

Bill No. CS for CS for SB 444

Barcode 235826

CHAMBER ACTION

Senate

House

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The Committee on Ways and Means (Pruitt) recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 51, line 29 through page 68 line 17, delete those lines

and insert:

Section 15. Paragraph (d) of subsection (2), and subsections (6), (7), (8), and (11) of section 403.067, Florida Statutes, are amended to read:

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

(2) LIST OF SURFACE WATERS OR SEGMENTS.--In accordance with s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq., the department must submit periodically to the United States Environmental Protection Agency a list of surface waters or segments for which total maximum daily load assessments will be conducted. The assessments shall evaluate the water quality conditions of the listed waters and, if such waters are determined not to meet

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1 | water quality standards, total maximum daily loads shall be  
 2 | established, subject to the provisions of subsection (4). The  
 3 | department shall establish a priority ranking and schedule for  
 4 | analyzing such waters.

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

11 |         (6) CALCULATION AND ALLOCATION.--

12 |         (a) Calculation of total maximum daily load.

13 |             1. Prior to developing a total maximum daily load  
 14 | calculation for each water body or water body segment on the  
 15 | list specified in subsection (4), the department shall  
 16 | coordinate with applicable local governments, water management  
 17 | districts, the Department of Agriculture and Consumer  
 18 | Services, other appropriate state agencies, local soil and  
 19 | water conservation districts, environmental groups, regulated  
 20 | interests, and affected pollution sources to determine the  
 21 | information required, accepted methods of data collection and  
 22 | analysis, and quality control/quality assurance requirements.  
 23 | The analysis may include mathematical water quality modeling  
 24 | using approved procedures and methods.

25 |             2. The department shall develop total maximum daily  
 26 | load calculations for each water body or water body segment on  
 27 | the list described in subsection (4) according to the priority  
 28 | ranking and schedule unless the impairment of such waters is  
 29 | due solely to activities other than point and nonpoint sources  
 30 | of pollution. For waters determined to be impaired due solely  
 31 | to factors other than point and nonpoint sources of pollution,

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1 no total maximum daily load will be required. A total maximum  
 2 daily load may be required for those waters that are impaired  
 3 predominantly due to activities other than point and nonpoint  
 4 sources. The total maximum daily load calculation shall  
 5 establish the amount of a pollutant that a water body or water  
 6 body segment may receive from all sources without exceeding  
 7 water quality standards, and shall account for seasonal  
 8 variations and include a margin of safety that takes into  
 9 account any lack of knowledge concerning the relationship  
 10 between effluent limitations and water quality. The total  
 11 maximum daily load may be based on a pollutant load reduction  
 12 goal developed by a water management district, provided that  
 13 such pollutant load reduction goal is promulgated by the  
 14 department in accordance with the procedural and substantive  
 15 requirements of this subsection.

16 (b) Allocation of total maximum daily loads. The total  
 17 maximum daily loads shall include establishment of reasonable  
 18 and equitable allocations of the total maximum daily load  
 19 between or among point and nonpoint sources that will alone,  
 20 or in conjunction with other management and restoration  
 21 activities, provide for the attainment of the pollutant  
 22 reductions established pursuant to paragraph (a) to achieve  
 23 water quality standards for the pollutant causing impairment  
 24 ~~water quality standards and the restoration of impaired~~  
 25 ~~waters~~. The allocations may establish the maximum amount of  
 26 the water pollutant ~~from a given source or category of sources~~  
 27 that may be discharged or released into the water body or  
 28 water body segment in combination with other discharges or  
 29 releases. Allocations may also be made to individual basins  
 30 and sources or as a whole to all basins and sources or  
 31 categories of sources of inflow to the water body or water

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1 body segments. An initial allocation of allowable pollutant  
 2 loads among point and nonpoint sources may be developed as  
 3 part of the total maximum daily load. However, in such cases,  
 4 the detailed allocation to specific point sources and specific  
 5 categories of nonpoint sources shall be established in the  
 6 basin management action plan pursuant to subsection (7). The  
 7 initial and detailed allocations shall be designed to attain  
 8 the pollutant reductions established pursuant to paragraph (a)  
 9 ~~water quality standards~~ and shall be based on consideration of  
 10 the following:

11       1. Existing treatment levels and management practices;

12       2. Best management practices established and  
 13 implemented pursuant to paragraph (7)(c);

14       3. Enforceable treatment levels established pursuant  
 15 to state or local law or permit;

16       4.2. Differing impacts pollutant sources and forms of  
 17 pollutant may have on water quality;

18       5.3. The availability of treatment technologies,  
 19 management practices, or other pollutant reduction measures;

20       6.4. Environmental, economic, and technological  
 21 feasibility of achieving the allocation;

22       7.5. The cost benefit associated with achieving the  
 23 allocation;

24       8.6. Reasonable timeframes for implementation;

25       9.7. Potential applicability of any moderating  
 26 provisions such as variances, exemptions, and mixing zones;  
 27 and

28       10.8. The extent to which nonattainment of water  
 29 quality standards is caused by pollution sources outside of  
 30 Florida, discharges that have ceased, or alterations to water  
 31 bodies prior to the date of this act.

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1           ~~(c) Not later than February 1, 2001, the department~~  
 2 ~~shall submit a report to the Governor, the President of the~~  
 3 ~~Senate, and the Speaker of the House of Representatives~~  
 4 ~~containing recommendations, including draft legislation, for~~  
 5 ~~any modifications to the process for allocating total maximum~~  
 6 ~~daily loads, including the relationship between allocations~~  
 7 ~~and the watershed or basin management planning process. Such~~  
 8 ~~recommendations shall be developed by the department in~~  
 9 ~~cooperation with a technical advisory committee which includes~~  
 10 ~~representatives of affected parties, environmental~~  
 11 ~~organizations, water management districts, and other~~  
 12 ~~appropriate local, state, and federal government agencies. The~~  
 13 ~~technical advisory committee shall also include such members~~  
 14 ~~as may be designated by the President of the Senate and the~~  
 15 ~~Speaker of the House of Representatives.~~

16           ~~(c)(d)~~ Adoption of rules. The total maximum daily load  
 17 calculations and allocations established under this subsection  
 18 for each water body or water body segment shall be adopted by  
 19 rule by the secretary pursuant to ss. 120.536(1), 120.54, and  
 20 403.805. Where additional data collection and analysis are  
 21 needed to increase the scientific precision and accuracy of  
 22 the total maximum daily load, the department is authorized to  
 23 adopt phased total maximum daily loads that are subject to  
 24 change as additional data becomes available. Where phased  
 25 total maximum daily loads are proposed, the department shall,  
 26 in the detailed statement of facts and circumstances  
 27 justifying the rule, explain why the data are inadequate so as  
 28 to justify a phased total maximum daily load. The rules  
 29 adopted pursuant to this paragraph shall not be subject to  
 30 approval by the Environmental Regulation Commission. As part  
 31 of the rule development process, the department shall hold at

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1 | least one public workshop in the vicinity of the water body or  
 2 | water body segment for which the total maximum daily load is  
 3 | being developed. Notice of the public workshop shall be  
 4 | published not less than 5 days nor more than 15 days before  
 5 | the public workshop in a newspaper of general circulation in  
 6 | the county or counties containing the water bodies or water  
 7 | body segments for which the total maximum daily load  
 8 | calculation and allocation are being developed.

9 |       (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND  
 10 | IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

11 |       (a) Basin management action plans.--

12 |       1. In developing and implementing the total maximum  
 13 | daily load for a water body, the department, or the department  
 14 | in conjunction with a water management district, may develop a  
 15 | basin management action plan that addresses some or all of the  
 16 | watersheds and basins tributary to the water body. Such a plan  
 17 | shall integrate the appropriate management strategies  
 18 | available to the state through existing water quality  
 19 | protection programs to achieve the total maximum daily loads  
 20 | and may provide for phased implementation of these management  
 21 | strategies to promote timely, cost-effective actions as  
 22 | provided for in s. 403.151. The plan shall establish a  
 23 | schedule for implementing the management strategies, establish  
 24 | a basis for evaluating the plan's effectiveness, and identify  
 25 | feasible funding strategies for implementing the plan's  
 26 | management strategies. The management strategies may include  
 27 | regional treatment systems or other public works, where  
 28 | appropriate, to achieve the needed pollutant load reductions.

29 |       2. A basin management action plan shall equitably  
 30 | allocate, pursuant to paragraph (6)(b), pollutant reductions  
 31 | to individual basins, as a whole to all basins, or to each

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1 identified point source or category of nonpoint sources, as  
2 appropriate. For nonpoint sources for which best management  
3 practices have been adopted, the initial requirement specified  
4 by the plan shall be those practices developed pursuant to  
5 paragraph (c). Where appropriate, the plan may provide  
6 pollutant-load-reduction credits to dischargers that have  
7 implemented management strategies to reduce pollutant loads,  
8 including best management practices, prior to the development  
9 of the basin management action plan. The plan shall also  
10 identify the mechanisms by which potential future increases in  
11 pollutant loading will be addressed.

12 3. The basin management action planning process is  
13 intended to involve the broadest possible range of interested  
14 parties, with the objective of encouraging the greatest amount  
15 of cooperation and consensus possible. In developing a basin  
16 management action plan, the department shall assure that key  
17 stakeholders, including, but not limited to, applicable local  
18 governments, water management districts, the Department of  
19 Agriculture and Consumer Services, other appropriate state  
20 agencies, local soil and water conservation districts,  
21 environmental groups, regulated interests, and affected  
22 pollution sources, are invited to participate in the process.  
23 The department shall hold at least one public meeting in the  
24 vicinity of the watershed or basin to discuss and receive  
25 comments during the planning process and shall otherwise  
26 encourage public participation to the greatest practicable  
27 extent. Notice of the public meeting shall be published in a  
28 newspaper of general circulation in each county in which the  
29 watershed or basin lies not less than 5 days nor more than 15  
30 days before the public meeting. A basin management action plan  
31 shall not supplant or otherwise alter any assessment made

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1 under subsection (3) or subsection (4) or any calculation or  
2 initial allocation.

3 4. The department shall adopt all or any part of a  
4 basin management action plan by secretarial order pursuant to  
5 chapter 120 to implement the provisions of this section.

6 5. The basin management action plan shall include  
7 milestones for implementation and water quality improvement,  
8 and an associated water quality monitoring component  
9 sufficient to evaluate whether reasonable progress in  
10 pollutant load reductions is being achieved over time. An  
11 assessment of progress toward these milestones shall be  
12 conducted every 5 years, and revisions to the plan shall be  
13 made as appropriate. Revisions to the basin management action  
14 plan shall be made by the department in cooperation with basin  
15 stakeholders. Revisions to the management strategies required  
16 for nonpoint sources shall follow the procedures set forth in  
17 subparagraph (c)4. Revised basin management action plans  
18 shall be adopted pursuant to subparagraph 4.

19 (b)(a) Total maximum daily load implementation.--

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

29 a.1. Permitting and other existing regulatory  
30 programs, including water-quality-based effluent limitations;

31 b.2. Nonregulatory and incentive-based programs,

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1 including best management practices, cost sharing, waste  
2 minimization, pollution prevention, agreements established  
3 pursuant to s. 403.061(21), 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. For a basin management action plan adopted pursuant  
14 to subparagraph (a)4., any management strategies and pollutant  
15 reduction requirements associated with a pollutant of concern  
16 for which a total maximum daily load has been developed,  
17 including effluent limits set forth for a discharger subject  
18 to NPDES permitting, if any, shall be included in a timely  
19 manner in subsequent NPDES permits or permit modifications for  
20 that discharger. The department shall not impose limits or  
21 conditions implementing an adopted total maximum daily load in  
22 an NPDES permit until the permit expires, the discharge is  
23 modified, or the permit is reopened pursuant to an adopted  
24 basin management action plan.

25 a. Absent a detailed allocation, total maximum daily  
26 loads shall be implemented through NPDES permit conditions  
27 that afford a compliance schedule. In such instances, a  
28 facility's NPDES permit shall allow time for the issuance of  
29 an order adopting the basin management action plan. The time  
30 allowed for the issuance of an order adopting the plan shall  
31 not exceed five years. Upon issuance of an order adopting the

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1 plan, the permit shall be reopened, as necessary, and permit  
 2 conditions consistent with the plan shall be established.  
 3 Notwithstanding the other provisions of this subparagraph,  
 4 upon request by a NPDES permittee, the department as part of a  
 5 permit issuance, renewal or modification may establish  
 6 individual allocations prior to the adoption of a basin  
 7 management action plan.

8 b. For holders of NPDES municipal separate storm sewer  
 9 system permits and other stormwater sources, implementation of  
 10 a total maximum daily load or basin management action plan  
 11 shall be achieved, to the maximum extent practicable, through  
 12 the use of best management practices or other management  
 13 measures.

14 c. The basin management action plan does not relieve  
 15 the discharger from any requirement to obtain, renew, or  
 16 modify an NPDES permit or to abide by other requirements of  
 17 the permit.

18 d. Management strategies set forth in a basin  
 19 management action plan to be implemented by a discharger  
 20 subject to permitting by the department shall be completed  
 21 pursuant to the schedule set forth in the basin management  
 22 action plan. This implementation schedule may extend beyond  
 23 the 5-year term of an NPDES permit.

24 e. Management strategies and pollution reduction  
 25 requirements set forth in a basin management action plan for a  
 26 specific pollutant of concern shall not be subject to  
 27 challenge under chapter 120 at the time they are incorporated,  
 28 in an identical form, into a subsequent NPDES permit or permit  
 29 modification.

30 f. For nonagricultural pollutant sources not subject  
 31 to NPDES permitting but permitted pursuant to other state,

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1 regional, or local water quality programs, the pollutant  
2 reduction actions adopted in a basin management action plan  
3 shall be implemented to the maximum extent practicable as part  
4 of those permitting programs.

5 g. A nonpoint source discharger included in a basin  
6 management action plan shall demonstrate compliance with the  
7 pollutant reductions established pursuant to subsection (6) by  
8 either implementing the appropriate best management practices  
9 established pursuant to paragraph (c) or conducting water  
10 quality monitoring prescribed by the department or a water  
11 management district.

12 h. A nonpoint source discharger included in a basin  
13 management action plan may be subject to enforcement action by  
14 the department or a water management district based upon a  
15 failure to implement the responsibilities set forth in  
16 sub-subparagraph g.

17 i. A landowner, discharger, or other responsible  
18 person who is implementing applicable management strategies  
19 specified in an adopted basin management action plan shall not  
20 be required by permit, enforcement action, or otherwise to  
21 implement additional management strategies to reduce pollutant  
22 loads to attain the pollutant reductions established pursuant  
23 to subsection (6) and shall be deemed to be in compliance with  
24 this section. This subparagraph does not limit the authority  
25 of the department to amend a basin management action plan as  
26 specified in subparagraph (a)5.

27 ~~(b) In developing and implementing the total maximum~~  
28 ~~daily load for a water body, the department, or the department~~  
29 ~~in conjunction with a water management district, may develop a~~  
30 ~~watershed or basin management plan that addresses some or all~~  
31 ~~of the watersheds and basins tributary to the water body.~~

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

20 (c) Best management practices.--

21 1. The department, in cooperation with the water  
 22 management districts and other interested parties, as  
 23 appropriate, may develop suitable interim measures, best  
 24 management practices, or other measures necessary to achieve  
 25 the level of pollution reduction established by the department  
 26 for nonagricultural nonpoint pollutant sources in allocations  
 27 developed pursuant to subsection (6) and this subsection  
 28 ~~paragraph (6)(b)~~. These practices and measures may be adopted  
 29 by rule by the department and the water management districts  
 30 pursuant to ss. 120.536(1) and 120.54, and, where adopted by  
 31 rule, shall may be implemented by those parties responsible

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

27 2.(d)1. The Department of Agriculture and Consumer  
28 Services may develop and adopt by rule pursuant to ss.  
29 120.536(1) and 120.54 suitable interim measures, best  
30 management practices, or other measures necessary to achieve  
31 the level of pollution reduction established by the department

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

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1 ~~implementation, operation, and maintenance of best management~~  
 2 ~~practices and other measures according to rules adopted under~~  
 3 ~~this paragraph, the Department of Agriculture and Consumer~~  
 4 ~~Services shall institute a reevaluation of the best management~~  
 5 ~~practice or other measure.~~

6       3. Where interim measures, best management practices,  
 7 or other measures are adopted by rule, the effectiveness of  
 8 such practices in achieving the levels of pollution reduction  
 9 established in allocations developed by the department  
 10 pursuant to subsection (6) and this subsection shall be  
 11 verified at representative sites by the department. The  
 12 department shall use best professional judgment in making the  
 13 initial verification that the best management practices are  
 14 effective and, where applicable, shall notify the appropriate  
 15 water management district and the Department of Agriculture  
 16 and Consumer Services of its initial verification prior to the  
 17 adoption of a rule proposed pursuant to this paragraph.  
 18 Implementation in accordance with rules adopted under this  
 19 paragraph, of practices that have been initially verified to  
 20 be effective, or verified to be effective by monitoring at  
 21 representative sites, by the department, shall provide a  
 22 presumption of compliance with state water quality standards  
 23 and release from the provisions of s. 376.307(5) for those  
 24 pollutants addressed by the practices, and the department is  
 25 not authorized to institute proceedings against the owner of  
 26 the source of pollution to recover costs or damages associated  
 27 with the contamination of surface water or groundwater caused  
 28 by those pollutants.

29       4. Where water quality problems are demonstrated,  
 30 despite the appropriate implementation, operation, and  
 31 maintenance of best management practices and other measures

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1 according to rules adopted under this paragraph, the  
2 department, or a water management district, or the Department  
3 of Agriculture and Consumer Services in consultation with the  
4 department, shall institute a reevaluation of the best  
5 management practice or other measure. Should the reevaluation  
6 determine that the best management practice or other measure  
7 requires modification, the department, a water management  
8 district, or the Department of Agriculture and Consumer  
9 Services, as appropriate, shall revise the rule to require  
10 implementation of the modified practice within a reasonable  
11 time period as specified in the rule.

12 5.2. Individual agricultural records relating to  
13 processes or methods of production, or relating to costs of  
14 production, profits, or other financial information which are  
15 otherwise not public records, which are reported to the  
16 Department of Agriculture and Consumer Services pursuant to  
17 subparagraphs 3. and 4. ~~this paragraph~~ or pursuant to any rule  
18 adopted pursuant to subparagraph 2. ~~this paragraph~~ shall be  
19 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
20 of the State Constitution. Upon request of the department or  
21 any water management district, the Department of Agriculture  
22 and Consumer Services shall make such individual agricultural  
23 records available to that agency, provided that the  
24 confidentiality specified by this subparagraph for such  
25 records is maintained. This subparagraph is subject to the  
26 Open Government Sunset Review Act of 1995 in accordance with  
27 s. 119.15, and shall stand repealed on October 2, 2006, unless  
28 reviewed and saved from repeal through reenactment by the  
29 Legislature.

30 6.(e) The provisions of subparagraphs 1. and 2.  
31 ~~paragraphs (c) and (d)~~ shall not preclude the department or

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1 water management district from requiring compliance with water  
 2 quality standards or with current best management practice  
 3 requirements set forth in any applicable regulatory program  
 4 authorized by law for the purpose of protecting water quality.  
 5 Additionally, subparagraphs 1. and 2. paragraphs (c) and (d)  
 6 are applicable only to the extent that they do not conflict  
 7 with any rules adopted ~~promulgated~~ by the department that are  
 8 necessary to maintain a federally delegated or approved  
 9 program.

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

12 (a) Delisting water bodies or water body segments from  
 13 the list developed under subsection (4) pursuant to the  
 14 guidance under subsection (5);

15 (b) Administration of funds to implement the total  
 16 maximum daily load and basin management action planning  
 17 programs ~~program~~;

18 (c) Procedures for pollutant trading among the  
 19 pollutant sources to a water body or water body segment,  
 20 including a mechanism for the issuance and tracking of  
 21 pollutant credits. Such procedures may be implemented through  
 22 permits or other authorizations and must be legally binding;

23  
 24 Prior to adopting rules for pollutant trading under this  
 25 paragraph, and no later than November 30, 2006, the Department  
 26 of Environmental Protection shall submit a report to the  
 27 Governor, the President of the Senate, and the Speaker of the  
 28 House of Representatives containing recommendations on such  
 29 rules, including the proposed basis for equitable economically  
 30 based agreements and the tracking and accounting of pollution  
 31 credits or other similar mechanisms. Such recommendations

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1 shall be developed in cooperation with a technical advisory  
 2 committee that includes experts in pollutant trading and  
 3 representatives of potentially affected parties.- No rule  
 4 implementing a pollutant trading program shall become  
 5 effective prior to review and ratification by the Legislature;  
 6 and

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

13 (e) Any other purpose specifically provided for in  
 14 this section.

15 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

16 (a) The department shall not implement, without prior  
 17 legislative approval, any additional regulatory authority  
 18 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part  
 19 130, if such implementation would result in water quality  
 20 discharge regulation of activities not currently subject to  
 21 regulation.

22 (b) Interim measures, best management practices, or  
 23 other measures may be developed and voluntarily implemented  
 24 pursuant to subparagraphs paragraph (7)(c) 1. or 2. or  
 25 paragraph (7)(d) for any water body or segment for which a  
 26 total maximum daily load or allocation has not been  
 27 established. The implementation of such pollution control  
 28 programs may be considered by the department in the  
 29 determination made pursuant to subsection (4).

30  
 31 (Redesignate subsequent sections.)

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1 ===== T I T L E    A M E N D M E N T =====

2 And the title is amended as follows:

3            On page 4, line 24, through page 8, line 2, delete  
4 those lines

5

6 and insert:

7            individual basins or to each identified point  
8            source or category of nonpoint sources;  
9            authorizing that plans may provide pollutant  
10           load reduction credits to dischargers that have  
11           implemented strategies to reduce pollutant  
12           loads prior to the development of the basin  
13           management action plan; requiring that the plan  
14           identify mechanisms by which potential future  
15           sources of pollution will be addressed;  
16           requiring that the department assure key  
17           stakeholder participation in the basin  
18           management action planning process; requiring  
19           that the department hold at least one public  
20           meeting to discuss and receive comments during  
21           the planning process; providing notice  
22           requirements; requiring that the department  
23           adopt all or part of a basin management action  
24           plan by secretarial order pursuant to ch. 120,  
25           F.S.; requiring that basin management action  
26           plans that alter that calculation or initial  
27           allocation of a total maximum daily load, the  
28           revised calculation, or initial allocation must  
29           be adopted by rule; requiring periodic  
30           evaluation of basin management action plans;  
31           requiring that revisions to plans be made by

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1 the department in cooperation with  
2 stakeholders; providing for basin plan  
3 revisions regarding nonpoint pollutant sources;  
4 requiring that adopted basin management action  
5 plans be included in subsequent NPDES permits  
6 or permit modifications; providing that  
7 implementation of a total maximum daily load or  
8 basin management action plan for holders of an  
9 NPDES municipal separate stormwater sewer  
10 system permit may be achieved through the use  
11 of best management practices; providing that  
12 basin management action plans do not relieve a  
13 discharger from the requirement to obtain,  
14 renew, or modify an NPDES permit or to abide by  
15 other requirements of the permit; requiring  
16 that plan management strategies be completed  
17 pursuant to the schedule set forth in the basin  
18 management action plan and providing that the  
19 implementation schedule may extend beyond the  
20 term of an NPDES permit; providing that  
21 management strategies and pollution reduction  
22 requirements in a basin management action plan  
23 for a specific pollutant of concern are not  
24 subject to a challenge under ch. 120, F.S., at  
25 the time they are incorporated, in identical  
26 form, into a subsequent NPDES permit or permit  
27 modification; requiring timely adoption and  
28 implementation of pollutant reduction actions  
29 for nonagricultural pollutant sources not  
30 subject to NPDES permitting but regulated  
31 pursuant to other state, regional, or local

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1 regulatory programs; requiring timely  
2 implementation of best management practices for  
3 nonpoint pollutant source dischargers not  
4 subject to permitting at the time a basin  
5 management action plan is adopted; providing  
6 for presumption of compliance under certain  
7 circumstances; providing for enforcement action  
8 by the department or a water management  
9 district; requiring that a landowner,  
10 discharger, or other responsible person that is  
11 implementing management strategies specified in  
12 an adopted basin management action plan will  
13 not be required by permit, enforcement action,  
14 or otherwise to implement additional management  
15 strategies to reduce pollutant loads; providing  
16 that the authority of the department to amend a  
17 basin management plan is not limited; requiring  
18 that the department verify at representative  
19 sites the effectiveness of interim measures,  
20 best management practices, and other measures  
21 adopted by rule; requiring that the department  
22 use its best professional judgment in making  
23 initial verifications that best management  
24 practices are not effective; requiring notice  
25 to the appropriate water management district  
26 and the Department of Agriculture and Consumer  
27 Services under certain conditions; establishing  
28 a presumption of compliance for implementation  
29 of practices initially verified to be effective  
30 or verified to be effective at representative  
31 sites; limiting the institution of proceedings

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1 by the department against the owner of a source  
2 of pollution to recover costs or damages  
3 associated with the contamination of surface  
4 water or groundwater caused by those  
5 pollutants; requiring the Department of  
6 Agriculture and Consumer Services to institute  
7 a reevaluation of best management practices or  
8 other measures where water quality problems are  
9 detected or predicted during the development or  
10 amendment of a basin management action plan;  
11 providing for rule revisions; providing the  
12 department with rulemaking authority; requiring  
13 that a report be submitted to the Governor, the  
14 President of the Senate, and the Speaker of the  
15 House of Representatives containing  
16 recommendations on rules for pollutant trading  
17 prior to the adoption of those rules; requiring  
18 that recommendations be developed in  
19 cooperation

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