

By Senator Alexander

17-1441-05

1 A bill to be entitled
2 An act relating to restoration of water
3 quality; amending s. 403.067, F.S.; authorizing
4 the Department of Environmental Protection to
5 allocate the total maximum daily pollutant load
6 between as well as among pollutant sources;
7 providing for the allocation to attain
8 pollutant reductions rather than water quality
9 standards; authorizing a preliminary allocation
10 of pollutant loads; revising factors the
11 department must consider when allocating
12 pollutant loads; eliminating a requirement that
13 the department submit a report regarding the
14 allocation of total maximum daily load;
15 authorizing a phased calculation or allocation
16 of pollutant loads pending availability of
17 data; deleting provisions regarding watershed
18 or basin management planning; providing for
19 development of a basin management action plan
20 by the department or the department and a water
21 management district; providing for the contents
22 of the basin plan; requiring the basin plan to
23 allocate pollutant reduction requirements to
24 various basins or sources; authorizing the plan
25 to provide credits for prior pollutant
26 reductions; requiring the basin plan to
27 identify mechanisms to address future pollutant
28 sources; retaining provisions regarding
29 participation by stakeholders in the plan
30 development process and a required public
31 meeting; authorizing a basin plan that is

1 adopted by rule to alter a prior calculation or
2 allocation of total maximum daily pollutant
3 load by the department; requiring the
4 department to adopt a basin plan that does not
5 alter such a prior calculation or allocation by
6 order; requiring periodic evaluation of an
7 adopted basin plan and providing for adoption
8 of plan revisions; requiring the department to
9 revise basin plans in cooperation with
10 stakeholders; providing for basin plan
11 revisions regarding nonpoint pollutant sources;
12 authorizing the department's use of additional
13 strategies, including an adopted basin plan, to
14 implement pollutant load reductions; providing
15 definitions; requiring incorporation of
16 provisions of an adopted basin plan in certain
17 NPDES permits issued by the department;
18 prohibiting the department from requiring a
19 pollution reduction in the NPDES permits in
20 addition to the incorporated plan provisions;
21 providing that the basin management plan does
22 not relieve a pollutant discharger of certain
23 NPDES permitting requirements; requiring a
24 discharger that is subject to NPDES permitting
25 to complete strategies in the basin plan
26 pursuant to the schedule in the plan; providing
27 for the term of the schedule; exempting certain
28 requirements from the basin plan which are
29 included in a NPDES permit from challenge under
30 ch. 120, F.S.; requiring various regulatory
31 programs to implement actions in an adopted

1 basin plan to reduce pollution from
2 nonagricultural sources that are subject to
3 NPDES permitting; requiring implementation of
4 best-management practices to reduce certain
5 pollution by a discharger of nonpoint pollution
6 that is not subject to NPDES permitting when
7 the basin plan was adopted; exempting such a
8 discharger from the requirement to implement
9 best-management practices upon a certain
10 showing; denying such a discharger who fails to
11 make such a showing eligibility for a
12 presumption of compliance with water quality
13 standards and release of liability to pay the
14 Water Quality Assurance Trust Fund regarding
15 remediation of pollution which bars certain
16 proceedings by the department to recover costs
17 and damages for pollution; limiting the
18 authority of the department and the water
19 management districts to pursue remedies or
20 penalties when such eligibility is denied;
21 prohibiting a permit or other enforcement
22 action that would require a person who is
23 implementing pollutant reduction strategies in
24 an adopted basin plan to implement additional
25 pollutant reduction strategies; creating a
26 presumption that such person is in compliance
27 with provisions regarding development of total
28 maximum daily load calculations; authorizing
29 the department and the water management
30 districts to develop, or to adopt rules
31 specifying, interim measures, best-management

1 practices, or other measures to achieve the
2 reductions of nonagricultural, nonpoint
3 pollution established by various additional
4 management strategies, including a basin plan
5 or the department's calculation of total
6 maximum daily load; requiring a nonagricultural
7 discharger of nonpoint pollution to implement
8 the best-management practices or other measures
9 that are adopted by rule; removing a
10 requirement that the department and the
11 districts assist with implementation; requiring
12 the department to verify the effectiveness of
13 the best-management practices or other measures
14 adopted by rule; deleting a provision that
15 implementation of a measure or practice that
16 the department has verified as effective
17 creates a presumption of compliance with water
18 quality standards and a release of liability to
19 pay the Water Quality Assurance Trust Fund
20 regarding remediation of pollution which bars
21 certain proceedings by the department to
22 recover costs and damages for pollution;
23 deleting a provision requiring a department or
24 district rule adopting best-management
25 practices or other measures to include
26 requirements to assure implementation; deleting
27 a requirement that the department or districts
28 institute a reevaluation if water quality
29 problems are detected despite implementation of
30 a practice or measure adopted by a rule;
31 authorizing the Department of Agriculture and

1 Consumer Services to adopt rules specifying
2 interim measures, best-management practices, or
3 other measures to achieve the reductions of
4 agricultural pollutant sources established by
5 various additional management strategies,
6 including a basin plan or the department's
7 calculation of total maximum daily load;
8 applying provisions relating to development and
9 implementation of the additional measures or
10 practices; deleting a provision requiring
11 verification of effectiveness of the practices
12 or measures adopted by rule; deleting a
13 provision that implementation of a measure or
14 practice that the department has verified as
15 effective creates a presumption of compliance
16 with water quality standards and a release of
17 liability to pay the Water Quality Assurance
18 Trust Fund regarding remediation of pollution
19 which bars certain proceedings by the
20 department to recover costs and damages for
21 pollution; deleting a provision requiring
22 reevaluation by the Department of Agriculture
23 and Consumer Services when water quality
24 problems are detected despite implementation of
25 a practice or measure adopted by a rule;
26 requiring the Department of Environmental
27 Protection to verify the effectiveness of an
28 interim measure, best-management practice, or
29 other measure that is adopted by rule by the
30 department, the water management districts, or
31 the Department of Agriculture and Consumer

1 Services; providing for verification of
2 effectiveness through an initial assessment and
3 an assessment by monitoring at representative
4 sites; requiring the department to, where
5 applicable, notify the Department of
6 Agriculture and Consumer Services or a water
7 management district prior to adoption of a rule
8 proposal that includes a best-management
9 practice or other measure, if the department's
10 initial assessment cannot verify the
11 effectiveness of the practice or measure;
12 providing that implementation of a measure or
13 practice that the department has verified as
14 effective creates a presumption of compliance
15 with water quality standards and a release from
16 liability to pay the Water Quality Assurance
17 Trust Fund regarding remediation of pollution
18 which bars certain proceedings by the
19 department to recover costs and damages for
20 pollution; requiring the department, or, in
21 consultation with the department, a water
22 management district, or the Department of
23 Agriculture and Consumer Services to institute
24 a reevaluation of a best-management practice or
25 other measure that is adopted by rule if water
26 quality problems are detected or predicted;
27 requiring revisions to rules of the department,
28 the water management districts, or the
29 Department of Agriculture and Consumer
30 Services, as appropriate, when a practice or
31 measure requires modification; providing for

1 implementation of the modified practice;
2 conforming a reference to retain the authority
3 of the department and the water management
4 districts to require compliance with water
5 quality standards or best-management practice
6 requirements; conforming references that
7 foreclose application of provisions that
8 conflict with department rules that maintain a
9 federally delegated or approved program;
10 authorizing rulemaking by the department to
11 implement the basin management action plan
12 program, to implement basin plans through
13 permitting programs of the department or the
14 districts, and to implement various other
15 specific provisions; deleting a requirement for
16 legislative ratification of a water pollutant
17 trading rule of the department; conforming
18 provisions relating to the voluntary
19 implementation of interim measures,
20 best-management practices, and other measures
21 to reduce pollutants in waters where a total
22 maximum daily load has not been calculated or
23 allocated; requiring the department to submit a
24 report to the Governor and the Legislature
25 before adopting rules regarding pollutant
26 trading among water pollution sources; amending
27 ss. 373.4595 and 570.085, F.S.; conforming
28 cross-references; providing an effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Paragraphs (b), (c), and (d) of subsection
2 (6), subsections (7), (8), (9), and (10), paragraph (b) of
3 subsection (11), and subsection (12) of section 403.067,
4 Florida Statutes, are amended to read:

5 403.067 Establishment and implementation of total
6 maximum daily loads.--

7 (6) CALCULATION AND ALLOCATION.--

8 (b) Allocation of total maximum daily loads. The total
9 maximum daily loads shall include establishment of reasonable
10 and equitable allocations of the total maximum daily load
11 between or among point and nonpoint sources that will alone,
12 or in conjunction with other management and restoration
13 activities, provide for the attainment of the pollutant
14 reductions established pursuant to paragraph (a) to restore
15 the designated uses ~~water quality standards and the~~
16 ~~restoration~~ of impaired waters. The allocations may establish
17 the maximum amount of the water pollutant from a given source
18 or category of sources that may be discharged or released into
19 the water body or water body segment in combination with other
20 discharges or releases. Allocations may also be made to
21 individual basins and sources or as a whole to all basins and
22 sources or categories of sources of inflow to the water body
23 or water body segments. A preliminary allocation of allowable
24 pollutant loads between point and nonpoint sources may be
25 developed as part of the allocation of the total maximum daily
26 load. However, in such case, the final allocation to specific
27 point sources and specific categories of nonpoint sources
28 shall be established in the basin management action plan
29 pursuant to subsection (7). Each allocation, including any
30 such preliminary allocation, ~~Allocations~~ shall be designed to
31 attain the pollutant load reductions established pursuant to

1 ~~paragraph (a) water quality standards~~ and shall be based on
2 consideration of ~~the following~~:

3 1. Existing treatment levels and management practices;
4 2. Best-management practices established and
5 implemented pursuant to subsection (7)(c);
6 3. Enforceable treatment levels established pursuant
7 to state or local law or permit;
8 ~~4.2.~~ Differing impacts pollutant sources may have on
9 water quality;
10 ~~5.3.~~ The availability of treatment technologies,
11 management practices, or other pollutant reduction measures;
12 ~~6.4.~~ Environmental, economic, and technological
13 feasibility of achieving the allocation;
14 ~~7.5.~~ The cost benefit associated with achieving the
15 allocation;
16 ~~8.6.~~ Reasonable timeframes for implementation;
17 ~~9.7.~~ Potential applicability of any moderating
18 provisions such as variances, exemptions, and mixing zones;
19 and
20 ~~10.8.~~ The extent to which nonattainment of water
21 quality standards is caused by pollution sources outside of
22 Florida, discharges that have ceased, or alterations to water
23 bodies prior to the date of this act.

24 (c) ~~Not later than February 1, 2001, the department~~
25 ~~shall submit a report to the Governor, the President of the~~
26 ~~Senate, and the Speaker of the House of Representatives~~
27 ~~containing recommendations, including draft legislation, for~~
28 ~~any modifications to the process for allocating total maximum~~
29 ~~daily loads, including the relationship between allocations~~
30 ~~and the watershed or basin management planning process. Such~~
31 ~~recommendations shall be developed by the department in~~

1 ~~cooperation with a technical advisory committee which includes~~
2 ~~representatives of affected parties, environmental~~
3 ~~organizations, water management districts, and other~~
4 ~~appropriate local, state, and federal government agencies. The~~
5 ~~technical advisory committee shall also include such members~~
6 ~~as may be designated by the President of the Senate and the~~
7 ~~Speaker of the House of Representatives.~~

8 ~~(d)~~ The total maximum daily load calculations and
9 allocations established under this subsection for each water
10 body or water body segment shall be adopted by rule by the
11 secretary pursuant to ss. 120.536(1), 120.54, and 403.805.
12 When additional data collection and analysis is needed to
13 increase the scientific precision and accuracy of a
14 calculation or an allocation of the total maximum daily load,
15 the department may adopt a phased calculation or allocation of
16 total maximum daily load which establishes an incremental
17 total maximum daily load calculation or allocation until the
18 additional data is available. The rules adopted pursuant to
19 this paragraph are ~~shall~~ not be subject to approval by the
20 Environmental Regulation Commission. As part of the rule
21 development process, the department shall hold at least one
22 public workshop in the vicinity of the water body or water
23 body segment for which the total maximum daily load is being
24 developed. Notice of the public workshop shall be published
25 not less than 5 days nor more than 15 days before the public
26 workshop in a newspaper of general circulation in the county
27 or counties containing the water bodies or water body segments
28 for which the total maximum daily load calculation and
29 allocation are being developed.

30 (7) DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS AND
31 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

1 (a) Basin management action plans.--
2 1. In developing and implementing the total maximum
3 daily load for a water body, the department, or the department
4 in conjunction with a water management district, may develop a
5 basin management action plan that addresses some or all of the
6 watersheds and basins tributary to the water body. The plan
7 shall integrate the appropriate management strategies to
8 achieve pollutant discharges of no more than the total maximum
9 daily load set for the water body and restoration of the
10 designated use of the water body and shall provide for phased
11 implementation of the management strategies to promote such
12 timely, cost-effective, compliance actions as are provided in
13 s. 403.151. The plan shall establish a schedule for
14 implementing the management strategies, identify feasible
15 funding strategies to implement the management strategies, and
16 establish a basis for evaluating the effectiveness of the
17 plan. The management strategies may include regional
18 treatment systems or other public works, where appropriate, to
19 achieve the needed pollutant load reductions.
20 2. A basin management action plan shall equitably
21 allocate, pursuant to paragraph (6)(b), pollutant reductions
22 to individual basins, as a whole to all basins, or to each
23 identified point source or category of nonpoint sources, as
24 appropriate. For nonpoint sources for which best-management
25 practices have been adopted, the initial requirement specified
26 by the plan shall be those practices developed pursuant to
27 paragraph (c). Where appropriate, the plan may provide
28 pollutant-load-reduction credit to dischargers that
29 implemented management strategies to reduce pollutant loads,
30 including best-management practices, prior to the development
31 of the basin management plan. The plan shall also identify

1 the mechanisms by which potential future sources of pollution
2 will be addressed, whether the future source is a result of
3 the expansion of or increased loading from an existing source,
4 a land use change, a new discharge, or similar circumstances.

5 3. The planning process for the basin management
6 action plan is intended to involve the broadest possible range
7 of interested parties, with the objective of encouraging the
8 greatest amount of cooperation and concensus possible. In
9 developing a basin management action plan, the department
10 shall ensure that key stakeholders, including, but not limited
11 to, applicable local governments, water management districts,
12 the Department of Agriculture and Consumer Services, other
13 appropriate state agencies, local soil and water conservation
14 districts, environmental groups, regulated interests, and
15 affected pollution sources are invited to participate in the
16 process. The department shall hold at least one public meeting
17 in the vicinity of the watershed or basin to discuss and
18 receive comments during the planning process and shall
19 otherwise encourage public participation to the greatest
20 practical extent. Notice of the public meeting shall be
21 published in a newspaper of general circulation in each county
22 in which the watershed or basin lies not less than 5 days or
23 more than 15 days before the public meeting. A basin
24 management action plan may not supplant or otherwise alter an
25 assessment made under subsections (3) and (4) or a calculation
26 or preliminary allocation made under subsection (6), except
27 through rulemaking that supplants or alters the assessment,
28 calculation, or allocation.

29 4. The department shall adopt all or any part of a
30 basin management action plan by department order pursuant to
31 chapter 120 to administer this section. If a basin management

1 action plan alters a calculation or preliminary allocation
2 made under subsection (6), the revised calculation or final
3 allocation shall be adopted by rule.

4 5. The basin management action plan shall be evaluated
5 on a periodic basis to determine whether its management
6 strategies are leading to pollutant load reductions in a
7 timely manner and whether revisions are needed to achieve the
8 pollutant load reductions specified in the adopted total
9 maximum daily load. Revisions to the basin management action
10 plan shall be made by the department in cooperation with basin
11 stakeholders. Revisions to the management strategies required
12 for nonpoint sources shall follow the procedures in
13 subparagraph (c)4. Revised basin management action plans
14 shall be adopted pursuant to subparagraph 4.

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

16 1. The department shall be the lead agency in
17 coordinating the implementation of the total maximum daily
18 pollutant load reductions ~~loads~~ through basin management
19 action plans, water quality protection programs, agreements
20 established pursuant to s. 403.061(21), and other management
21 strategies. Application of a total maximum daily load by a
22 water management district shall be consistent with this
23 section and shall not require the issuance of an order or a
24 separate action pursuant to s. 120.536(1) or s. 120.54 for
25 adoption of the calculation and allocation previously
26 established by the department. Management strategies to reduce
27 pollutant discharges to the total maximum daily load ~~Such~~
28 programs may include, but are not limited to:

29 a.1. ~~Permitting and other existing regulatory~~
30 programs;
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1 ~~b.2.~~ Nonregulatory and incentive-based programs,
2 including best management practices, cost sharing, waste
3 minimization, pollution prevention, and public education;

4 ~~c.3.~~ Other water quality management and restoration
5 activities, for example surface water improvement and
6 management plans approved by water management districts or
7 ~~watershed or~~ basin management action plans developed pursuant
8 to this subsection;

9 ~~d.4.~~ Pollutant trading or other equitable economically
10 based agreements;

11 ~~e.5.~~ Public works including capital facilities; or

12 ~~f.6.~~ Land acquisition.

13 2. As used in this subparagraph, the term "pollutant
14 of concern" means pollutant for which a total maximum daily
15 load was developed and the term "NPDES permit" means a permit
16 authorized under s. 403.0885 and the national pollutant
17 discharge elimination system permitting program. For a basin
18 management action plan adopted pursuant to subparagraph (a)4.,
19 the specific management strategies and pollutant-reduction
20 requirements associated with a pollutant of concern, including
21 effluent limits set for a discharger subject to NPDES
22 permitting, shall be included, in a timely manner, in
23 subsequent NPDES permits or permit modifications for that
24 discharger. For a holder of a NPDES municipal separate storm
25 sewer system permit, implementation of a total maximum daily
26 load or basin management action plan may be achieved through
27 the use of best-management practices.

28 a. The department may not impose in a NPDES permit
29 additional pollution-reduction requirements for a pollutant of
30 concern until such time as the total maximum daily load or the
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1 basin management action plan is revised, the NPDES permit
2 expires, or the NPDES permit holder modifies its discharge.

3 b. The basin management action plan does not relieve
4 the discharger from the requirement to obtain, renew, or
5 modify a NPDES permit or to abide by other requirements of the
6 permit, including effluent limits and other requirements
7 associated with other pollutants.

8 c. Management strategies in a basin management action
9 plan to be implemented by a discharger subject to NPDES
10 permitting by the department shall be completed pursuant to
11 the schedule set forth in the basin management action plan.
12 This implementation schedule may extend beyond the 5-year term
13 of a NPDES permit.

14 d. A management strategy or pollution reduction
15 requirement in a basin management action plan for a specific
16 pollutant of concern is not subject to challenge under chapter
17 120 at the time it is incorporated, in an identical form, into
18 a subsequent NPDES permit or permit modification.

19 e. For pollutant sources that are not agricultural and
20 not subject to NPDES permitting but regulated pursuant to
21 other state, regional, or local regulatory programs, the
22 pollutant reduction actions adopted pursuant to paragraph (a)
23 shall be adopted and implemented in a timely manner as part of
24 those regulatory programs.

25 f. Except as provided in sub-subparagraph g., a
26 discharger of agricultural or nonagricultural nonpoint
27 pollution that is not subject to NPDES permitting at the time
28 the basin management action plan is adopted shall timely
29 implement the appropriate best-management practices
30 established pursuant to paragraph (c) as set forth in the
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1 basin management action plan to attain the pollutant
2 reductions established pursuant to paragraph (6)(a).

3 g. A discharger may be exempted from sub-subparagraph
4 f. if it submits information to the department, including
5 water quality data, in the manner and timeframe prescribed by
6 the department, which provides reasonable assurance that its
7 activities do not and will not cause or contribute to a
8 violation of state water quality standards. If the discharger
9 cannot make the required demonstration, it shall comply with
10 the requirements specified in sub-subparagraph f.

11 h. A discharger that does not comply with
12 sub-subparagraph f. or sub-subparagraph g. is not eligible for
13 the presumption of compliance with state water quality
14 standards and release from the provisions of s. 376.307(5)
15 granted in subparagraph (c)3. and may be subject to
16 enforcement action by the department or a water management
17 district pursuant to s. 403.121. Such enforcement shall be
18 based solely on the failure of the entity to timely implement
19 its responsibilities set forth in the basin management action
20 plan.

21 i. A landowner, discharger, or other responsible
22 person that is implementing the management strategies
23 specified in an adopted basin management action plan may not
24 be required by permit, enforcement action, or other action of
25 the state to implement additional management strategies to
26 reduce pollutant loads to attain the pollution reductions
27 established pursuant to paragraph (6)(a) and shall be deemed
28 to be in compliance with such paragraph. This does not limit
29 the authority of the department to amend a basin management
30 action plan as specified in subparagraph (a)5.

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1 ~~(b) In developing and implementing the total maximum~~
2 ~~daily load for a water body, the department, or the department~~
3 ~~in conjunction with a water management district, may develop a~~
4 ~~watershed or basin management plan that addresses some or all~~
5 ~~of the watersheds and basins tributary to the water body.~~
6 ~~These plans will serve to fully integrate the management~~
7 ~~strategies available to the state for the purpose of~~
8 ~~implementing the total maximum daily loads and achieving water~~
9 ~~quality restoration. The watershed or basin management~~
10 ~~planning process is intended to involve the broadest possible~~
11 ~~range of interested parties, with the objective of encouraging~~
12 ~~the greatest amount of cooperation and consensus possible. The~~
13 ~~department or water management district shall hold at least~~
14 ~~one public meeting in the vicinity of the watershed or basin~~
15 ~~to discuss and receive comments during the planning process~~
16 ~~and shall otherwise encourage public participation to the~~
17 ~~greatest practical extent. Notice of the public meeting shall~~
18 ~~be published in a newspaper of general circulation in each~~
19 ~~county in which the watershed or basin lies not less than 5~~
20 ~~days nor more than 15 days before the public meeting. A~~
21 ~~watershed or basin management plan shall not supplant or~~
22 ~~otherwise alter any assessment made under s. 403.086(3) and~~
23 ~~(4), or any calculation or allocation made under s.~~
24 ~~403.086(6).~~

25 (c) Best-management practices.--
26 1. The department, in cooperation with the water
27 management districts and other interested parties, as
28 appropriate, may develop suitable interim measures,
29 best-management ~~best management~~ practices, or other measures
30 necessary to achieve the level of pollution reduction
31 established by the department for nonagricultural nonpoint

1 pollutant sources in allocations developed pursuant to
2 subsection (6) and this subsection ~~paragraph (6)(b)~~. These
3 practices and measures may be adopted by rule by the
4 department and the water management districts pursuant to ss.
5 120.536(1) and 120.54, and, where adopted by rule, shall ~~may~~
6 be implemented by those persons ~~parties~~ responsible for the
7 discharge of nonagricultural nonpoint pollution ~~pollutant~~
8 ~~sources and the department and the water management districts~~
9 ~~shall assist with implementation~~. Where interim measures,
10 best-management ~~best management~~ practices, or other measures
11 are adopted by rule, the effectiveness of such practices in
12 achieving the levels of pollution reduction established in
13 allocations developed by the department pursuant to subsection
14 (6) and this subsection ~~paragraph (6)(b)~~ shall be verified by
15 the department. ~~Implementation, in accordance with applicable~~
16 ~~rules, of practices that have been verified by the department~~
17 ~~to be effective at representative sites shall provide a~~
18 ~~presumption of compliance with state water quality standards~~
19 ~~and release from the provisions of s. 376.307(5) for those~~
20 ~~pollutants addressed by the practices, and the department is~~
21 ~~not authorized to institute proceedings against the owner of~~
22 ~~the source of pollution to recover costs or damages associated~~
23 ~~with the contamination of surface or ground water caused by~~
24 ~~those pollutants. Such rules shall also incorporate provisions~~
25 ~~for a notice of intent to implement the practices and a system~~
26 ~~to assure the implementation of the practices, including~~
27 ~~recordkeeping requirements. Where water quality problems are~~
28 ~~detected despite the appropriate implementation, operation,~~
29 ~~and maintenance of best management practices and other~~
30 ~~measures according to rules adopted under this paragraph, the~~
31 ~~department or the water management districts shall institute a~~

1 ~~reevaluation of the best management practice or other~~
2 ~~measures.~~

3 2.(d)1. The Department of Agriculture and Consumer
4 Services may develop and adopt by rule pursuant to ss.
5 120.536(1) and 120.54 suitable interim measures, best
6 management practices, or other measures necessary to achieve
7 the level of pollution reduction established by the department
8 for agricultural pollutant sources in allocations developed
9 pursuant to subsection (6) and this subsection ~~paragraph~~
10 ~~(6)(b)~~. These practices and measures may be implemented by
11 those parties responsible for agricultural pollutant sources
12 and the department, the water management districts, and the
13 Department of Agriculture and Consumer Services shall assist
14 with implementation. ~~Where interim measures, best management~~
15 ~~practices, or other measures are adopted by rule, the~~
16 ~~effectiveness of such practices in achieving the levels of~~
17 ~~pollution reduction established in allocations developed by~~
18 ~~the department pursuant to paragraph (6)(b) shall be verified~~
19 ~~by the department. Implementation, in accordance with~~
20 ~~applicable rules, of practices that have been verified by the~~
21 ~~department to be effective at representative sites shall~~
22 ~~provide a presumption of compliance with state water quality~~
23 ~~standards and release from the provisions of s. 376.307(5) for~~
24 ~~those pollutants addressed by the practices, and the~~
25 ~~department is not authorized to institute proceedings against~~
26 ~~the owner of the source of pollution to recover costs or~~
27 ~~damages associated with the contamination of surface or ground~~
28 ~~water caused by those pollutants.~~ In the process of developing
29 and adopting rules for interim measures, best management
30 practices, or other measures, the Department of Agriculture
31 and Consumer Services shall consult with the department, the

1 Department of Health, the water management districts,
2 representatives from affected farming groups, and
3 environmental group representatives. Such rules shall also
4 incorporate provisions for a notice of intent to implement the
5 practices and a system to assure the implementation of the
6 practices, including recordkeeping requirements.

7 3. When the department, a water management district,
8 or the Department of Agriculture and Consumer Services adopts
9 an interim measure, best-management practice, or other measure
10 by rule, the effectiveness of such a practice or measure in
11 achieving the levels of pollution reduction which are
12 established in an allocation of total maximum daily load
13 established pursuant to subsection (6) and this subsection
14 must be assessed, at representative sites, by the department.
15 In assessing such effectiveness, the department shall make an
16 initial assessment, using its best professional judgment, and
17 an assessment by monitoring at representative sites. The
18 department shall, where applicable, notify the appropriate
19 water management district or the Department of Agriculture and
20 Consumer Services, prior to the adoption of a rule that is
21 authorized by this paragraph, if the effectiveness of such a
22 practice or measure cannot be verified by an initial
23 assessment. Implementation, in accordance with the rules
24 adopted under this paragraph, of the best-management practices
25 that the department, whether through the initial assessment or
26 the assessment by monitoring, has verified as effective
27 provides a presumption of compliance with state water quality
28 standards and release from the provisions of s. 376.307(5) for
29 a pollutant addressed by the practices, and the department may
30 not institute a proceeding against an owner of the source of
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1 pollution to recover costs or damages associated with the
2 contamination of surface or ground water by such a pollutant.

3 4. If water quality problems are detected or predicted
4 during the development or amendment of a basin management
5 action plan, despite the appropriate implementation,
6 operation, and maintenance of best-management practices and
7 other measures according to rules adopted under this
8 paragraph, the department, or a water management district or
9 the Department of Agriculture and Consumer Services, in
10 consultation with the department, shall institute a
11 reevaluation of the best-management practice or other measure.

12 If the reevaluation determines that the best-management
13 practice or other measure requires modification, the
14 department, the water management district, or the Department
15 of Agriculture and Consumer Services, as appropriate, shall
16 revise the rule to require implementation of the modified
17 practice within a reasonable time, which period must be
18 specified by rule. Where water quality problems are detected
19 despite the appropriate implementation, operation, and
20 maintenance of best management practices and other measures
21 according to rules adopted under this paragraph, the
22 Department of Agriculture and Consumer Services shall
23 institute a reevaluation of the best management practice or
24 other measure.

25 5.2- Individual agricultural records relating to
26 processes or methods of production, or relating to costs of
27 production, profits, or other financial information which are
28 otherwise not public records, which are reported to the
29 Department of Agriculture and Consumer Services pursuant to
30 this paragraph or pursuant to any rule adopted pursuant to
31 this paragraph shall be confidential and exempt from s.

1 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon
2 request of the department or any water management district,
3 the Department of Agriculture and Consumer Services shall make
4 such individual agricultural records available to that agency,
5 provided that the confidentiality specified by this
6 subparagraph for such records is maintained. This subparagraph
7 is subject to the Open Government Sunset Review Act of 1995 in
8 accordance with s. 119.15, and shall stand repealed on October
9 2, 2006, unless reviewed and saved from repeal through
10 reenactment by the Legislature.

11 ~~6.(c) Subparagraphs 1. and 2. do~~ The provisions of
12 ~~paragraphs (c) and (d) shall~~ not preclude the department or
13 water management district from requiring compliance with water
14 quality standards or with current best management practice
15 requirements ~~set forth~~ in an any applicable regulatory program
16 authorized by law for the purpose of protecting water quality.
17 Additionally, subparagraphs 1. and 2. apply ~~paragraphs (c) and~~
18 ~~(d) are applicable~~ only to the extent that they do not
19 conflict with a rule of any rules promulgated by the
20 department that is ~~are~~ necessary to maintain a federally
21 delegated or approved program.

22 (8) RULES.--The department may ~~is authorized to~~ adopt
23 rules pursuant to ss. 120.536(1) and 120.54 for:

24 (a) Delisting water bodies or water body segments from
25 the list developed under subsection (4) pursuant to the
26 guidance under subsection (5);

27 (b) Administration of funds to implement the total
28 maximum daily load and basin management action planning
29 program;

30 (c) Procedures for pollutant trading among the
31 pollutant sources to a water body or water body segment,

1 including a mechanism for the issuance and tracking of
2 pollutant credits. Such procedures may be implemented through
3 permits or other authorizations and must be legally binding.

4 (d) Implementation of basin management action plans
5 through permitting or other programs under this chapter and
6 chapter 373. No rule implementing a pollutant trading program
7 shall become effective prior to review and ratification by the
8 Legislature; and

9 (e)(d) The total maximum daily load calculation in
10 accordance with paragraph (6)(a) immediately upon the
11 effective date of this act, for those eight water segments
12 within Lake Okeechobee proper as submitted to the United
13 States Environmental Protection Agency pursuant to subsection
14 (2); and-

15 (f) Implementation of other specific provisions in
16 this section.

17 (9) APPLICATION.--~~The provisions of~~ This section is
18 ~~are~~ intended to supplement existing law, and nothing in this
19 section shall be construed as altering any applicable state
20 water quality standards or as restricting the authority
21 otherwise granted to the department or a water management
22 district under this chapter or chapter 373. The exclusive
23 means of state implementation of s. 303(d) of the Clean Water
24 Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. shall be
25 in accordance with the identification, assessment, calculation
26 and allocation, and implementation provisions of this section.

27 (10) CONSTRUCTION.--~~Nothing in~~ This section does not
28 limit ~~shall be construed as limiting~~ the applicability or
29 consideration of any mixing zone, variance, exemption, site
30 specific alternative criteria, or other moderating provision.

31 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

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

9 (12) In order to provide adequate due process while
10 ensuring timely development of total maximum daily loads,
11 proposed rules and orders authorized by this act shall be
12 ineffective pending resolution of an administrative proceeding
13 under ~~a~~ s. 120.54(3), s. 120.56, s. 120.569, or s. 120.57
14 ~~administrative proceeding~~. However, the department may go
15 forward prior to resolution of such administrative
16 proceedings, with subsequent agency actions authorized by
17 subsections (2)-(6), if ~~provided that~~ the department can
18 support and substantiate those actions using the underlying
19 bases for the rules or orders without the benefit of any legal
20 presumption favoring, or in deference to, the challenged rules
21 or orders.

22 Section 2. Before adopting a rule for pollutant
23 trading under section 403.068(8)(c), Florida Statutes, and no
24 later than November 30, 2006, the Department of Environmental
25 Protection shall submit a report to the Governor, the
26 President of the Senate, and the Speaker of the House of
27 Representatives which includes the recommendations of the
28 department concerning such rules, including the proposals of
29 the department regarding the basis for equitable economically
30 based agreements and the tracking and accounting of pollution
31 credits or other similar mechanisms. Such recommendations

1 must be developed in cooperation with a technical advisory
2 committee, convened by the department, which includes experts
3 in pollutant trading and representatives of potentially
4 affected persons.

5 Section 3. Paragraph (c) of subsection (3) of section
6 373.4595, Florida Statutes, is amended to read:

7 373.4595 Lake Okeechobee Protection Program.--

8 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
9 program for Lake Okeechobee that achieves phosphorus load
10 reductions for Lake Okeechobee shall be immediately
11 implemented as specified in this subsection. The program shall
12 address the reduction of phosphorus loading to the lake from
13 both internal and external sources. Phosphorus load reductions
14 shall be achieved through a phased program of implementation.
15 Initial implementation actions shall be technology-based,
16 based upon a consideration of both the availability of
17 appropriate technology and the cost of such technology, and
18 shall include phosphorus reduction measures at both the source
19 and the regional level. The initial phase of phosphorus load
20 reductions shall be based upon the district's Technical
21 Publication 81-2 and the district's WOD program, with
22 subsequent phases of phosphorus load reductions based upon the
23 total maximum daily loads established in accordance with s.
24 403.067. In the development and administration of the Lake
25 Okeechobee Protection Program, the coordinating agencies shall
26 maximize opportunities provided by federal cost-sharing
27 programs and opportunities for partnerships with the private
28 sector.

29 (c) Lake Okeechobee Watershed Phosphorus Control
30 Program.--The Lake Okeechobee Watershed Phosphorus Control
31 Program is designed to be a multifaceted approach to reducing

1 | phosphorus loads by improving the management of phosphorus
2 | sources within the Lake Okeechobee watershed through continued
3 | implementation of existing regulations and best management
4 | practices, development and implementation of improved best
5 | management practices, improvement and restoration of the
6 | hydrologic function of natural and managed systems, and
7 | utilization of alternative technologies for nutrient
8 | reduction. The coordinating agencies shall facilitate the
9 | application of federal programs that offer opportunities for
10 | water quality treatment, including preservation, restoration,
11 | or creation of wetlands on agricultural lands.

12 | 1. Agricultural nonpoint source best management
13 | practices, developed in accordance with s. 403.067 and
14 | designed to achieve the objectives of the Lake Okeechobee
15 | Protection Program, shall be implemented on an expedited
16 | basis. By March 1, 2001, the coordinating agencies shall
17 | develop an interagency agreement pursuant to ss. 373.046 and
18 | 373.406(5) that assures the development of best management
19 | practices that complement existing regulatory programs and
20 | specifies how those best management practices are implemented
21 | and verified. The interagency agreement shall address measures
22 | to be taken by the coordinating agencies during any best
23 | management practice reevaluation performed pursuant to
24 | sub-subparagraph d. The department shall use best professional
25 | judgment in making the initial determination of best
26 | management practice effectiveness.

27 | a. ~~As provided in s. 403.067(7)(d),~~ By October 1,
28 | 2000, the Department of Agriculture and Consumer Services, in
29 | consultation with the department, the district, and affected
30 | parties, shall initiate rule development for interim measures,
31 | best management practices, conservation plans, nutrient

1 | management plans, or other measures necessary for Lake
2 | Okeechobee phosphorus load reduction. The rule shall include
3 | thresholds for requiring conservation and nutrient management
4 | plans and criteria for the contents of such plans. Development
5 | of agricultural nonpoint source best management practices
6 | shall initially focus on those priority basins listed in
7 | subparagraph (b)1. The Department of Agriculture and Consumer
8 | Services, in consultation with the department, the district,
9 | and affected parties, shall conduct an ongoing program for
10 | improvement of existing and development of new interim
11 | measures or best management practices for the purpose of
12 | adoption of such practices by rule.

13 | b. Where agricultural nonpoint source best management
14 | practices or interim measures have been adopted by rule of the
15 | Department of Agriculture and Consumer Services, the owner or
16 | operator of an agricultural nonpoint source addressed by such
17 | rule shall either implement interim measures or best
18 | management practices or demonstrate compliance with the
19 | district's WOD program by conducting monitoring prescribed by
20 | the department or the district. Owners or operators of
21 | agricultural nonpoint sources who implement interim measures
22 | or best management practices adopted by rule of the Department
23 | of Agriculture and Consumer Services shall be subject to ~~the~~
24 | ~~provisions of~~ s. 403.067(7). The Department of Agriculture and
25 | Consumer Services, in cooperation with the department and the
26 | district, shall provide technical and financial assistance for
27 | implementation of agricultural best management practices,
28 | subject to the availability of funds.

29 | c. The district or department shall conduct monitoring
30 | at representative sites to verify the effectiveness of
31 | agricultural nonpoint source best management practices.

1 d. Where water quality problems are detected for
2 agricultural nonpoint sources despite the appropriate
3 implementation of adopted best management practices, the
4 Department of Agriculture and Consumer Services, in
5 consultation with the other coordinating agencies and affected
6 parties, shall institute a reevaluation of the best management
7 practices and make appropriate changes to the rule adopting
8 best management practices.

9 2. Nonagricultural nonpoint source best management
10 practices, developed in accordance with s. 403.067 and
11 designed to achieve the objectives of the Lake Okeechobee
12 Protection Program, shall be implemented on an expedited
13 basis. By March 1, 2001, the department and the district shall
14 develop an interagency agreement pursuant to ss. 373.046 and
15 373.406(5) that assures the development of best management
16 practices that complement existing regulatory programs and
17 specifies how those best management practices are implemented
18 and verified. The interagency agreement shall address measures
19 to be taken by the department and the district during any best
20 management practice reevaluation performed pursuant to
21 sub-subparagraph d.

22 a. The department and the district are directed to
23 work with the University of Florida's Institute of Food and
24 Agricultural Sciences to develop appropriate nutrient
25 application rates for all nonagricultural soil amendments in
26 the watershed. ~~As provided in s. 403.067(7)(c),~~ By January 1,
27 2001, the department, in consultation with the district and
28 affected parties, shall develop interim measures, best
29 management practices, or other measures necessary for Lake
30 Okeechobee phosphorus load reduction. Development of
31 nonagricultural nonpoint source best management practices

1 shall initially focus on those priority basins listed in
2 subparagraph (b)1. The department, the district, and affected
3 parties shall conduct an ongoing program for improvement of
4 existing and development of new interim measures or best
5 management practices. The district shall adopt
6 technology-based standards under the district's WOD program
7 for nonagricultural nonpoint sources of phosphorus.

8 b. Where nonagricultural nonpoint source best
9 management practices or interim measures have been developed
10 by the department and adopted by the district, the owner or
11 operator of a nonagricultural nonpoint source shall implement
12 interim measures or best management practices and be subject
13 to ~~the provisions of~~ s. 403.067(7). The department and
14 district shall provide technical and financial assistance for
15 implementation of nonagricultural nonpoint source best
16 management practices, subject to the availability of funds.

17 c. The district or the department shall conduct
18 monitoring at representative sites to verify the effectiveness
19 of nonagricultural nonpoint source best management practices.

20 d. Where water quality problems are detected for
21 nonagricultural nonpoint sources despite the appropriate
22 implementation of adopted best management practices, the
23 department and the district shall institute a reevaluation of
24 the best management practices.

25 3. The provisions of subparagraphs 1. and 2. shall not
26 preclude the department or the district from requiring
27 compliance with water quality standards or with current best
28 management practices requirements ~~set forth~~ in any applicable
29 regulatory program authorized by law for the purpose of
30 protecting water quality. ~~Additionally,~~ Subparagraphs 1. and
31 2. apply ~~are applicable~~ only to the extent that they do not

1 | conflict with a rule of ~~any rules promulgated by~~ the
2 | department that is ~~are~~ necessary to maintain a federally
3 | delegated or approved program.

4 | 4. Projects which reduce the phosphorus load
5 | originating from domestic wastewater systems within the Lake
6 | Okeechobee watershed shall be given funding priority in the
7 | department's revolving loan program under s. 403.1835. The
8 | department shall coordinate and provide assistance to those
9 | local governments seeking financial assistance for such
10 | priority projects.

11 | 5. Projects that make use of private lands, or lands
12 | held in trust for Indian tribes, to reduce nutrient loadings
13 | or concentrations within a basin by one or more of the
14 | following methods: restoring the natural hydrology of the
15 | basin, restoring wildlife habitat or impacted wetlands,
16 | reducing peak flows after storm events, increasing aquifer
17 | recharge, or protecting range and timberland from conversion
18 | to development, are eligible for grants available under this
19 | section from the coordinating agencies. For projects of
20 | otherwise equal priority, special funding priority will be
21 | given to those projects that make best use of the methods
22 | outlined above that involve public-private partnerships or
23 | that obtain federal match money. Preference ranking above the
24 | special funding priority will be given to projects located in
25 | a rural area of critical economic concern designated by the
26 | Governor. Grant applications may be submitted by any person or
27 | tribal entity, and eligible projects may include, but are not
28 | limited to, the purchase of conservation and flowage
29 | easements, hydrologic restoration of wetlands, creating
30 | treatment wetlands, development of a management plan for
31 |

1 natural resources, and financial support to implement a
2 management plan.

3 6.a. The department shall require all entities
4 disposing of domestic wastewater residuals within the Lake
5 Okeechobee watershed and the remaining areas of Okeechobee,
6 Glades, and Hendry Counties to develop and submit to the
7 department an agricultural use plan that limits applications
8 based upon phosphorus loading. By July 1, 2005, phosphorus
9 concentrations originating from these application sites shall
10 not exceed the limits established in the district's WOD
11 program.

12 b. Private and government-owned utilities within
13 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
14 River, Okeechobee, Highlands, Hendry, and Glades Counties that
15 dispose of wastewater residual sludge from utility operations
16 and septic removal by land spreading in the Lake Okeechobee
17 watershed may use a line item on local sewer rates to cover
18 wastewater residual treatment and disposal if such disposal
19 and treatment is done by approved alternative treatment
20 methodology at a facility located within the areas designated
21 by the Governor as rural areas of critical economic concern
22 pursuant to s. 288.0656. This additional line item is an
23 environmental protection disposal fee above the present sewer
24 rate and shall not be considered a part of the present sewer
25 rate to customers, notwithstanding provisions to the contrary
26 in chapter 367. The fee shall be established by the county
27 commission or its designated assignee in the county in which
28 the alternative method treatment facility is located. The fee
29 shall be calculated to be no higher than that necessary to
30 recover the facility's prudent cost of providing the service.
31 Upon request by an affected county commission, the Florida

1 Public Service Commission will provide assistance in
2 establishing the fee. ~~Further,~~ For utilities and utility
3 authorities that use the additional line item environmental
4 protection disposal fee, such fee shall not be considered a
5 rate increase under the rules of the Public Service Commission
6 and shall be exempt from such rules. Utilities using the
7 provisions of this section may immediately include in their
8 sewer invoicing the new environmental protection disposal fee.
9 Proceeds from this environmental protection disposal fee shall
10 be used for treatment and disposal of wastewater residuals,
11 including any treatment technology that helps reduce the
12 volume of residuals that require final disposal, but such
13 proceeds shall not be used for transportation or shipment
14 costs for disposal or any costs relating to the land
15 application of residuals in the Lake Okeechobee watershed.

16 c. No less frequently than once every 3 years, the
17 ~~Florida~~ Public Service Commission or the county commission
18 through the services of an independent auditor shall perform a
19 financial audit of all facilities receiving compensation from
20 an environmental protection disposal fee. The ~~Florida~~ Public
21 Service Commission or the county commission through the
22 services of an independent auditor shall also perform an audit
23 of the methodology used in establishing the environmental
24 protection disposal fee. The ~~Florida~~ Public Service Commission
25 or the county commission shall, within 120 days after
26 completion of an audit, file the audit report with the
27 President of the Senate and the Speaker of the House of
28 Representatives and shall provide copies to the county
29 commissions of the counties set forth in sub-subparagraph b.
30 The books and records of any facilities receiving compensation
31 from an environmental protection disposal fee shall be open to

1 the ~~Florida~~ Public Service Commission and the Auditor General
2 for review upon request.

3 7. The Department of Health shall require all entities
4 disposing of septage within the Lake Okeechobee watershed and
5 the remaining areas of Okeechobee, Glades, and Hendry Counties
6 to develop and submit to that agency, by July 1, 2003, an
7 agricultural use plan that limits applications based upon
8 phosphorus loading. By July 1, 2005, phosphorus
9 concentrations originating from these application sites shall
10 not exceed the limits established in the district's WOD
11 program.

12 8. The Department of Agriculture and Consumer Services
13 shall initiate rulemaking requiring entities within the Lake
14 Okeechobee watershed and the remaining areas of Okeechobee,
15 Glades, and Hendry Counties which land-apply animal manure to
16 develop conservation or nutrient management plans that limit
17 application, based upon phosphorus loading. Such rules may
18 include criteria and thresholds for the requirement to develop
19 a conservation or nutrient management plan, requirements for
20 plan approval, and recordkeeping requirements.

21 9. Prior to authorizing a discharge into works of the
22 district, the district shall require responsible parties to
23 demonstrate that proposed changes in land use will not result
24 in increased phosphorus loading over that of existing land
25 uses.

26 10. The district, the department, or the Department of
27 Agriculture and Consumer Services, as appropriate, shall
28 implement those alternative nutrient reduction technologies
29 determined to be feasible pursuant to subparagraph (d)6.

30 Section 4. Subsection (1) of section 570.085, Florida
31 Statutes, is amended to read:

1 570.085 Department of Agriculture and Consumer
2 Services; agricultural water conservation.--The department
3 shall establish an agricultural water conservation program
4 that includes the following:

5 (1) A cost-share program, coordinated where
6 appropriate with the United States Department of Agriculture
7 and other federal, state, regional, and local agencies, for
8 irrigation system retrofit and application of mobile
9 irrigation laboratory evaluations for water conservation as
10 provided in this section and, where applicable, for water
11 quality improvement pursuant to s. 403.067(7)(c) ~~s.~~
12 ~~403.067(7)(d)~~.

13 Section 5. This act shall take effect upon becoming a
14 law.

SENATE SUMMARY

1
2
3 Modifies a program of Department of Environmental
4 Protection regarding the total maximum daily pollutant
5 load of a water body and watershed or basin management
6 planning. Allows the department to allocate the total
7 maximum daily pollutant load between as well as among
8 sources. Authorizes a preliminary allocation of pollutant
9 loads. Revises factors the department must consider when
10 allocating pollutant loads. Authorizes a phased
11 calculation or allocation of pollutant loads when data is
12 unavailable. Provides for development of a basin
13 management action plan by the department or the
14 department and a water management district that allocates
15 pollutant reductions and addresses future pollutant
16 sources. Authorizes credits for prior pollutant
17 reductions. Provides for stakeholder participation in
18 plan development. Authorizes a basin plan that is adopted
19 by rule to alter a prior calculation or allocation of
20 total maximum daily pollutant load by the department.
21 Requires the department to adopt a basin plan that does
22 not alter such a prior calculation or allocation by
23 order. Provides for evaluation and revision of an adopted
24 basin plan. Authorizes the department's use of additional
25 strategies, including an adopted basin plan, to implement
26 pollutant load reductions. Requires incorporation of an
27 adopted basin plan in NPDES permits and prohibits
28 additional pollution reduction requirements in that
29 permit. Requires certain pollutant dischargers to
30 complete strategies in the basin plan. Exempts
31 requirements from the basin plan which are included in a
NPDES permit from challenge under the Administrative
Procedure Act. Requires various regulatory programs to
implement actions in an adopted basin plan relating to
nonagricultural point sources. Requires best-management
practices to reduce certain pollution by a discharger of
nonpoint pollution absent a certain showing. Denies, to a
discharger who fails to make the showing, a presumption
of compliance with water quality standards and release of
liability to pay the Water Quality Assurance Trust Fund
regarding remediation of pollution which bars certain
proceedings by the department to recover costs and
damages for pollution. Limits the authority of the
department and the water management districts to pursue
remedies or penalties when the presumption is denied.
Prohibits a state permit, enforcement, or action that
would require a person who is implementing pollutant
reduction strategies in an adopted basin plan to
implement additional pollutant reduction strategies.
Creates presumption that such person is in compliance
with certain provisions. Authorizes the department and
the districts to develop, or to adopt rules specifying,
interim measures, best-management practices, or other
measures to achieve the reductions of nonagricultural
nonpoint pollution established by various additional
management strategies, including a basin plan or the
department's calculation of total maximum daily load.
Requires a nonagricultural discharger of nonpoint
pollution to implement best-management practices or other
measures adopted by rule. Removes requirement that the

1 department and the districts help with implementation and
2 include in rules requirements to assure implementation.
3 Authorizes the Department of Agriculture and Consumer
4 Services to adopt rules specifying interim measures,
5 best-management practices, or other measures to achieve
6 the reductions of agricultural pollutant sources
7 established by various additional management strategies.
8 Requires the Department of Environmental Protection to
9 verify the effectiveness of a measure or practice that is
10 adopted by rule by the department, the water management
11 districts, or the Department of Agriculture and Consumer
12 Services. Provides for verification of effectiveness
13 through an initial assessment and an assessment by
14 monitoring at representative sites. Directs the
15 department to notify the Department of Agriculture and
16 Consumer Services or a district before such entities
17 adopt a rule proposal that includes a best-management
18 practice or other measure, if the department's initial
19 assessment cannot verify the effectiveness of the
20 practice or measure. Provides that implementation of a
21 measure or practice that the department has verified as
22 effective creates a presumption of compliance with water
23 quality standards and a release from liability to pay the
24 Water Quality Assurance Trust Fund regarding remediation
25 of pollution which bars certain proceedings by the
26 department to recover costs and damages for pollution.
27 Requires the department, or, in consultation with the
28 department, a water management district or the Department
29 of Agriculture and Consumer Services, to reevaluate a
30 practice or other measure that is adopted by rule where
31 water quality problems are detected or predicted.
Requires revision to rules of the department, the water
management districts, or the Department of Agriculture
and Consumer Services, when a practice or measure
requires modification. Authorizes rulemaking by the
department. Removes requirement for legislative
ratification of a water pollutant trading rule. Requires
the department to submit a report before adopting a water
pollutant source trading rule. Makes conforming
amendments to laws relating to Lake Okeechobee protection
and Department of Agriculture and Consumer Services water
conservation. (See bill for details.)