

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 197 Surface Water Protection Programs  
**SPONSOR(S):** Policy & Budget Council; Machek and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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DIRECTOR	REFERENCE	ACTION	ANALYST	STAFF
	1) <u>Committee on Environmental Protection</u>	<u>(W/D)</u>	<u></u>	<u></u>
	2) <u>Environment &amp; Natural Resources Council</u>	<u>13 Y, 0 N, As CS</u>	<u>Deslatte</u>	<u>Hamby</u>
	3) <u>Policy &amp; Budget Council</u>	<u>28 Y, 0 N, As CS</u>	<u>Davila</u>	<u>Hansen</u>
	4) <u></u>	<u></u>	<u></u>	<u></u>
	5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

CS/HB 197 makes changes to address discrepancies between the Northwest Florida's Environmental Resource Permitting (ERP) program and the rest of the state's ERP program. To provide consistency throughout the state's ERP program, the bill:

- Ensures that the variance provisions of s. 403.201, F.S., are applicable to the Northwest Florida ERP program.
- Ensures that state surface water quality standards do not apply within a stormwater management system which is designed, constructed, operated, and maintained for stormwater treatment in accordance with a valid permit or exemption under s. 373.4145, F.S., within the Northwest Florida Water Management District.

The bill removes the requirement for the Northwest Florida Water Management District, the Suwannee River Water Management District, or a financially disadvantaged small local government to provide a 50-percent match of cash or in-kind services towards the implementation of the surface water improvement and management (SWIM) projects.

The bill amends s. 373.4595, F.S., to provide that nothing in the section affects the authority of the Department of Environmental Protection (DEP) or the South Florida Water Management District (SFWMD) to adopt basin-specific criteria under Part IV of Chapter 373, F.S., to prevent harm to the water resources of the SFWMD.

The bill eliminates the requirements that the SFWMD, prior to authorizing a discharge into works of the district, require responsible parties to demonstrate that proposed changes in land use will not result in increased phosphorus loading over that of existing land uses.

The bill provides legislative recognition that peat harvesting represents a unique industry which occurs in specific wetlands in the state. It provides DEP rule making authority to oversee peat mining used exclusively in the horticultural industry. The bill also repeals s. 403.265, F.S., relating to the permitting of peat mining.

The bill authorizes DEP to approve water quality credit trading as part of Basin Management Action Plans created to implement total maximum daily loads.

Finally, the bill revises the exemption provided to certain mine operators from the requirement to notify the DEP when beginning to mine certain substances.

The fiscal impact on state government is estimated to be minimal, and can be absorbed within current resources.

The bill takes effect on July 1, 2007.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0197b.PBC.doc  
**DATE:** 4/25/2007

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Environmental Resource Permit Program

Under part IV of Chapter 373, F.S., the Department of Environmental Protection (DEP) regulates actions that affect Florida's surface waters through several programs, one of which is the Environmental Resource Permit (ERP) Program. The ERP Program regulates activities involving the alteration of surface water flows. This includes upland construction that generates stormwater runoff, as well as dredging and filling in wetlands and other surface waters. The ERP Program is in effect throughout the State except for the portion of the Panhandle covered by the Northwest Florida Water Management District (NFWWMD). This exception from the ERP program is currently being phased out as required by s. 373.4145, F.S.

##### Northwest Florida

In lieu of an ERP program within the NFWWMD, the DEP and the NFWWMD operate a Wetland Resource Permit program. The Wetland Resource Permit program regulates any dredging, filling, or construction in, on, or over waters and wetlands that are connected, either naturally or artificially, to other bays, bayous, streams, rivers, lakes, estuaries, natural lakes that are not wholly owned by one person other than the State, or the Gulf of Mexico. This program is split such that the DEP regulates stormwater and dredge and fill activities, while the NFWWMD operates a management and storage of surface water permit program and regulates silviculture activities affecting water resources. Upon completion of rules being developed pursuant to s. 373.4145, F.S., the DEP and the NFWWMD will implement an ERP program in place of the current Wetland Resource Permit program.

During the 2006 Legislative Session, the Legislature passed HB 7163 (chapter 2006-228, L.O.F) to provide a phased approach for implementation of environmental resource permitting (ERP) in Northwest Florida (NWF). The act requires the DEP and the NFWWMD to jointly develop rules "taking into consideration the differing physical and natural characteristics of the area" for stormwater management by January 1, 2007, and for the Management and Storage of Surface Waters, by January 1, 2008.

The act provides the following rulemaking criteria:

- The DEP shall initiate rulemaking within 60 days after the effective date of the bill.
- The rules shall apply the least restrictive measures and criteria adopted in other WMDs.
- The intent of the rules is to minimally impact property interests and shall take into account the rural nature, current development trends, and abundant natural resources of the district relative to the permitting thresholds and requirements.
- The rules shall capture the existing exemptions available to all other WMDs currently in rule or in statute, and specifically:
  - The current statutory exemption for the repair, stabilization, or paving of county maintained roads, and the repair or replacement of bridges, consistent with the provisions of s. 403.813(2)(t), F.S.

- The alteration of a wholly-owned artificial surface water created entirely from uplands that does not connect to waters of the state, except those created for the purpose of providing mitigation.

The act requires the DEP and the NFWMD to enter into an operating management agreement that delegates to the water management district the responsibility for managing ERP in NWF to the extent “resources allow” including, at a minimum, the responsibility for regulating silviculture and agriculture.

On or before October 1, 2006, the DEP was required to enter into negotiations with any local government that requests to be delegated the responsibilities of environmental permitting in order to minimize duplicative permitting programs and to increase governmental efficiency. The DEP was required to submit a report to the Speaker of the House of Representatives and to the President of the Senate by March 1, 2007, of the progress made in this delegation process.

The act also provides that if there is no appropriation to fund the program in any given fiscal year, law governing development activity in the district shall revert to those in effect on April 1, 2006, until such time as funding and staffing levels are restored consistent with the act. The act appropriated the sum of \$2,740,000 for the 2006-07 fiscal year from General Revenue to the DEP for the operational expenditures of the NFWMD to implement this act.

### Variances

Section 373.414(17), F.S., provides that the variance provisions of s. 403.201, F.S., are applicable to the provisions of this section (which addresses additional criteria for activities in surface waters and wetlands) or any rule adopted pursuant hereto. The water management governing boards and the DEP are authorized to review and take final agency action on petitions requesting such variances for those activities they regulate under this part. Section 403.201, F.S., provides that upon application, the DEP in its discretion may grant a variance from the provisions of this act or the rules and regulations adopted pursuant hereto. Variances and renewals thereof may be granted for any one of the following reasons:

- There is no practicable means known or available for the adequate control of the pollution involved.
- Compliance with the particular requirement or requirements from which a variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time. A variance granted for this reason must prescribe a timetable for the taking of the measures required.
- To relieve or prevent hardship of a kind other than those provided for above. Such variances and renewals thereof must each be limited to a period of 24 months.

The section provides that no variance may be granted from any provision or requirement concerning discharges of waste into waters of the state or hazardous waste management which would result in the provision or requirement being less stringent than a comparable federal provision or requirement, except as provided in s. 403.7221, F.S. The DEP must publish notice, or shall require a petitioner for a variance to publish notice, in the Florida Administrative Weekly and in a newspaper of general circulation in the area affected, of proposed agency action; and the DEP department must afford interested persons an opportunity for a hearing on each application for a variance. If no request for hearing is filed with the department within 14 days of published notice, the department may proceed to final agency action without a hearing. The DEP may require by rule a processing fee for and may prescribe such time limits and other conditions to the granting of a variance as it deems appropriate.

## Stormwater Management Systems

Section 373.4142, F.S., provides that state surface water quality standards applicable to waters of the state, as defined in s. 403.031(13), F.S., shall not apply within a stormwater management system which is designed, constructed, operated, and maintained for stormwater treatment in accordance with a valid permit or noticed exemption issued pursuant to chapter 17-25, Florida Administrative Code; a valid permit issued on or subsequent to April 1, 1986, within the Suwannee River Water Management District or the St. Johns River Water Management District pursuant to this part; a valid permit issued on or subsequent to March 1, 1988, within the Southwest Florida Water Management District pursuant to this part; or a valid permit issued on or subsequent to January 6, 1982, within the South Florida Water Management District pursuant to this part. Such inapplicability of state water quality standards shall be limited to that part of the stormwater management system located upstream of a manmade water control structure permitted, or approved under a noticed exemption, to retain or detain stormwater runoff in order to provide treatment of the stormwater. The additional use of such a stormwater management system for flood attenuation or irrigation shall not divest the system of the benefits of this exemption. This section shall not affect the authority of the department and water management districts to require reasonable assurance that the water quality within such stormwater management systems will not adversely impact public health, fish and wildlife, or adjacent waters.

## Surface Water Improvement and Management (SWIM)

Section 33 of the 2006 Implementing Bill provided that in order to implement Specific Appropriations 1820 and 1821 and section 32 of the 2006-2007 General Appropriations Act, subsection (6) is added to section 373.459, F.S., to read:

(6)(a) The match requirement of subsection (2) shall not apply to the Suwannee River Water Management District, the Northwest Florida Water Management District, or a financially disadvantaged small local government as defined in s. 403.885(5).

(b) Notwithstanding the requirements of subsection (3), the Ecosystem Management and Restoration Trust Fund and the Water Protection and Sustainability Trust Fund shall be used for the deposit of funds appropriated by the Legislature for the purposes of ss. 373.451-373.4595. The department shall administer all funds appropriated to or received for surface water improvement and management activities. Expenditure of the moneys shall be limited to the costs of details planning and plan and program implementation for priority surface water bodies. Moneys from the funds shall not be expended for planning for, construction or expansion of, treatment facilities for domestic or industrial waste disposal.

(c) Notwithstanding the requirements of subsection (4), the department shall authorize the release of money from the funds in accordance with the provisions of s. 373.501(2) and procedures in s. 373.59(4) and (5).

(d) Notwithstanding the requirements of subsection (5), moneys in the Ecosystem Restoration and Management Trust Fund that are not needed to meet current obligations incurred under this section shall be transferred to the State Board of Administration, to the credit of the trust fund, to be invested in the manner provided by law. Interest received on such investments shall be credited to the trust fund.

(e) This subsection expires July 1, 2007.

## **Lake Okeechobee Watershed Phosphorous Control Program**

In 2000, the Legislature created the Lake Okeechobee Protection Program (s. 373.4595, F.S.) requiring the SFWMD, the Department of Agriculture and Consumer Services, and the Department of Environmental Protection to implement programs and projects that will restore the Lake and its watershed. The Legislature determined that improving the hydrology and water quality of the Lake is essential to the restoration and protection of the Everglades and that it is “imperative for the state, local governments, and agricultural and environmental communities to commit to restoring and protecting the Lake and downstream receiving waters.” The Legislature also determined that phosphorous loads from the Lake Okeechobee watershed have contributed to excessive phosphorous levels in the Lake and downstream receiving waters and that a “reduction in the levels of phosphorous levels will benefit the ecology of these systems.”

As part of the Lake Okeechobee Protection Program, s. 373.4595(3)(c), F.S., creates the Lake Okeechobee Watershed Phosphorous Control Program. The Lake Okeechobee Watershed Phosphorus Control Program is designed to be a multifaceted approach to reducing phosphorus loads by improving the management of phosphorus sources within the Lake Okeechobee watershed through continued implementation of existing regulations and best management practices, development and implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and utilization of alternative technologies for nutrient reduction.

Section 373.4595(3)(c)2., F.S., provides that nonagricultural nonpoint source best management practices, developed in accordance with s. 403.067, F.S., and designed to achieve the objectives of the Lake Okeechobee Protection Program, shall be implemented on an expedited basis. The DEP and the water management district are required to develop an interagency agreement pursuant to ss. 373.046 and 373.406(5), F.S., that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement must address measures to be taken by the department and the district during any best management practice reevaluation. The DEP and the district are directed to work with the University of Florida’s Institute of Food and Agricultural Sciences to develop appropriate nutrient application rates for all nonagricultural soil amendments in the watershed. As provided in s. 403.067(7)(c), F.S., the department, in consultation with the district and affected parties, must develop interim measures, best management practices, or other measures necessary for Lake Okeechobee phosphorus load reduction. Development of nonagricultural nonpoint source best management practices is required to initially focus on priority basins. The department, the district, and affected parties must conduct an ongoing program for improvement of existing and development of new interim measures or best management practices. The DEP is required to adopt technology-based standards under the district’s WOD program for nonagricultural nonpoint sources of phosphorus.

Where nonagricultural nonpoint source best management practices or interim measures have been developed by the department and adopted by the district, the owner or operator of a nonagricultural nonpoint source must implement interim measures or best management practices and be subject to the provisions of s. 403.067(7), F.S. The department and district are required to provide technical and financial assistance for implementation of nonagricultural nonpoint source best management practices, subject to the availability of funds. The district or the department must conduct monitoring at representative sites to verify the effectiveness of nonagricultural nonpoint source best management practices. Where water quality problems are detected for nonagricultural nonpoint sources despite the appropriate implementation of adopted best management practices, the department and the district must institute a reevaluation of the best management practices.

Section 373.4595(3)(c)9., F.S., provides that prior to authorizing a discharge into works of the district, the district shall require responsible parties to demonstrate that proposed changes in land use will not result in increased phosphorus loading over that of existing land uses.

### **Peat Mining**

Current peat mining requirements, as defined in s. 403.265, F.S., require the permittee to complete a reclamation program for the areas mined that includes:

- Control of water quality draining from the mined areas;
- Soil stabilization;
- Elimination of health and safety hazards;
- Conservation and preservation of natural resources; and
- A time schedule for completion of the program.

The DEP can adopt rules for peat mining that provide stricter standards for peat mining or consumption within areas designated as Outstanding Florida Waterways. Peat mining of less than 5 acres or for agricultural purposes is exempt from current rules under s. 403.265, F.S.

### **Pollutant Credit Trading**

During the development of Basin Management Action Plans (BMAPs) under currently established total maximum daily loads (TMDLS), point and nonpoint source discharges are required to demonstrate that a change in land use will not increase pollutant loading above existing land uses. This precludes the South Florida Water Management District from establishing basin specific criteria for Lake Okeechobee and its watershed that achieve greater than current land use load reductions. It also does not allow the trading of pollutant credits from dischargers who exceed established TMDLs to enable other sources to achieve allocations.

As directed in SB 444, in 2005, the DEP submitted a report concerning the development of a pollutant trading process to the Governor, the President of the Senate, and Speaker of the House of Representatives on November 30, 2006. The report contained recommendations on such rules, including the proposed basis for equitable economically based agreements and the tracking and accounting of pollution credits or other similar mechanisms. These recommendations were developed in cooperation with a technical advisory committee that includes experts in pollutant trading and representatives of potentially affected parties.

### **Proposed Changes**

#### **ERP and Northwest Florida**

The proposed bill amends s. 373.414, F.S., to ensure that the variance provisions of s. 403.201, F.S., are applicable to the NWF ERP program. This provides consistency throughout the state in the ERP program.

The proposed bill amends s. 373.4142, F.S., to ensure that state surface water quality standards do not apply within a stormwater management system which is designed, constructed, operated, and maintained for stormwater treatment in accordance with a valid permit issued under the NWF ERP program. This provides consistency throughout the state in the ERP program.

#### **Surface Water Improvement and Management**

The proposed bill amends s. 373.459, F.S. permanently removing the requirements for the NFWFMD, the Suwannee River Water Management District, or a financially disadvantaged small local government to provide a 50-percent match of cash or in-kind services towards the implementation of the SWIM projects.

## Lake Okeechobee

The proposed bill amends s. 373.4595, F.S., to provide that nothing in the section affects the authority of the DEP or the SFWMD to adopt basin-specific criteria under Part IV of Chapter 373 to prevent harm to the water resources of the SFWMD.

Furthermore, the proposed bill eliminates the requirements that the SFWMD, prior to authorizing a discharge into works of the district, require responsible parties to demonstrate that proposed changes in land use will not result in increased phosphorus loadings over that of existing land uses.

## Peat Mining

The bill provides legislative recognition that peat harvesting represents a unique industry which occurs in specific wetlands in the state. It also provides definitions to be used within this paragraph as well as providing the DEP with rule making authority to oversee peat mining where high quality peat is extracted predominantly for use in the horticultural industry. The bill also adds a definition for "peat" as well as clarifies a definition for "wetlands" to conform to peat mining. Finally the bill repeals s. 403.265, F.S., relating to the permitting of peat mining.

## Water Quality Credit Trades

The bill amends s. 403.067, F.S., authorizing DEP to approve water quality credit trades for point and nonpoint sources that achieve greater pollutant load reductions than required by TMDLs to enable other sources to achieve their allocation. The generation of water quality credits does not remove the obligation of a source to meet applicable technology requirements or adopted best management practices. The plan must also allow trading between National Pollutant Discharge Elimination System (NPDES) permittees and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to become subject to the requirements of s. 403.067, F.S.

The bill also provides that the department's rule relating to the equitable abatement of pollutants into surface waters may not be applied to water bodies or water body segments for which a basin management plan, which takes into account future new or expanded activities or discharges, has been adopted.

The bill requires the DEP to initiate rulemaking by July 1, 2007 to provide:

- A process of how water quality credits will be generated, quantified and validated;
- A publicly accessible water quality credit trading registry;
- Limitations on the availability and use of such credits;
- The timing and duration of such credits; and
- Mechanisms for determining compliance.

The bill provides that if a discharge does not meet permit conditions or applicable rules, the DEP may issue, renew, revise or reissue the operation permit; provided, however, that a water quality trade that meets the requirements of a TMDL allocation is approved in a final order pursuant to s. 403.067(7)(a)4., F.S.

## Mine reclamation

The bill provides clarification as to the specific statutory provisions that govern slope requirements associated with limestone reclamation standards.

The bill increases the area for which an operator is exempt from provisions in s. 378.801, F.S., from 5 acres to 20 acres, over the life of the mine, at any one site.

C. SECTION DIRECTORY:

**Section 1.** Creates paragraph (e) of subsection (6) of s. 373.414, F.S., providing legislative recognition that peat harvesting represents a unique industry which occurs in specific wetlands in the state; provides definitions; provides DEP rule making authority to oversee peat mining used exclusively in the horticultural industry; amends s. 373.414 (17), F.S., providing the variance provisions of s. 403.201, F.S., are applicable to activities regulated under s. 373.4145, F.S.;

**Section 2.** Amends s. 373.4142, F.S., providing the state water quality standards shall not apply within a stormwater management system in accordance with a valid permit or exemption under s. 373.4145, F.S., within the NFWFMD.

**Section 3.** Amends s. 373.459, F.S., removing the requirement for the Northwest Florida Water Management District, the Suwannee River Water Management District, or a disadvantaged local government to from certain funding requirements for the implementation of surface water improvement and management projects; removing provisions subject to expiration for the deposit, expenditure, release, and transfer of funds relating to the Ecosystem Restoration and Management Trust Fund and the Water Protection and Sustainability Trust Fund.

**Section 4.** Amends s. 373.4595, F.S., providing that the section does not affect the authority of the DEP or the SFWMD to adopt basin-specific criteria under Part IV of Chapter 373, F.S.; eliminating the requirement that the SFWMD, prior to authorizing a discharge into works of the district, require responsible parties to demonstrate that proposed changes in land use will not result in increased phosphorus loading over that of existing land uses.

**Section 5.** Amends s. 378.403, F.S., adding a definition for “peat” and clarifies the definition for “wetlands” to conform to changes concerning peat mining.

**Section 6.** Amends s. 378.503., F.S., providing clarification as to the specific statutory provisions that govern slope requirements associated with limestone reclamation standards.

**Section 7.** Amends s. 378.804, F.S., revising the exemption provided to certain mine operators from the requirement to notify the secretary of the DEP when beginning to mine certain substances.

**Section 8.** Amends s. 403.067, F.S., provides for the trading of water quality credits in the total maximum daily load program in areas that have adopted a basin action plan; provides for rules and specifies what the rules must address; provides for the revision of water pollution operation permits.

**Section 9.** Creates subparagraph 6 in subsection (2)(e) of s. 403.088, F.S., providing for the revision of water pollution operation permits.

**Section 10.** Repeals s. 403.265, F.S., relating to the permitting of peat mining.

**Section 11.** Provides an effective date of July 1, 2007.



## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

In the short term, the DEP estimates minimal financial impact. Standard rulemaking, assuming no challenges and resulting litigation, generally costs no more than \$10,000 - \$20,000.

Creation of the water quality credit trading registry, including database development, would likely cost less than \$200,000 and would have to be paid for out of existing DEP resources.

In the long term, growth in pollutant load trading is uncertain. As trading increases, the level of review, administrative process and documentation associated with assessing, verifying, tracking, and enforcing trades, all required in the legislation, will grow as well. These costs are indeterminate at present but will have to be considered as trading moves forward to assure that it can promote improved and more cost-effective water quality restoration and preservation in Florida. The more popular trading becomes, the more it will cost DEP to manage the program.

Economic Impact to Water Management Districts:

Annually, the Legislature appropriates \$10,000,000 for the Surface Water Improvement and Management Program. A 50-percent match is required from the water management districts for these funds. The two smaller water management districts are currently exempt from the match provision. The CS provides that these water management districts will still be able to waive their match requirements in order to receive surface water improvement and management funds for restoration of water bodies in their districts.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

CS/CS/HB 197 removes the requirement for the Northwest Florida Water Management District, the Suwannee River Water management District, or a financially disadvantaged small local government to provide a 50-percent match of cash or in-kind services towards the implementation of the surface water improvement and management (SWIM) projects.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires the DEP to adopt rules pertaining to peat mining that may impact the horticultural industry.

The bill would prevent the unintended consequence of having stormwater facilities in Northwest Florida subject to water quality standards and therefore unable to be permitted as stormwater facilities. The fiscal impact to public and private construction without the amendment in this bill could be significant.

The bill provides for water quality credit trading for point and nonpoint sources that achieve greater than required pollutant load reductions to adopted TMDLs to enable other sources to achieve their allocation.

D. FISCAL COMMENTS:

None

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill provides the DEP rule making authority to oversee peat mining used exclusively in the horticultural industry.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

None

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 25, 2007, CS/HB 197 was amended and adopted favorably by the Policy & Budget Council as a CS. The CS/CS/HB 197 added the following provisions:

Recognizing that peat harvesting represents a unique industry which occurs in specific wetlands in the state; providing the DEP rule making authority to oversee peat mining used exclusively in the horticultural industry; revising definitions relating to the regulation of surface water; defining the term "peat"; revising the exemption provided to certain mine operators from the requirement to notify the secretary of DEP when beginning to mine certain substances; providing for the trading of water quality credits in the total maximum daily load program in areas that have adopted a basin action plan; providing for rules and specifies what the rules must address; providing for the revision of water pollution operation permits; repealing s. 403.265, F.S., relating to the permitting of peat mining.