developed
 254 pursuant to Rule 62-6.50, Florida Administrative Code.

255 2. For a basin management action plan adopted pursuant to
 256 subparagraph (a)4., any management strategies and pollutant
 257 reduction requirements associated with a pollutant of concern
 258 for which a total maximum daily load was developed, including
 259 effluent limits set forth for a discharger subject to NPDES
 260 permitting, if any, shall be included in subsequent NPDES
 261 permits or permit modifications for that discharger in a timely
 262 manner.

263 For holders of NPDES municipal separate storm sewer system
 264 permits and other stormwater sources, implementation of a total
 265 maximum daily load or basin management action plan shall be
 266 achieved, to the maximum extent practicable, through the use of
 267 best management practices or other management measures.

268 a. The department shall not impose in a NPDES permit
 269 additional pollution reduction requirements for a pollutant of
 270 concern until such time as the total maximum daily load or the
 271 basin management action plan is revised, the NPDES permit
 272 expires, or the NPDES permit holder modifies its discharge.

273 b. The basin management action plan does not relieve the
 274 discharger from any requirement to obtain, renew, or modify a
 275 NPDES permit or to abide by other requirements of the permit.

276 c. Management strategies set forth in a basin management
 277 action plan to be implemented by a discharger subject to
 278 permitting by the department shall be completed pursuant to the

279 schedule set forth in the basin management action plan. This
 280 implementation schedule may extend beyond the 5-year term of a
 281 NPDES permit.

282 d. Management strategies and pollution reduction
 283 requirements set forth in a basin management action plan for a
 284 specific pollutant of concern shall not be subject to challenge
 285 under chapter 120 at the time they are incorporated, in an
 286 identical form, into a subsequent NPDES permit or permit
 287 modification.

288 e. For nonagricultural pollutant sources not subject to
 289 NPDES permitting but permitted pursuant to other state,
 290 regional, or local water quality programs, the pollutant
 291 reduction actions adopted in a basin management action plan
 292 shall be implemented to the maximum extent practicable as part
 293 of those permitting programs.

294 f. A nonpoint pollutant source discharger included in a
 295 basin management action plan shall timely implement the
 296 appropriate best management practices established pursuant to
 297 paragraph (c) to attain the pollutant reductions established
 298 pursuant to paragraph (6)(a).

299 g. A landowner, discharger, or other responsible person
 300 who is implementing applicable management strategies specified
 301 in an adopted basin management action plan shall not be required
 302 by permit, enforcement action, or otherwise to implement
 303 additional management strategies to reduce pollutant loads to
 304 attain the pollutant reductions established pursuant to
 305 paragraph (6)(a) and shall be deemed to be in compliance with
 306 this section. This subparagraph does not limit the authority of

307 the department to amend a basin management action plan as
 308 specified in subparagraph (a)5.

309 ~~(b) In developing and implementing the total maximum daily~~
 310 ~~load for a water body, the department, or the department in~~
 311 ~~conjunction with a water management district, may develop a~~
 312 ~~watershed or basin management plan that addresses some or all of~~
 313 ~~the watersheds and basins tributary to the water body. These~~
 314 ~~plans will serve to fully integrate the management strategies~~
 315 ~~available to the state for the purpose of implementing the total~~
 316 ~~maximum daily loads and achieving water quality restoration. The~~
 317 ~~watershed or basin management planning process is intended to~~
 318 ~~involve the broadest possible range of interested parties, with~~
 319 ~~the objective of encouraging the greatest amount of cooperation~~
 320 ~~and consensus possible. The department or water management~~
 321 ~~district shall hold at least one public meeting in the vicinity~~
 322 ~~of the watershed or basin to discuss and receive comments during~~
 323 ~~the planning process and shall otherwise encourage public~~
 324 ~~participation to the greatest practical extent. Notice of the~~
 325 ~~public meeting shall be published in a newspaper of general~~
 326 ~~circulation in each county in which the watershed or basin lies~~
 327 ~~not less than 5 days nor more than 15 days before the public~~
 328 ~~meeting. A watershed or basin management plan shall not supplant~~
 329 ~~or otherwise alter any assessment made under s. 403.086(3) and~~
 330 ~~(4), or any calculation or allocation made under s. 403.086(6).~~

331 (c) Best management practices.--

332 1. The department, in cooperation with the water
 333 management districts and other interested parties, as
 334 appropriate, may develop suitable interim measures, best

335 management practices, or other measures necessary to achieve the
 336 level of pollution reduction established by the department for
 337 nonagricultural nonpoint pollutant sources in allocations
 338 developed pursuant to this subsection and subsection (6)
 339 ~~paragraph (6)(b)~~. These practices and measures may be adopted by
 340 rule by the department and the water management districts
 341 pursuant to ss. 120.536(1) and 120.54, and where adopted by
 342 rule, shall ~~may~~ be implemented by those parties responsible for
 343 nonagricultural nonpoint source pollution ~~pollutant sources and~~
 344 ~~the department and the water management districts shall assist~~
 345 ~~with implementation. Where interim measures, best management~~
 346 ~~practices, or other measures are adopted by rule, the~~
 347 ~~effectiveness of such practices in achieving the levels of~~
 348 ~~pollution reduction established in allocations developed by the~~
 349 ~~department pursuant to paragraph (6)(b) shall be verified by the~~
 350 ~~department. Implementation, in accordance with applicable rules,~~
 351 ~~of practices that have been verified by the department to be~~
 352 ~~effective at representative sites shall provide a presumption of~~
 353 ~~compliance with state water quality standards and release from~~
 354 ~~the provisions of s. 376.307(5) for those pollutants addressed~~
 355 ~~by the practices, and the department is not authorized to~~
 356 ~~institute proceedings against the owner of the source of~~
 357 ~~pollution to recover costs or damages associated with the~~
 358 ~~contamination of surface or ground water caused by those~~
 359 ~~pollutants. Such rules shall also incorporate provisions for a~~
 360 ~~notice of intent to implement the practices and a system to~~
 361 ~~assure the implementation of the practices, including~~
 362 ~~recordkeeping requirements. Where water quality problems are~~

363 ~~detected despite the appropriate implementation, operation, and~~
 364 ~~maintenance of best management practices and other measures~~
 365 ~~according to rules adopted under this paragraph, the department~~
 366 ~~or the water management districts shall institute a reevaluation~~
 367 ~~of the best management practice or other measures.~~

368 2.(d)1. The Department of Agriculture and Consumer
 369 Services may develop and adopt by rule pursuant to ss.
 370 120.536(1) and 120.54 suitable interim measures, best management
 371 practices, or other measures necessary to achieve the level of
 372 pollution reduction established by the department for
 373 agricultural pollutant sources in allocations developed pursuant
 374 to this subsection and subsection (6) ~~paragraph (6)(b)~~. These
 375 practices and measures may be implemented by those parties
 376 responsible for agricultural pollutant sources and the
 377 department, the water management districts, and the Department
 378 of Agriculture and Consumer Services shall assist with
 379 implementation. ~~Where interim measures, best management~~
 380 ~~practices, or other measures are adopted by rule, the~~
 381 ~~effectiveness of such practices in achieving the levels of~~
 382 ~~pollution reduction established in allocations developed by the~~
 383 ~~department pursuant to paragraph (6)(b) shall be verified by the~~
 384 ~~department. Implementation, in accordance with applicable rules,~~
 385 ~~of practices that have been verified by the department to be~~
 386 ~~effective at representative sites shall provide a presumption of~~
 387 ~~compliance with state water quality standards and release from~~
 388 ~~the provisions of s. 376.307(5) for those pollutants addressed~~
 389 ~~by the practices, and the department is not authorized to~~
 390 ~~institute proceedings against the owner of the source of~~

391 ~~pollution to recover costs or damages associated with the~~
 392 ~~contamination of surface or ground water caused by those~~
 393 ~~pollutants.~~ In the process of developing and adopting rules for
 394 interim measures, best management practices, or other measures,
 395 the Department of Agriculture and Consumer Services shall
 396 consult with the department, the Department of Health, the water
 397 management districts, representatives from affected farming
 398 groups, and environmental group representatives. Such rules
 399 shall also incorporate provisions for a notice of intent to
 400 implement the practices and a system to assure the
 401 implementation of the practices, including recordkeeping
 402 requirements. ~~Where water quality problems are detected despite~~
 403 ~~the appropriate implementation, operation, and maintenance of~~
 404 ~~best management practices and other measures according to rules~~
 405 ~~adopted under this paragraph, the Department of Agriculture and~~
 406 ~~Consumer Services shall institute a reevaluation of the best~~
 407 ~~management practice or other measure.~~

408 3. Where interim measures, best management practices, or
 409 other measures are adopted by rule, the effectiveness of such
 410 practices in achieving the levels of pollution reduction
 411 established in allocations developed by the department pursuant
 412 to this subsection and subsection (6) shall be verified at
 413 representative sites by the department. The department shall use
 414 best professional judgment in making the initial verification
 415 that the best management practices are effective and, where
 416 applicable, shall notify the appropriate water management
 417 district or the Department of Agriculture and Consumer Services
 418 prior to the adoption of a rule proposed pursuant to this

419 paragraph in the event it is unable to make such verification.
420 Implementation, in accordance with rules adopted under this
421 paragraph, of practices that have been initially verified to be
422 effective, or verified to be effective by monitoring at
423 representative sites, by the department shall provide a
424 presumption of compliance with state water quality standards and
425 release from the provisions of s. 376.307(5) for those
426 pollutants addressed by the practices, and the department is not
427 authorized to institute proceedings against the owner of the
428 source of pollution to recover costs or damages associated with
429 the contamination of surface or ground water caused by those
430 pollutants.

431 4. Where water quality problems are detected, or predicted
432 during the development or amendment of a basin management action
433 plan, despite the appropriate implementation, operation, and
434 maintenance of best management practices and other measures
435 according to rules adopted under this paragraph, the department,
436 or a water management district or the Department of Agriculture
437 and Consumer Services in consultation with the department, shall
438 institute a reevaluation of the best management practice or
439 other measure. Should the reevaluation determine that the best
440 management practice or other measure requires modification, the
441 department, a water management district, or the Department of
442 Agriculture and Consumer Services, as appropriate, shall revise
443 the rule to require implementation of the modified practice
444 within a reasonable time period as specified in the rule.

445 5.2- Individual agricultural records relating to processes
446 or methods of production, or relating to costs of production,

447 profits, or other financial information which are otherwise not
 448 public records, which are reported to the Department of
 449 Agriculture and Consumer Services pursuant to subparagraphs 3.
 450 and 4. ~~this paragraph~~ or pursuant to any rule adopted pursuant
 451 to subparagraph 2. ~~this paragraph~~ shall be confidential and
 452 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 453 Constitution. Upon request of the department or any water
 454 management district, the Department of Agriculture and Consumer
 455 Services shall make such individual agricultural records
 456 available to that agency, provided that the confidentiality
 457 specified by this subparagraph for such records is maintained.
 458 This subparagraph is subject to the Open Government Sunset
 459 Review Act of 1995 in accordance with s. 119.15, and shall stand
 460 repealed on October 2, 2006, unless reviewed and saved from
 461 repeal through reenactment by the Legislature.

462 6.(e) The provisions of subparagraphs 1. and 2. ~~paragraphs~~
 463 ~~(e) and (d)~~ shall not preclude the department or water
 464 management district from requiring compliance with water quality
 465 standards or with current best management practice requirements
 466 set forth in any applicable regulatory program authorized by law
 467 for the purpose of protecting water quality. Additionally,
 468 subparagraphs 1. and 2. ~~paragraphs (e) and (d)~~ are applicable
 469 only to the extent that they do not conflict with any rules
 470 adopted ~~promulgated~~ by the department that are necessary to
 471 maintain a federally delegated or approved program.

472 (8) RULES.--The department is authorized to adopt rules
 473 pursuant to ss. 120.536(1) and 120.54 for:

474 (a) Delisting water bodies or water body segments from the
 475 list developed under subsection (4) pursuant to the guidance
 476 under subsection (5).~~;~~

477 (b) Administration of funds to implement the total maximum
 478 daily load and basin management action planning program.~~;~~

479 (c) Procedures for pollutant trading among the pollutant
 480 sources to a water body or water body segment, including a
 481 mechanism for the issuance and tracking of pollutant credits.
 482 Such procedures may be implemented through permits or other
 483 authorizations and must be legally binding. Prior to adopting
 484 rules for pollutant trading under this paragraph, and no later
 485 than November 30, 2006, the Department of Environmental
 486 Protection shall submit to the Governor, the President of the
 487 Senate, and the Speaker of the House of Representatives a report
 488 containing recommendations on such rules, including the proposed
 489 basis for equitable economically based agreements and the
 490 tracking and accounting of pollution credits or other similar
 491 mechanisms. Such recommendations shall be developed in
 492 cooperation with a technical advisory committee that includes
 493 representatives of environmental organizations, industry, local
 494 government, homebuilders, water management districts,
 495 agriculture, stormwater utilities, and municipal utilities. No
 496 ~~rule implementing a pollutant trading program shall become~~
 497 ~~effective prior to review and ratification by the Legislature;~~
 498 ~~and~~

499 (d) The total maximum daily load calculation in accordance
 500 with paragraph (6)(a) immediately upon the effective date of
 501 this act, for those eight water segments within Lake Okeechobee

502 | proper as submitted to the United States Environmental
 503 | Protection Agency pursuant to subsection (2).

504 | (e) Any other purpose specifically provided for in this
 505 | section.

506 | (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

507 | (a) The department shall not implement, without prior
 508 | legislative approval, any additional regulatory authority
 509 | pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part
 510 | 130, if such implementation would result in water quality
 511 | discharge regulation of activities not currently subject to
 512 | regulation.

513 | (b) Interim measures, best management practices, or other
 514 | measures may be developed and voluntarily implemented pursuant
 515 | to subparagraph (7)(c)1. or subparagraph (7)(c)2. ~~paragraph~~
 516 | ~~(7)(c) or paragraph (7)(d)~~ for any water body or segment for
 517 | which a total maximum daily load or allocation has not been
 518 | established. The implementation of such pollution control
 519 | programs may be considered by the department in the
 520 | determination made pursuant to subsection (4).

521 | Section 2. Paragraph (c) of subsection (3) of section
 522 | 373.4595, Florida Statutes, is amended to read:

523 | 373.4595 Lake Okeechobee Protection Program.--

524 | (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
 525 | program for Lake Okeechobee that achieves phosphorus load
 526 | reductions for Lake Okeechobee shall be immediately implemented
 527 | as specified in this subsection. The program shall address the
 528 | reduction of phosphorus loading to the lake from both internal
 529 | and external sources. Phosphorus load reductions shall be

530 achieved through a phased program of implementation. Initial
531 implementation actions shall be technology-based, based upon a
532 consideration of both the availability of appropriate technology
533 and the cost of such technology, and shall include phosphorus
534 reduction measures at both the source and the regional level.
535 The initial phase of phosphorus load reductions shall be based
536 upon the district's Technical Publication 81-2 and the
537 district's WOD program, with subsequent phases of phosphorus
538 load reductions based upon the total maximum daily loads
539 established in accordance with s. 403.067. In the development
540 and administration of the Lake Okeechobee Protection Program,
541 the coordinating agencies shall maximize opportunities provided
542 by federal cost-sharing programs and opportunities for
543 partnerships with the private sector.

544 (c) Lake Okeechobee Watershed Phosphorus Control
545 Program.--The Lake Okeechobee Watershed Phosphorus Control
546 Program is designed to be a multifaceted approach to reducing
547 phosphorus loads by improving the management of phosphorus
548 sources within the Lake Okeechobee watershed through continued
549 implementation of existing regulations and best management
550 practices, development and implementation of improved best
551 management practices, improvement and restoration of the
552 hydrologic function of natural and managed systems, and
553 utilization of alternative technologies for nutrient reduction.
554 The coordinating agencies shall facilitate the application of
555 federal programs that offer opportunities for water quality
556 treatment, including preservation, restoration, or creation of
557 wetlands on agricultural lands.

558 1. Agricultural nonpoint source best management practices,
559 developed in accordance with s. 403.067 and designed to achieve
560 the objectives of the Lake Okeechobee Protection Program, shall
561 be implemented on an expedited basis. By March 1, 2001, the
562 coordinating agencies shall develop an interagency agreement
563 pursuant to ss. 373.046 and 373.406(5) that assures the
564 development of best management practices that complement
565 existing regulatory programs and specifies how those best
566 management practices are implemented and verified. The
567 interagency agreement shall address measures to be taken by the
568 coordinating agencies during any best management practice
569 reevaluation performed pursuant to sub-subparagraph d. The
570 department shall use best professional judgment in making the
571 initial determination of best management practice effectiveness.

572 a. As provided in s. 403.067(7)(c)~~(d)~~, by October 1, 2000,
573 the Department of Agriculture and Consumer Services, in
574 consultation with the department, the district, and affected
575 parties, shall initiate rule development for interim measures,
576 best management practices, conservation plans, nutrient
577 management plans, or other measures necessary for Lake
578 Okeechobee phosphorus load reduction. The rule shall include
579 thresholds for requiring conservation and nutrient management
580 plans and criteria for the contents of such plans. Development
581 of agricultural nonpoint source best management practices shall
582 initially focus on those priority basins listed in subparagraph
583 (b)1. The Department of Agriculture and Consumer Services, in
584 consultation with the department, the district, and affected
585 parties, shall conduct an ongoing program for improvement of

586 existing and development of new interim measures or best
587 management practices for the purpose of adoption of such
588 practices by rule.

589 b. Where agricultural nonpoint source best management
590 practices or interim measures have been adopted by rule of the
591 Department of Agriculture and Consumer Services, the owner or
592 operator of an agricultural nonpoint source addressed by such
593 rule shall either implement interim measures or best management
594 practices or demonstrate compliance with the district's WOD
595 program by conducting monitoring prescribed by the department or
596 the district. Owners or operators of agricultural nonpoint
597 sources who implement interim measures or best management
598 practices adopted by rule of the Department of Agriculture and
599 Consumer Services shall be subject to the provisions of s.
600 403.067(7). The Department of Agriculture and Consumer Services,
601 in cooperation with the department and the district, shall
602 provide technical and financial assistance for implementation of
603 agricultural best management practices, subject to the
604 availability of funds.

605 c. The district or department shall conduct monitoring at
606 representative sites to verify the effectiveness of agricultural
607 nonpoint source best management practices.

608 d. Where water quality problems are detected for
609 agricultural nonpoint sources despite the appropriate
610 implementation of adopted best management practices, the
611 Department of Agriculture and Consumer Services, in consultation
612 with the other coordinating agencies and affected parties, shall
613 institute a reevaluation of the best management practices and

614 make appropriate changes to the rule adopting best management
615 practices.

616 2. Nonagricultural nonpoint source best management
617 practices, developed in accordance with s. 403.067 and designed
618 to achieve the objectives of the Lake Okeechobee Protection
619 Program, shall be implemented on an expedited basis. By March 1,
620 2001, the department and the district shall develop an
621 interagency agreement pursuant to ss. 373.046 and 373.406(5)
622 that assures the development of best management practices that
623 complement existing regulatory programs and specifies how those
624 best management practices are implemented and verified. The
625 interagency agreement shall address measures to be taken by the
626 department and the district during any best management practice
627 reevaluation performed pursuant to sub-subparagraph d.

628 a. The department and the district are directed to work
629 with the University of Florida's Institute of Food and
630 Agricultural Sciences to develop appropriate nutrient
631 application rates for all nonagricultural soil amendments in the
632 watershed. As provided in s. 403.067(7)(c), by January 1, 2001,
633 the department, in consultation with the district and affected
634 parties, shall develop interim measures, best management
635 practices, or other measures necessary for Lake Okeechobee
636 phosphorus load reduction. Development of nonagricultural
637 nonpoint source best management practices shall initially focus
638 on those priority basins listed in subparagraph (b)1. The
639 department, the district, and affected parties shall conduct an
640 ongoing program for improvement of existing and development of
641 new interim measures or best management practices. The district

642 shall adopt technology-based standards under the district's WOD
643 program for nonagricultural nonpoint sources of phosphorus.

644 b. Where nonagricultural nonpoint source best management
645 practices or interim measures have been developed by the
646 department and adopted by the district, the owner or operator of
647 a nonagricultural nonpoint source shall implement interim
648 measures or best management practices and be subject to the
649 provisions of s. 403.067(7). The department and district shall
650 provide technical and financial assistance for implementation of
651 nonagricultural nonpoint source best management practices,
652 subject to the availability of funds.

653 c. The district or the department shall conduct monitoring
654 at representative sites to verify the effectiveness of
655 nonagricultural nonpoint source best management practices.

656 d. Where water quality problems are detected for
657 nonagricultural nonpoint sources despite the appropriate
658 implementation of adopted best management practices, the
659 department and the district shall institute a reevaluation of
660 the best management practices.

661 3. The provisions of subparagraphs 1. and 2. shall not
662 preclude the department or the district from requiring
663 compliance with water quality standards or with current best
664 management practices requirements set forth in any applicable
665 regulatory program authorized by law for the purpose of
666 protecting water quality. Additionally, subparagraphs 1. and 2.
667 are applicable only to the extent that they do not conflict with
668 any rules promulgated by the department that are necessary to
669 maintain a federally delegated or approved program.

670 4. Projects which reduce the phosphorus load originating
671 from domestic wastewater systems within the Lake Okeechobee
672 watershed shall be given funding priority in the department's
673 revolving loan program under s. 403.1835. The department shall
674 coordinate and provide assistance to those local governments
675 seeking financial assistance for such priority projects.

676 5. Projects that make use of private lands, or lands held
677 in trust for Indian tribes, to reduce nutrient loadings or
678 concentrations within a basin by one or more of the following
679 methods: restoring the natural hydrology of the basin, restoring
680 wildlife habitat or impacted wetlands, reducing peak flows after
681 storm events, increasing aquifer recharge, or protecting range
682 and timberland from conversion to development, are eligible for
683 grants available under this section from the coordinating
684 agencies. For projects of otherwise equal priority, special
685 funding priority will be given to those projects that make best
686 use of the methods outlined above that involve public-private
687 partnerships or that obtain federal match money. Preference
688 ranking above the special funding priority will be given to
689 projects located in a rural area of critical economic concern
690 designated by the Governor. Grant applications may be submitted
691 by any person or tribal entity, and eligible projects may
692 include, but are not limited to, the purchase of conservation
693 and flowage easements, hydrologic restoration of wetlands,
694 creating treatment wetlands, development of a management plan
695 for natural resources, and financial support to implement a
696 management plan.

697 6.a. The department shall require all entities disposing
 698 of domestic wastewater residuals within the Lake Okeechobee
 699 watershed and the remaining areas of Okeechobee, Glades, and
 700 Hendry Counties to develop and submit to the department an
 701 agricultural use plan that limits applications based upon
 702 phosphorus loading. By July 1, 2005, phosphorus concentrations
 703 originating from these application sites shall not exceed the
 704 limits established in the district's WOD program.

705 b. Private and government-owned utilities within Monroe,
 706 Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River,
 707 Okeechobee, Highlands, Hendry, and Glades Counties that dispose
 708 of wastewater residual sludge from utility operations and septic
 709 removal by land spreading in the Lake Okeechobee watershed may
 710 use a line item on local sewer rates to cover wastewater
 711 residual treatment and disposal if such disposal and treatment
 712 is done by approved alternative treatment methodology at a
 713 facility located within the areas designated by the Governor as
 714 rural areas of critical economic concern pursuant to s.
 715 288.0656. This additional line item is an environmental
 716 protection disposal fee above the present sewer rate and shall
 717 not be considered a part of the present sewer rate to customers,
 718 notwithstanding provisions to the contrary in chapter 367. The
 719 fee shall be established by the county commission or its
 720 designated assignee in the county in which the alternative
 721 method treatment facility is located. The fee shall be
 722 calculated to be no higher than that necessary to recover the
 723 facility's prudent cost of providing the service. Upon request
 724 by an affected county commission, the Florida Public Service

725 Commission will provide assistance in establishing the fee.
726 Further, for utilities and utility authorities that use the
727 additional line item environmental protection disposal fee, such
728 fee shall not be considered a rate increase under the rules of
729 the Public Service Commission and shall be exempt from such
730 rules. Utilities using the provisions of this section may
731 immediately include in their sewer invoicing the new
732 environmental protection disposal fee. Proceeds from this
733 environmental protection disposal fee shall be used for
734 treatment and disposal of wastewater residuals, including any
735 treatment technology that helps reduce the volume of residuals
736 that require final disposal, but such proceeds shall not be used
737 for transportation or shipment costs for disposal or any costs
738 relating to the land application of residuals in the Lake
739 Okeechobee watershed.

740 c. No less frequently than once every 3 years, the Florida
741 Public Service Commission or the county commission through the
742 services of an independent auditor shall perform a financial
743 audit of all facilities receiving compensation from an
744 environmental protection disposal fee. The Florida Public
745 Service Commission or the county commission through the services
746 of an independent auditor shall also perform an audit of the
747 methodology used in establishing the environmental protection
748 disposal fee. The Florida Public Service Commission or the
749 county commission shall, within 120 days after completion of an
750 audit, file the audit report with the President of the Senate
751 and the Speaker of the House of Representatives and shall
752 provide copies to the county commissions of the counties set

753 | forth in sub-subparagraph b. The books and records of any
754 | facilities receiving compensation from an environmental
755 | protection disposal fee shall be open to the Florida Public
756 | Service Commission and the Auditor General for review upon
757 | request.

758 | 7. The Department of Health shall require all entities
759 | disposing of septage within the Lake Okeechobee watershed and
760 | the remaining areas of Okeechobee, Glades, and Hendry Counties
761 | to develop and submit to that agency, by July 1, 2003, an
762 | agricultural use plan that limits applications based upon
763 | phosphorus loading. By July 1, 2005, phosphorus concentrations
764 | originating from these application sites shall not exceed the
765 | limits established in the district's WOD program.

766 | 8. The Department of Agriculture and Consumer Services
767 | shall initiate rulemaking requiring entities within the Lake
768 | Okeechobee watershed and the remaining areas of Okeechobee,
769 | Glades, and Hendry Counties which land-apply animal manure to
770 | develop conservation or nutrient management plans that limit
771 | application, based upon phosphorus loading. Such rules may
772 | include criteria and thresholds for the requirement to develop a
773 | conservation or nutrient management plan, requirements for plan
774 | approval, and recordkeeping requirements.

775 | 9. Prior to authorizing a discharge into works of the
776 | district, the district shall require responsible parties to
777 | demonstrate that proposed changes in land use will not result in
778 | increased phosphorus loading over that of existing land uses.

779 | 10. The district, the department, or the Department of
780 | Agriculture and Consumer Services, as appropriate, shall

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781 implement those alternative nutrient reduction technologies
782 determined to be feasible pursuant to subparagraph (d)6.

783 Section 3. Subsection (1) of section 570.085, Florida
784 Statutes, is amended to read:

785 570.085 Department of Agriculture and Consumer Services;
786 agricultural water conservation.--The department shall establish
787 an agricultural water conservation program that includes the
788 following:

789 (1) A cost-share program, coordinated where appropriate
790 with the United States Department of Agriculture and other
791 federal, state, regional, and local agencies, for irrigation
792 system retrofit and application of mobile irrigation laboratory
793 evaluations for water conservation as provided in this section
794 and, where applicable, for water quality improvement pursuant to
795 s. 403.067(7)(c)~~(d)~~.

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