

By the Committees on General Government Appropriations;
Communications and Public Utilities; and Environmental
Preservation and Conservation

601-2486-07

1 A bill to be entitled
2 An act relating to the Department of
3 Environmental Protection; amending s. 258.007,
4 F.S.; deleting a penalty for a rule violation;
5 creating s. 258.008, F.S.; creating penalties
6 for the violation of rules adopted under ch.
7 258, F.S., and for specified activities within
8 the boundaries of a state park; providing for
9 fines to be deposited into the State Park Trust
10 Fund; providing for court costs under certain
11 circumstances; amending s. 316.212, F.S.;
12 allowing the operation of golf carts on roads
13 within the state park system under certain
14 conditions; amending s. 373.4142, F.S.;
15 providing statewide consistency for water
16 quality standards in the Northwest Florida
17 Water Management District; amending s. 373.414,
18 F.S.; providing that certain variance
19 provisions apply in the Northwest Florida Water
20 Management District; amending s. 373.4211,
21 F.S.; ratifying the wetland rule and amending
22 it to include certain plant species approved by
23 the Environmental Regulation Commission;
24 providing for delay of the ratification until
25 certain conditions are met; amending s.
26 403.031, F.S.; conforming the definition of the
27 term "regulated air pollutant" to changes made
28 in the federal Clean Air Act; amending s.
29 403.067, F.S.; providing for the trading of
30 water quality credits in the total maximum
31 daily load program in areas that have adopted a

1 basin action plan; providing for rules and
2 specifying what the rules must address;
3 amending s. 403.0872, F.S.; conforming the
4 requirements for air operation permits to
5 changes made to Title V of the Clean Air Act to
6 delete certain minor sources from the Title V
7 permitting requirements; amending s. 403.088,
8 F.S.; providing for the revision of water
9 pollution operation permits; amending s.
10 403.50663, F.S.; clarifying certain notice
11 requirements; amending s. 403.50665, F.S.;
12 providing for a local government to issue a
13 statement of inconsistency with existing land
14 use plans and zoning ordinances due to
15 incompleteness of information necessary for an
16 evaluation; amending s. 403.508, F.S.;
17 clarifying certain hearing requirements for
18 land use and certification hearings; amending
19 s. 403.509, F.S.; clarifying certain provisions
20 relating to certifications issued by the
21 Department of Environmental Protection;
22 amending s. 403.5113, F.S.; providing technical
23 corrections to provisions requiring
24 postcertification amendments and review;
25 amending s. 403.5115, F.S.; clarifying certain
26 public-notice requirements; amending s.
27 403.5252, F.S.; clarifying provisions relating
28 to the determination of completeness of an
29 application for an electric transmission line;
30 amending s. 403.527, F.S.; clarifying the time
31 under which the department or the applicant may

1 request the cancellation of a certification
2 hearing for a proposed transmission line;
3 amending s. 403.5271, F.S.; clarifying the
4 responsibilities of reviewing agencies to
5 review the completeness of an application;
6 amending s. 403.5317, F.S.; clarifying the
7 provisions relating to a change in the
8 condition of a certification; amending s.
9 403.5363, F.S.; providing that notice of a
10 cancellation of a certification hearing must be
11 within a certain time; amending s. 376.30715,
12 F.S.; defining the term "acquired" for purposes
13 of transfers of certain property; repealing ch.
14 325, F.S., consisting of ss. 325.2055, 325.221,
15 325.222, and 325.223, F.S., relating to motor
16 vehicle air conditioning refrigerants;
17 repealing s. 403.0875, F.S., relating to citrus
18 juice processing facilities; amending s.
19 373.459, F.S.; repealing a provision that
20 repealed a subsection concerning financial
21 match requirements and certain expenditure
22 limitations for surface water protection
23 programs; requiring the Department of
24 Environmental Protection to conduct a salary
25 study and submit a plan; requiring the
26 Department of Environmental Protection to
27 develop a project management plan to implement
28 the remaining phases of an e-permitting program
29 and submit a plan; prohibiting local
30 governments from specifying the method or
31 format of a determination by the Department of

1 Environmental Protection or a water management
2 district with respect to certain projects;
3 amending s. 403.061, F.S.; authorizing the
4 Department of Environmental Protection to
5 maintain a list of projects and activities that
6 applicants may consider in developing certain
7 proposals; providing an effective date.
8

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

10
11 Section 1. Subsection (2) of section 258.007, Florida
12 Statutes, is amended to read:

13 258.007 Powers of division.--

14 (2) The division has authority to adopt rules pursuant
15 to ss. 120.536(1) and 120.54 to implement provisions of law
16 conferring duties on it, and to impose penalties for the
17 violation of any rule authorized by this section ~~shall be a~~
18 ~~misdemeanor and punishable accordingly.~~

19 Section 2. Section 258.008, Florida Statutes, is
20 created to read:

21 258.008 Prohibited activities; penalties.--

22 (1) Except as provided in subsection (3), any person
23 who violates or otherwise fails to comply with the rules
24 adopted under this chapter commits a noncriminal infraction
25 for which ejection from all property managed by the Division
26 of Recreation and Parks and a fine of up to \$1,000 may be
27 imposed by the division.

28 (2) In addition to penalties imposed under subsection
29 (1), any person who fails to sign a citation given under
30 subsection (1), fails to appear in court in response to such
31 citation, or fails to comply with the court's order commits a

1 misdemeanor of the second degree, punishable as provided in s.
2 775.082 or s. 775.083.

3 (3) Any person who engages in any of the following
4 activities within the boundaries of a state park without first
5 obtaining the express permission of the Division of Recreation
6 and Parks commits a misdemeanor of the second degree,
7 punishable as provided in s. 775.082 or s. 775.083, and shall
8 be ejected from all property managed by the division:

9 (a) Cutting, carving, injuring, mutilating, moving,
10 displacing, or breaking off any water-bottom formation or
11 coral;

12 (b) Capturing, trapping, injuring, or harassing a wild
13 animal;

14 (c) Collecting plant or animal specimens;

15 (d) Leaving the designated public roads in a vehicle;

16 or

17 (e) Hunting.

18 (4) Fines paid under this section shall be paid to the
19 Department of Environmental Protection and deposited in the
20 State Park Trust Fund. If a person who receives a citation
21 elects to defend himself or herself in court, the county small
22 claims court for the county in which the violation occurred
23 shall have jurisdiction. Court costs shall be determined by
24 and paid to the court as ordered by the court. A person who
25 receives a citation but fails to pay the fine, sign and accept
26 a citation, appear in court, or comply with the court's order
27 may not enter any state park property until he or she has paid
28 the fine, complied with the procedure, or complied with the
29 order. The department may establish by rule the procedures for
30 giving a citation, giving a notice of appearance in court,
31 payment of fines, and listing of persons ejected from state

1 parks; the amounts of fines for civil infractions up to
2 \$1,000; definitions; time limits and deadlines; and any other
3 matter necessary to implement this section.

4 Section 3. Section 316.212, Florida Statutes, is
5 amended to read:

6 316.212 Operation of golf carts on certain
7 roadways.--The operation of a golf cart upon the public roads
8 or streets of this state is prohibited except as provided
9 herein:

10 (1) A golf cart may be operated only upon a county
11 road that has been designated by a county, or a municipal
12 street that has been designated by a municipality, for use by
13 golf carts. Prior to making such a designation, the
14 responsible local governmental entity must first determine
15 that golf carts may safely travel on or cross the public road
16 or street, considering factors including the speed, volume,
17 and character of motor vehicle traffic using the road or
18 street. Upon a determination that golf carts may be safely
19 operated on a designated road or street, the responsible
20 governmental entity shall post appropriate signs to indicate
21 that such operation is allowed.

22 (2) A golf cart may be operated on a part of the State
23 Highway System only under the following conditions:

24 (a) To cross a portion of the State Highway System
25 which intersects a county road or municipal street that has
26 been designated for use by golf carts if the Department of
27 Transportation has reviewed and approved the location and
28 design of the crossing and any traffic control devices needed
29 for safety purposes.

30 (b) To cross, at midblock, a part of the State Highway
31 System where a golf course is constructed on both sides of the

1 highway if the Department of Transportation has reviewed and
2 approved the location and design of the crossing and any
3 traffic control devices needed for safety purposes.

4 (c) A golf cart may be operated on a state road that
5 has been designated for transfer to a local government unit
6 pursuant to s. 335.0415 if the Department of Transportation
7 determines that the operation of a golf cart within the
8 right-of-way of the road will not impede the safe and
9 efficient flow of motor vehicular traffic. The department may
10 authorize the operation of golf carts on such a road if:

11 1. The road is the only available public road along
12 which golf carts may travel or cross or the road provides the
13 safest travel route among alternative routes available; and

14 2. The speed, volume, and character of motor vehicular
15 traffic using the road is considered in making such a
16 determination.

17
18 Upon its determination that golf carts may be operated on a
19 given road, the department shall post appropriate signs on the
20 road to indicate that such operation is allowed.

21 (3) Any other provision of this section to the
22 contrary notwithstanding, a golf cart may be operated for the
23 purpose of crossing a street or highway where a single mobile
24 home park is located on both sides of the street or highway
25 and is divided by that street or highway, provided that the
26 governmental entity having original jurisdiction over such
27 street or highway shall review and approve the location of the
28 crossing and require implementation of any traffic controls
29 needed for safety purposes. This subsection shall apply only
30 to residents or guests of the mobile home park. Any other
31 provision of law to the contrary notwithstanding, if notice is

1 | posted at the entrance and exit to any mobile home park that
2 | residents of the park utilize golf carts or electric vehicles
3 | within the confines of the park it shall not be necessary that
4 | the park have a gate or other device at the entrance and exit
5 | in order for such golf carts or electric vehicles to be
6 | lawfully operated in the park.

7 | ~~(4)~~ Notwithstanding any other provisions of this
8 | section, a golf cart may be operated on a road that is part of
9 | the State Park Road System and where the posted speed limit is
10 | 35 miles per hour or less, and where not otherwise prohibited
11 | by the Division of Recreation and Parks of the Department of
12 | Environmental Protection.

13 | ~~(5)~~~~(4)~~ A golf cart may be operated only during the
14 | hours between sunrise and sunset, unless the responsible
15 | governmental entity has determined that a golf cart may be
16 | operated during the hours between sunset and sunrise and the
17 | golf cart is equipped with headlights, brake lights, turn
18 | signals, and a windshield.

19 | ~~(6)~~~~(5)~~ A golf cart must be equipped with efficient
20 | brakes, reliable steering apparatus, safe tires, a rearview
21 | mirror, and red reflectorized warning devices in both the
22 | front and rear.

23 | ~~(7)~~~~(6)~~ A golf cart may not be operated on public roads
24 | or streets by any person under the age of 14.

25 | ~~(8)~~~~(7)~~ A local governmental entity may enact an
26 | ordinance regarding golf cart operation and equipment which is
27 | more restrictive than those enumerated in this section. Upon
28 | enactment of any such ordinance, the local governmental entity
29 | shall post appropriate signs or otherwise inform the residents
30 | that such an ordinance exists and that it shall be enforced
31 | within the local government's jurisdictional territory. An

1 ordinance referred to in this section must apply only to an
2 unlicensed driver.

3 ~~(9)(8)~~ A violation of this section is a noncriminal
4 traffic infraction, punishable pursuant to chapter 318 as a
5 moving violation for infractions of subsection (1), subsection
6 (2), subsection (3), subsection~~(5)(4)~~, or a local ordinance
7 corresponding thereto and enacted pursuant to subsection~~(8)~~
8 ~~(7)~~, or punishable pursuant to chapter 318 as a nonmoving
9 violation for infractions of subsection~~(6)(5)~~, subsection
10 ~~(7)(6)~~, or a local ordinance corresponding thereto and
11 enacted pursuant to subsection~~(8)(7)~~.

12 Section 4. Section 373.4142, Florida Statutes, is
13 amended to read:

14 373.4142 Water quality within stormwater treatment
15 systems.--State surface water quality standards applicable to
16 waters of the state, as defined in s. 403.031(13), shall not
17 apply within a stormwater management system which is designed,
18 constructed, operated, and maintained for stormwater treatment
19 in accordance with a valid permit or noticed exemption issued
20 pursuant to chapter ~~62-25~~ ~~17-25~~, Florida Administrative Code;
21 a valid permit or exemption under s. 373.4145 within the
22 Northwest Florida Water Management District; a valid permit
23 issued on or subsequent to April 1, 1986, within the Suwannee
24 River Water Management District or the St. Johns River Water
25 Management District pursuant to this part; a valid permit
26 issued on or subsequent to March 1, 1988, within the Southwest
27 Florida Water Management District pursuant to this part; or a
28 valid permit issued on or subsequent to January 6, 1982,
29 within the South Florida Water Management District pursuant to
30 this part. Such inapplicability of state water quality
31 standards shall be limited to that part of the stormwater

1 management system located upstream of a manmade water control
2 structure permitted, or approved under a noticed exemption, to
3 retain or detain stormwater runoff in order to provide
4 treatment of the stormwater. The additional use of such a
5 stormwater management system for flood attenuation or
6 irrigation shall not divest the system of the benefits of this
7 exemption. This section shall not affect the authority of the
8 department and water management districts to require
9 reasonable assurance that the water quality within such
10 stormwater management systems will not adversely impact public
11 health, fish and wildlife, or adjacent waters.

12 Section 5. Subsection (17) of section 373.414, Florida
13 Statutes, is amended to read:

14 373.414 Additional criteria for activities in surface
15 waters and wetlands.--

16 (17) The variance provisions of s. 403.201 are
17 applicable to the provisions of this section or any rule
18 adopted pursuant hereto. The governing boards and the
19 department are authorized to review and take final agency
20 action on petitions requesting such variances for those
21 activities they regulate under this part and s. 373.4145.

22 Section 6. Subsection (27) is added to section
23 373.4211, Florida Statutes, to read:

24 373.4211 Ratification of chapter 17-340, Florida
25 Administrative Code, on the delineation of the landward extent
26 of wetlands and surface waters.--Pursuant to s. 373.421, the
27 Legislature ratifies chapter 17-340, Florida Administrative
28 Code, approved on January 13, 1994, by the Environmental
29 Regulation Commission, with the following changes:

30 (27) Pursuant to s. 373.421 and subsection (26), the
31 Legislature ratifies amendments to chapter 62-340, Florida

1 Administrative Code, approved on February 23, 2006, by the
2 Environmental Regulation Commission. Rule 62-340.450(3)
3 Facultative Species is amended by the addition of the
4 following plant species: Ilex glabra and Pinus elliottii.
5 However, this ratification and rule revision does not take
6 effect until state and federal wetland jurisdiction
7 delineation methodologies are aligned.

8 Section 7. Subsection (19) of section 403.031, Florida
9 Statutes, is amended to read:

10 403.031 Definitions.--In construing this chapter, or
11 rules and regulations adopted pursuant hereto, the following
12 words, phrases, or terms, unless the context otherwise
13 indicates, have the following meanings:

14 (19) "Regulated air pollutant" means any pollutant
15 regulated under the federal Clean Air Act.+

16 ~~(a) Nitrogen oxides or any volatile organic compound;~~

17 ~~(b) Any pollutant regulated under 42 U.S.C. s. 7411 or~~
18 ~~s. 7412; or~~

19 ~~(c) Any pollutant for which a national primary ambient~~
20 ~~air quality standard has been adopted.~~

21 Section 8. Subsections (7) and (8) of section 403.067,
22 Florida Statutes, are amended to read:

23 403.067 Establishment and implementation of total
24 maximum daily loads.--

25 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
26 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

27 (a) Basin management action plans.--

28 1. In developing and implementing the total maximum
29 daily load for a water body, the department, or the department
30 in conjunction with a water management district, may develop a
31 basin management action plan that addresses some or all of the

1 | watersheds and basins tributary to the water body. Such a plan
2 | ~~must shall~~ integrate the appropriate management strategies
3 | available to the state through existing water quality
4 | protection programs to achieve the total maximum daily loads
5 | and may provide for phased implementation of these management
6 | strategies to promote timely, cost-effective actions as
7 | provided for in s. 403.151. The plan ~~must shall~~ establish a
8 | schedule for implementing the management strategies, establish
9 | a basis for evaluating the plan's effectiveness, and identify
10 | feasible funding strategies for implementing the plan's
11 | management strategies. The management strategies may include
12 | regional treatment systems or other public works, where
13 | appropriate, and voluntary trading of water quality credits in
14 | areas that have adopted a basin management action plan to
15 | achieve the needed pollutant load reductions.

16 | 2. A basin management action plan ~~must shall~~ equitably
17 | allocate, pursuant to paragraph (6)(b), pollutant reductions
18 | to individual basins, as a whole to all basins, or to each
19 | identified point source or category of nonpoint sources, as
20 | appropriate. For nonpoint sources for which best management
21 | practices have been adopted, the initial requirement specified
22 | by the plan ~~must shall~~ be those practices developed pursuant
23 | to paragraph (c). In accordance with procedures adopted by
24 | rule under paragraph (8)(c), the plan must allow point or
25 | nonpoint sources that will achieve greater pollutant
26 | reductions than required by an adopted total maximum load or
27 | wasteload allocation to generate, register, and trade water
28 | quality credits for the excess reductions to enable other
29 | sources to achieve their allocation if the generation of water
30 | quality credits does not remove the obligation of a source or
31 | activity to meet applicable technology requirements or adopted

1 best-management practices. The plan must allow trading between
2 NPDES permittees and trading that may or may not involve NPDES
3 permittees, where the generation or use of the credits involve
4 an entity or activity not subject to department water
5 discharge permits whose owner voluntarily elects to become
6 subject to the requirements of this section. Where
7 appropriate, the plan may take into account the benefits of
8 ~~provide~~ pollutant load reduction achieved by point or nonpoint
9 sources credits to dischargers that have implemented
10 management strategies to reduce pollutant loads, including
11 best management practices, prior to the development of the
12 basin management action plan. The plan ~~must~~ shall also
13 identify the mechanisms that will address by which potential
14 future increases in pollutant loading ~~will be addressed~~.

15 3. The basin management action planning process is
16 intended to involve the broadest possible range of interested
17 parties, with the objective of encouraging the greatest amount
18 of cooperation and consensus possible. In developing a basin
19 management action plan, the department shall assure that key
20 stakeholders, including, but not limited to, applicable local
21 governments, water management districts, the Department of
22 Agriculture and Consumer Services, other appropriate state
23 agencies, local soil and water conservation districts,
24 environmental groups, regulated interests, and affected
25 pollution sources, are invited to participate in the process.
26 The department shall hold at least one public meeting in the
27 vicinity of the watershed or basin to discuss and receive
28 comments during the planning process and shall otherwise
29 encourage public participation to the greatest practicable
30 extent. Notice of the public meeting ~~must~~ shall be published
31 in a newspaper of general circulation in each county in which

1 | the watershed or basin lies not less than 5 days nor more than
2 | 15 days before the public meeting. A basin management action
3 | plan shall not supplant or otherwise alter any assessment made
4 | under subsection (3) or subsection (4) or any calculation or
5 | initial allocation.

6 | 4. The department shall adopt all or any part of a
7 | basin management action plan and any amendment to such plan by
8 | secretarial order pursuant to chapter 120 to implement the
9 | provisions of this section.

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

24 | 6. The provisions of the department's rule relating to
25 | the equitable abatement of pollutants into surface waters may
26 | not be applied to water bodies or water body segments for
27 | which a basin management plan that takes into account future
28 | new or expanded activities or discharges has been adopted
29 | pursuant to this section.

30 | (b) Total maximum daily load implementation.--
31 |

1 1. The department shall be the lead agency in
2 coordinating the implementation of the total maximum daily
3 loads through existing water quality protection programs.
4 Application of a total maximum daily load by a water
5 management district must ~~shall~~ be consistent with this section
6 and shall not require the issuance of an order or a separate
7 action pursuant to s. 120.536(1) or s. 120.54 for the adoption
8 of the calculation and allocation previously established by
9 the department. Such programs may include, but are not limited
10 to:
11 a. Permitting and other existing regulatory programs,
12 including water-quality-based effluent limitations;
13 b. Nonregulatory and incentive-based programs,
14 including best management practices, cost sharing, waste
15 minimization, pollution prevention, agreements established
16 pursuant to s. 403.061(21), and public education;
17 c. Other water quality management and restoration
18 activities, for example surface water improvement and
19 management plans approved by water management districts or
20 basin management action plans developed pursuant to this
21 subsection;
22 d. Trading of water quality credits ~~Pollutant trading~~
23 or other equitable economically based agreements;
24 e. Public works including capital facilities; or
25 f. Land acquisition.
26 2. For a basin management action plan adopted pursuant
27 to paragraph (a) ~~subparagraph (a)4-~~, any management strategies
28 and pollutant reduction requirements associated with a
29 pollutant of concern for which a total maximum daily load has
30 been developed, including effluent limits set forth for a
31 discharger subject to NPDES permitting, if any, must ~~shall~~ be

1 included in a timely manner in subsequent NPDES permits or
2 permit modifications for that discharger. The department shall
3 not impose limits or conditions implementing an adopted total
4 maximum daily load in an NPDES permit until the permit
5 expires, the discharge is modified, or the permit is reopened
6 pursuant to an adopted basin management action plan.

7 a. Absent a detailed allocation, total maximum daily
8 loads must ~~shall~~ be implemented through NPDES permit
9 conditions that provide for ~~afford~~ a compliance schedule. In
10 such instances, a facility's NPDES permit must ~~shall~~ allow
11 time for the issuance of an order adopting the basin
12 management action plan. The time allowed for the issuance of
13 an order adopting the plan must ~~shall~~ not exceed 5 years. Upon
14 issuance of an order adopting the plan, the permit must ~~shall~~
15 be reopened, as necessary, and permit conditions consistent
16 with the plan must ~~shall~~ be established. Notwithstanding ~~the~~
17 other provisions of this subparagraph, upon request by a NPDES
18 permittee, the department as part of a permit issuance,
19 renewal, or modification may establish individual allocations
20 prior to the adoption of a basin management action plan.

21 b. For holders of NPDES municipal separate storm sewer
22 system permits and other stormwater sources, implementation of
23 a total maximum daily load or basin management action plan
24 must ~~shall~~ be achieved, to the maximum extent practicable,
25 through the use of best management practices or other
26 management measures.

27 c. The basin management action plan does not relieve
28 the discharger from any requirement to obtain, renew, or
29 modify an NPDES permit or to abide by other requirements of
30 the permit.
31

1 d. Management strategies set forth in a basin
2 management action plan to be implemented by a discharger
3 subject to permitting by the department must ~~shall~~ be
4 completed pursuant to the schedule set forth in the basin
5 management action plan. This implementation schedule may
6 extend beyond the 5-year term of an NPDES permit.

7 e. Management strategies and pollution reduction
8 requirements set forth in a basin management action plan for a
9 specific pollutant of concern shall not be subject to
10 challenge under chapter 120 at the time they are incorporated,
11 in an identical form, into a subsequent NPDES permit or permit
12 modification.

13 f. For nonagricultural pollutant sources not subject
14 to NPDES permitting but permitted pursuant to other state,
15 regional, or local water quality programs, the pollutant
16 reduction actions adopted in a basin management action plan
17 must ~~shall~~ be implemented to the maximum extent practicable as
18 part of those permitting programs.

19 g. A nonpoint source discharger included in a basin
20 management action plan must ~~shall~~ demonstrate compliance with
21 the pollutant reductions established under ~~pursuant to~~
22 subsection (6) by either implementing the appropriate best
23 management practices established pursuant to paragraph (c) or
24 conducting water quality monitoring prescribed by the
25 department or a water management district.

26 h. A nonpoint source discharger included in a basin
27 management action plan may be subject to enforcement action by
28 the department or a water management district based upon a
29 failure to implement the responsibilities set forth in
30 sub-subparagraph g.
31

1 i. A landowner, discharger, or other responsible
2 person who is implementing applicable management strategies
3 specified in an adopted basin management action plan may ~~shall~~
4 not be required by permit, enforcement action, or otherwise to
5 implement additional management strategies to reduce pollutant
6 loads to attain the pollutant reductions established pursuant
7 to subsection (6) and must ~~shall~~ be deemed to be in compliance
8 with this section. This subparagraph does not limit the
9 authority of the department to amend a basin management action
10 plan as specified in subparagraph (a)5.

11 (c) Best management practices.--

12 1. The department, in cooperation with the water
13 management districts and other interested parties, as
14 appropriate, may develop suitable interim measures, best
15 management practices, or other measures necessary to achieve
16 the level of pollution reduction established by the department
17 for nonagricultural nonpoint pollutant sources in allocations
18 developed pursuant to subsection (6) and this subsection.
19 These practices and measures may be adopted by rule by the
20 department and the water management districts ~~pursuant to ss.~~
21 ~~120.536(1) and 120.54,~~ and, where adopted by rule, shall be
22 implemented by those parties responsible for nonagricultural
23 nonpoint source pollution.

24 2. The Department of Agriculture and Consumer Services
25 may develop and adopt by rule pursuant to ss. 120.536(1) and
26 120.54 suitable interim measures, best management practices,
27 or other measures necessary to achieve the level of pollution
28 reduction established by the department for agricultural
29 pollutant sources in allocations developed pursuant to
30 subsection (6) and this subsection or for programs implemented
31 pursuant to paragraph (11)(b). These practices and measures

1 | may be implemented by those parties responsible for
2 | agricultural pollutant sources and the department, the water
3 | management districts, and the Department of Agriculture and
4 | Consumer Services must ~~shall~~ assist with implementation. In
5 | the process of developing and adopting rules for interim
6 | measures, best management practices, or other measures, the
7 | Department of Agriculture and Consumer Services shall consult
8 | with the department, the Department of Health, the water
9 | management districts, representatives from affected farming
10 | groups, and environmental group representatives. Such rules
11 | must ~~shall~~ also incorporate provisions for a notice of intent
12 | to implement the practices and a system to assure the
13 | implementation of the practices, including recordkeeping
14 | requirements.

15 | 3. Where interim measures, best management practices,
16 | or other measures are adopted by rule, the effectiveness of
17 | such practices in achieving the levels of pollution reduction
18 | established in allocations developed by the department
19 | pursuant to subsection (6) and this subsection or in programs
20 | implemented pursuant to paragraph (11)(b) must ~~shall~~ be
21 | verified at representative sites by the department. The
22 | department must ~~shall~~ use best professional judgment in making
23 | the initial verification that the best management practices
24 | are reasonably expected to be effective and, where applicable,
25 | must ~~shall~~ notify the appropriate water management district or
26 | the Department of Agriculture and Consumer Services of its
27 | initial verification prior to the adoption of a rule proposed
28 | pursuant to this paragraph. Implementation, in accordance with
29 | rules adopted under this paragraph, of practices that have
30 | been initially verified to be effective, or verified to be
31 | effective by monitoring at representative sites, by the

1 department, shall provide a presumption of compliance with
2 state water quality standards and release from the provisions
3 of s. 376.307(5) for those pollutants addressed by the
4 practices, and the department is not authorized to institute
5 proceedings against the owner of the source of pollution to
6 recover costs or damages associated with the contamination of
7 surface water or groundwater caused by those pollutants.
8 Research projects funded by the department, a water management
9 district, or the Department of Agriculture and Consumer
10 Services to develop or demonstrate interim measures or best
11 management practices shall be granted a presumption of
12 compliance with state water quality standards and a release
13 from the provisions of s. 376.307(5). The presumption of
14 compliance and release is ~~shall be~~ limited to the research
15 site and only for those pollutants addressed by the interim
16 measures or best management practices. Eligibility for the
17 presumption of compliance and release is ~~shall be~~ limited to
18 research projects on sites where the owner or operator of the
19 research site and the department, a water management district,
20 or the Department of Agriculture and Consumer Services have
21 entered into a contract or other agreement that, at a minimum,
22 specifies the research objectives, the cost-share
23 responsibilities of the parties, and a schedule that details
24 the beginning and ending dates of the project.

25 4. Where water quality problems are demonstrated,
26 despite the appropriate implementation, operation, and
27 maintenance of best management practices and other measures
28 required by ~~according to~~ rules adopted under this paragraph,
29 the department, a water management district, or the Department
30 of Agriculture and Consumer Services, in consultation with the
31 department, shall institute a reevaluation of the best

1 management practice or other measure. Should the reevaluation
2 determine that the best management practice or other measure
3 requires modification, the department, a water management
4 district, or the Department of Agriculture and Consumer
5 Services, as appropriate, shall revise the rule to require
6 implementation of the modified practice within a reasonable
7 time period as specified in the rule.

8 5. Agricultural records relating to processes or
9 methods of production, costs of production, profits, or other
10 financial information held by the Department of Agriculture
11 and Consumer Services pursuant to subparagraphs 3. and 4. or
12 pursuant to any rule adopted pursuant to subparagraph 2. are
13 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
14 of the State Constitution. Upon request, records made
15 confidential and exempt pursuant to this subparagraph shall be
16 released to the department or any water management district if
17 ~~provided that~~ the confidentiality specified by this
18 subparagraph for such records is maintained.

19 6. The provisions of subparagraphs 1. and 2. do shall
20 not preclude the department or water management district from
21 requiring compliance with water quality standards or with
22 current best management practice requirements set forth in any
23 applicable regulatory program authorized by law to protect for
24 ~~the purpose of protecting~~ water quality. Additionally,
25 subparagraphs 1. and 2. are applicable only to the extent that
26 they do not conflict with any rules adopted by the department
27 which that are necessary to maintain a federally delegated or
28 approved program.

29 (8) RULES.--The department is authorized to adopt
30 rules pursuant to ss. 120.536(1) and 120.54 for:
31

1 (a) Delisting water bodies or water body segments from
2 the list developed under subsection (4) pursuant to the
3 guidance under subsection (5).~~;~~

4 (b) ~~Administering~~ Administration of funds to implement
5 the total maximum daily load and basin management action
6 planning programs.~~;~~

7 (c) Water quality credit ~~Procedures for pollutant~~
8 trading among the pollutant sources to a water body or water
9 body segment. By July 1, 2007, rulemaking shall be initiated
10 which provides for the following:~~;~~ ~~including a mechanism for~~
11 ~~the issuance and tracking of pollutant credits. Such~~
12 ~~procedures may be implemented through permits or other~~
13 ~~authorizations and must be legally binding. Prior to adopting~~
14 ~~rules for pollutant trading under this paragraph, and no later~~
15 ~~than November 30, 2006, the Department of Environmental~~
16 ~~Protection shall submit a report to the Governor, the~~
17 ~~President of the Senate, and the Speaker of the House of~~
18 ~~Representatives containing recommendations on such rules,~~
19 ~~including the proposed basis for equitable economically based~~
20 ~~agreements and the tracking and accounting of pollution~~
21 ~~credits or other similar mechanisms. Such recommendations~~
22 ~~shall be developed in cooperation with a technical advisory~~
23 ~~committee that includes experts in pollutant trading and~~
24 ~~representatives of potentially affected parties;~~

25 1. The process to be used to determine how credits are
26 generated, quantified, and validated;

27 2. A publicly accessible water quality credit trading
28 registry that tracks water quality credits and trades and
29 lists the prices paid for such credits and that does not allow
30 the department to participate in the establishment of such
31 prices;

1 3. Limitations on the availability and use of water
2 quality credits, including a list of eligible pollutants or
3 parameters and minimum water quality requirements and, where
4 appropriate, adjustments to reflect best-management practice
5 performance uncertainties and water-segment-specific location
6 factors;

7 4. The timing and duration of credits and allowance
8 for credit transferability; and

9 5. Mechanisms for determining and ensuring compliance
10 with trading procedures, including recordkeeping, monitoring,
11 reporting, and inspections. Generators of traded credits are
12 responsible for achieving the load reductions upon which the
13 credits are based.

14 (d) The total maximum daily load calculation in
15 accordance with paragraph (6)(a) immediately upon the
16 effective date of this act, for those eight water segments
17 within Lake Okeechobee proper as submitted to the United
18 States Environmental Protection Agency pursuant to subsection
19 (2). ~~;~~ and

20 (e) Implementation of other specific provisions.

21 Section 9. Subsection (1) of 403.0872, Florida
22 Statutes, is amended to read:

23 403.0872 Operation permits for major sources of air
24 pollution; annual operation license fee.--Provided that
25 program approval pursuant to 42 U.S.C. s. 7661a has been
26 received from the United States Environmental Protection
27 Agency, beginning January 2, 1995, each major source of air
28 pollution, including electrical power plants certified under
29 s. 403.511, must obtain from the department an operation
30 permit for a major source of air pollution under this section.
31 This ~~operation~~ permit is the only department operation permit

1 for a major source of air pollution required for such source;
2 however provided, at the applicant's request, the department
3 shall issue a separate acid rain permit for a major source of
4 air pollution that is an affected source within the meaning of
5 42 U.S.C. s. 7651a(1). Operation permits for major sources of
6 air pollution, except general permits issued pursuant to s.
7 403.814, must be issued in accordance with the procedures
8 contained in this section and in accordance with chapter 120;
9 however, to the extent that chapter 120 is inconsistent with
10 the provisions of this section, the procedures contained in
11 this section prevail.

12 (1) For purposes of this section, a major source of
13 air pollution means a stationary source of air pollution, or
14 any group of stationary sources within a contiguous area and
15 under common control, which emits any regulated air pollutant
16 and which is ~~any of the following~~:

17 (a) A major source within the meaning of 42 U.S.C. s.
18 7412(a)(1);

19 (b) A major stationary source or major emitting
20 facility within the meaning of 42 U.S.C. s. 7602(j) or 42
21 U.S.C. subchapter I, part C or part D;

22 (c) An affected source within the meaning of 42 U.S.C.
23 s. 7651a(1);

24 (d) An air pollution source subject to standards or
25 regulations under 42 U.S.C. s. 7411 or s. 7412; provided that
26 a source is not a major source solely because of its
27 regulation under 42 U.S.C. s. 7412(r); or

28 (e) A stationary air pollution source belonging to a
29 category designated as a 40 C.F.R. part 70 source by
30 regulations adopted by the administrator of the United States
31

1 Environmental Protection Agency under 42 U.S.C. ss. 7661 et
2 seq.

3
4 The department shall exempt those facilities that are subject
5 to this section solely because they are subject to
6 requirements under 42 U.S.C. s. 7411 or s. 7412 ~~s. 7411~~ or
7 solely because they are subject to reporting requirements
8 under 42 U.S.C. s. 7412 for as long as the exemption is
9 available under federal law.

10 Section 10. Paragraphs (e) and (f) of subsection (2)
11 of section 403.088, Florida Statutes, are amended to read:

12 403.088 Water pollution operation permits;
13 conditions.--

14 (2)

15 (e) However, if the discharge will not meet permit
16 conditions or applicable statutes and rules, the department
17 may issue, renew, revise, or reissue the operation permit if:

18 1. The applicant is constructing, installing, or
19 placing into operation, or has submitted plans and a
20 reasonable schedule for constructing, installing, or placing
21 into operation, an approved pollution abatement facility or
22 alternative waste disposal system;

23 2. The applicant needs permission to pollute the
24 waters within the state for a period of time necessary to
25 complete research, planning, construction, installation, or
26 operation of an approved and acceptable pollution abatement
27 facility or alternative waste disposal system;

28 3. There is no present, reasonable, alternative means
29 of disposing of the waste other than by discharging it into
30 the waters of the state;

31

1 4. The granting of an operation permit will be in the
2 public interest; ~~or~~

3 5. The discharge will not be unreasonably destructive
4 to the quality of the receiving waters; ~~or-~~

5 6. A water quality credit trade that meets the
6 requirements of a total maximum daily load allocation has been
7 approved in a final order issued under s. 403.067(7)(a)1.4.

8 (f) A permit issued, renewed, revised, or reissued
9 pursuant to paragraph (e) shall be accompanied by an order
10 establishing a schedule for achieving compliance with all
11 permit conditions. Such permit may require compliance with
12 the accompanying order.

13 Section 11. Subsection (3) of section 403.50663,
14 Florida Statutes, is amended to read:

15 403.50663 Informational public meetings.--

16 (3) A local government or regional planning council
17 that intends to conduct an informational public meeting must
18 provide notice of the meeting to all parties not less than 15
19 5 days prior to the meeting, and to the general public, in
20 accordance with the provisions of s. 403.5115(5).

21 Section 12. Subsection (2) of section 403.50665,
22 Florida Statutes, is amended to read:

23 403.50665 Land use consistency.--

24 (2) Within 45 days after the filing of the
25 application, each local government shall file a determination
26 with the department, the applicant, the administrative law
27 judge, and all parties on the consistency of the site or any
28 directly associated facilities with existing land use plans
29 and zoning ordinances that were in effect on the date the
30 application was filed, based on the information provided in
31 the application. The local government may issue its

1 determination up to 35 days later if the local government has
2 requested additional information on land use and zoning
3 consistency as part of the local government's statement on
4 completeness of the application submitted pursuant to s.
5 403.5066(1)(a). Incompleteness of information necessary for a
6 local government to evaluate an application may be claimed by
7 the local government as cause for a statement of inconsistency
8 with existing land use plans and zoning ordinances. Notice of
9 the consistency determination shall be published in accordance
10 with the requirements of s. 403.5115.

11 Section 13. Section 403.508, Florida Statutes, is
12 amended to read:

13 403.508 Land use and certification hearings, parties,
14 participants.--

15 (1)(a) Within 5 days after the filing of ~~If~~ a petition
16 for a hearing on land use has been filed pursuant to s.
17 403.50665, the designated administrative law judge shall
18 schedule ~~conduct~~ a land use hearing to be conducted in the
19 county of the proposed site or directly associated facility,
20 as applicable, as expeditiously as possible, but not later
21 than 30 days after the department's receipt of the petition.
22 The place of such hearing shall be as close as possible to the
23 proposed site or directly associated facility. If a petition
24 is filed, the hearing shall be held regardless of the status
25 of the completeness of the application. ~~However,~~
26 ~~incompleteness of information necessary for a local government~~
27 ~~to evaluate an application may be claimed by the local~~
28 ~~government as cause for a statement of inconsistency with~~
29 ~~existing land use plans and zoning ordinances under s.~~
30 ~~403.50665.~~

31

1 (b) Notice of the land use hearing shall be published
2 in accordance with the requirements of s. 403.5115.

3 (c) The sole issue for determination at the land use
4 hearing shall be whether or not the proposed site is
5 consistent and in compliance with existing land use plans and
6 zoning ordinances. If the administrative law judge concludes
7 that the proposed site is not consistent or in compliance with
8 existing land use plans and zoning ordinances, the
9 administrative law judge shall receive at the hearing evidence
10 on, and address in the recommended order any changes to or
11 approvals or variances under, the applicable land use plans or
12 zoning ordinances which will render the proposed site
13 consistent and in compliance with the local land use plans and
14 zoning ordinances.

15 (d) The designated administrative law judge's
16 recommended order shall be issued within 30 days after
17 completion of the hearing and shall be reviewed by the board
18 within 60 days after receipt of the recommended order by the
19 board.

20 (e) If it is determined by the board that the proposed
21 site does conform with existing land use plans and zoning
22 ordinances in effect as of the date of the application, or as
23 otherwise provided by this act, the responsible zoning or
24 planning authority shall not thereafter change such land use
25 plans or zoning ordinances so as to foreclose construction and
26 operation of the proposed electrical power plant on the
27 proposed site or directly associated facilities unless
28 certification is subsequently denied or withdrawn.

29 (f) If it is determined by the board that the proposed
30 site does not conform with existing land use plans and zoning
31 ordinances, the board may, if it determines after notice and

1 hearing and upon consideration of the recommended order on
2 land use and zoning issues that it is in the public interest
3 to authorize the use of the land as a site for an electrical
4 power plant, authorize a variance or other necessary approval
5 to the adopted land use plan and zoning ordinances required to
6 render the proposed site consistent with local land use plans
7 and zoning ordinances. The board's action shall not be
8 controlled by any other procedural requirements of law. In the
9 event a variance or other approval is denied by the board, it
10 shall be the responsibility of the applicant to make the
11 necessary application for any approvals determined by the
12 board as required to make the proposed site consistent and in
13 compliance with local land use plans and zoning ordinances. No
14 further action may be taken on the complete application until
15 the proposed site conforms to the adopted land use plan or
16 zoning ordinances or the board grants relief as provided under
17 this act.

18 (2)(a) A certification hearing shall be held by the
19 designated administrative law judge no later than 265 days
20 after the application is filed with the department. The
21 certification hearing shall be held at a location in proximity
22 to the proposed site. ~~At the conclusion of the certification~~
23 ~~hearing, the designated administrative law judge shall, after~~
24 ~~consideration of all evidence of record, submit to the board a~~
25 ~~recommended order no later than 45 days after the filing of~~
26 ~~the hearing transcript.~~

27 (b) Notice of the certification hearing and notice of
28 the deadline for filing of notice of intent to be a party
29 shall be made in accordance with the requirements of s.
30 403.5115.

31 (3)(a) Parties to the proceeding shall include:

- 1 1. The applicant.
- 2 2. The Public Service Commission.
- 3 3. The Department of Community Affairs.
- 4 4. The Fish and Wildlife Conservation Commission.
- 5 5. The water management district.
- 6 6. The department.
- 7 7. The regional planning council.
- 8 8. The local government.
- 9 9. The Department of Transportation.
- 10 (b) Any party listed in paragraph (a) other than the
- 11 department or the applicant may waive its right to participate
- 12 in these proceedings. If such listed party fails to file a
- 13 notice of its intent to be a party on or before the 90th day
- 14 prior to the certification hearing, such party shall be deemed
- 15 to have waived its right to be a party.
- 16 (c) Notwithstanding the provisions of chapter 120,
- 17 upon the filing with the administrative law judge of a notice
- 18 of intent to be a party no later than 75 days after the
- 19 application is filed, the following shall also be parties to
- 20 the proceeding:
- 21 1. Any agency not listed in paragraph (a) as to
- 22 matters within its jurisdiction.
- 23 2. Any domestic nonprofit corporation or association
- 24 formed, in whole or in part, to promote conservation or
- 25 natural beauty; to protect the environment, personal health,
- 26 or other biological values; to preserve historical sites; to
- 27 promote consumer interests; to represent labor, commercial, or
- 28 industrial groups; or to promote comprehensive planning or
- 29 orderly development of the area in which the proposed
- 30 electrical power plant is to be located.
- 31

1 (d) Notwithstanding paragraph (e), failure of an
2 agency described in subparagraph (c)1. to file a notice of
3 intent to be a party within the time provided herein shall
4 constitute a waiver of the right of that agency to participate
5 as a party in the proceeding.

6 (e) Other parties may include any person, including
7 those persons enumerated in paragraph (c) who have failed to
8 timely file a notice of intent to be a party, whose
9 substantial interests are affected and being determined by the
10 proceeding and who timely file a motion to intervene pursuant
11 to chapter 120 and applicable rules. Intervention pursuant to
12 this paragraph may be granted at the discretion of the
13 designated administrative law judge and upon such conditions
14 as he or she may prescribe any time prior to 30 days before
15 the commencement of the certification hearing.

16 (f) Any agency, including those whose properties or
17 works are being affected pursuant to s. 403.509(4), shall be
18 made a party upon the request of the department or the
19 applicant.

20 (4)(a) The order of presentation at the certification
21 hearing, unless otherwise changed by the administrative law
22 judge to ensure the orderly presentation of witnesses and
23 evidence, shall be:

- 24 1. The applicant.
- 25 2. The department.
- 26 3. State agencies.
- 27 4. Regional agencies, including regional planning
28 councils and water management districts.
- 29 5. Local governments.
- 30 6. Other parties.

31

1 (b) When appropriate, any person may be given an
2 opportunity to present oral or written communications to the
3 designated administrative law judge. If the designated
4 administrative law judge proposes to consider such
5 communications, then all parties shall be given an opportunity
6 to cross-examine or challenge or rebut such communications.

7 (5) At the conclusion of the certification hearing,
8 the designated administrative law judge shall, after
9 consideration of all evidence of record, submit to the board a
10 recommended order no later than 45 days after the filing of
11 the hearing transcript.

12 (6)(a) No earlier than 29 days prior to the conduct of
13 the certification hearing, the department or the applicant may
14 request that the administrative law judge cancel the
15 certification hearing and relinquish jurisdiction to the
16 department if all parties to the proceeding stipulate that
17 there are no disputed issues of fact or law to be raised at
18 the certification hearing, and if sufficient time remains for
19 the applicant and the department to publish public notices of
20 the cancellation of the hearing at least 3 days prior to the
21 scheduled date of the hearing.

22 (b) The administrative law judge shall issue an order
23 granting or denying the request within 5 days after receipt of
24 the request.

25 (c) If the administrative law judge grants the
26 request, the department and the applicant shall publish
27 notices of the cancellation of the certification hearing, in
28 accordance with s. 403.5115.

29 (d)1. If the administrative law judge grants the
30 request, the department shall prepare and issue a final order
31 in accordance with s. 403.509(1)(a).

1 2. Parties may submit proposed recommended orders to
2 the department no later than 10 days after the administrative
3 law judge issues an order relinquishing jurisdiction.

4 (7) The applicant shall pay those expenses and costs
5 associated with the conduct of the hearings and the recording
6 and transcription of the proceedings.

7 (8) In issuing permits under the federally approved
8 new source review or prevention of significant deterioration
9 permit program, the department shall observe the procedures
10 specified under the federally approved state implementation
11 plan, including public notice, public comment, public hearing,
12 and notice of applications and amendments to federal, state,
13 and local agencies, to assure that all such permits issued in
14 coordination with the certification of a power plant under
15 this act are federally enforceable and are issued after
16 opportunity for informed public participation regarding the
17 terms and conditions thereof. When possible, any hearing on a
18 federally approved or delegated program permit such as new
19 source review, prevention of significant deterioration permit,
20 or NPDES permit shall be conducted in conjunction with the
21 certification hearing held under this act. It is the intent of
22 the Legislature that the review, processing, and issuance of
23 such federally delegated or approved permits be closely
24 coordinated with the certification process established under
25 this part. In the event of a conflict between the
26 certification process and federally required procedures, the
27 applicable federal requirements shall control.

28 Section 14. Subsection (5) of section 403.509, Florida
29 Statutes, is amended to read:

30 403.509 Final disposition of application.--
31

1 (5) For certifications that are issued by the board,
2 in regard to the properties and works of any agency ~~that which~~
3 is a party to the certification hearing, the board shall have
4 the authority to decide issues relating to the use, the
5 connection thereto, or the crossing thereof, for the
6 electrical power plant and directly associated facilities and
7 to direct any such agency to execute, within 30 days after the
8 entry of certification, the necessary license or easement for
9 such use, connection, or crossing, subject only to the
10 conditions set forth in such certification. For certifications
11 that are issued by the department, in regard to the properties
12 and works of any agency that is a party to the proceeding, any
13 stipulation filed pursuant to s. 403.508(6)(a) must include a
14 stipulation regarding any issues relating to the use, the
15 connection thereto, or the crossing thereof, for the
16 electrical power plant and directly associated facilities. Any
17 agency stipulating to the use, connection to, or crossing of
18 its property must agree to execute, within 30 days after the
19 entry of certification, the necessary license or easement for
20 such use, connection, or crossing, subject only to the
21 conditions set forth in such certification.

22 Section 15. Section 403.5113, Florida Statutes, is
23 amended to read:

24 403.5113 Postcertification amendments and review--

25 (1) POSTCERTIFICATION AMENDMENTS--

26 (a) If, subsequent to certification by the board, a
27 licensee proposes any material change to the application and
28 revisions or amendments thereto, as certified, the licensee
29 shall submit a written request for amendment and a description
30 of the proposed change to the application to the department.
31 Within 30 days after the receipt of the request for the

1 amendment, the department shall determine whether the proposed
2 change to the application requires a modification of the
3 conditions of certification.

4 ~~(b)(2)~~ If the department concludes that the change
5 would not require a modification of the conditions of
6 certification, the department shall provide written
7 notification of the determination on approval of the proposed
8 amendment to the licensee, all agencies, and all other
9 parties.

10 ~~(c)(3)~~ If the department concludes that the change
11 would require a modification of the conditions of
12 certification, the department shall provide written
13 notification to the licensee that the proposed change to the
14 application requires a request for modification pursuant to s.
15 403.516.

16 ~~(2)(4)~~ POSTCERTIFICATION REVIEW.--Postcertification
17 submittals filed by the licensee with one or more agencies are
18 for the purpose of monitoring for compliance with the issued
19 certification and must be reviewed by the agencies on an
20 expedited and priority basis because each facility certified
21 under this act is a critical infrastructure facility. In no
22 event shall a postcertification review be completed in more
23 than 90 days after complete information is submitted to the
24 reviewing agencies.

25 Section 16. Section 403.5115, Florida Statutes, is
26 amended to read:

27 403.5115 Public notice.--

28 (1) The following notices are to be published by the
29 applicant:

30 (a) Notice of the filing of a notice of intent under
31 s. 403.5063, which shall be published within 21 days after the

1 filing of the notice. The notice shall be published as
2 specified by subsection (2), except that the newspaper notice
3 shall be one-fourth page in size in a standard size newspaper
4 or one-half page in size in a tabloid size newspaper.

5 (b) Notice of filing of the application, which shall
6 include a description of the proceedings required by this act,
7 within 21 days after the date of the application filing. Such
8 notice shall give notice of the provisions of s. 403.511(1)
9 and (2).

10 (c) Notice of the land use determination made pursuant
11 to s. 403.50665(1) within 21 days after the determination is
12 filed.

13 (d) Notice of the land use hearing, which shall be
14 published as specified in subsection (2), no later than 15
15 days before the hearing.

16 (e) Notice of the certification hearing and notice of
17 the deadline for filing notice of intent to be a party, which
18 shall be published as specified in subsection (2), at least 65
19 days before the date set for the certification hearing.

20 (f) Notice of the cancellation of the certification
21 hearing, if applicable, no later than 3 days before the date
22 of the originally scheduled certification hearing.

23 (g) Notice of modification when required by the
24 department, based on whether the requested modification of
25 certification will significantly increase impacts to the
26 environment or the public. Such notice shall be published as
27 specified under subsection (2):

28 1. Within 21 days after receipt of a request for
29 modification. The newspaper notice shall be of a size as
30 directed by the department commensurate with the scope of the
31 modification.

1 2. If a hearing is to be conducted in response to the
2 request for modification, then notice shall be published no
3 later than 30 days before the hearing.

4 (h) Notice of a supplemental application, which shall
5 be published as specified in paragraph (b) and subsection (2).

6 (i) Notice of existing site certification pursuant to
7 s. 403.5175. Notices shall be published as specified in
8 paragraph (b) and subsection (2).

9 (2) Notices provided by the applicant shall be
10 published in newspapers of general circulation within the
11 county or counties in which the proposed electrical power
12 plant will be located. The newspaper notices shall be at least
13 one-half page in size in a standard size newspaper or a full
14 page in a tabloid size newspaper. These notices shall include
15 a map generally depicting the project and all associated
16 facilities corridors. A newspaper of general circulation shall
17 be the newspaper which has the largest daily circulation in
18 that county and has its principal office in that county. If
19 the newspaper with the largest daily circulation has its
20 principal office outside the county, the notices shall appear
21 in both the newspaper having the largest circulation in that
22 county and in a newspaper authorized to publish legal notices
23 in that county.

24 (3) All notices published by the applicant shall be
25 paid for by the applicant and shall be in addition to the
26 application fee.

27 (4) The department shall arrange for publication of
28 the following notices in the manner specified by chapter 120
29 and provide copies of those notices to any persons who have
30 requested to be placed on the departmental mailing list for
31

1 this purpose for each case for which an application has been
2 received by the department:

3 (a) Notice of the filing of the notice of intent
4 within 15 days after receipt of the notice.

5 (b) Notice of the filing of the application, no later
6 than 21 days after the application filing.

7 (c) Notice of the land use determination made pursuant
8 to s. 403.50665(1) within 21 days after the determination is
9 filed.

10 (d) Notice of the land use hearing before the
11 administrative law judge, if applicable, no later than 10 ~~15~~
12 days before the hearing.

13 (e) Notice of the land use hearing before the board,
14 if applicable.

15 (f) Notice of the certification hearing at least 45
16 days before the date set for the certification hearing.

17 (g) Notice of the cancellation of the certification
18 hearing, if applicable, no later than 3 days prior to the date
19 of the originally scheduled certification hearing.

20 (h) Notice of the hearing before the board, if
21 applicable.

22 (i) Notice of stipulations, proposed agency action, or
23 petitions for modification.

24 (5) A local government or regional planning council
25 that proposes to conduct an informational public meeting
26 pursuant to s. 403.50663 must publish notice of the meeting in
27 a newspaper of general circulation within the county or
28 counties in which the proposed electrical power plant will be
29 located no later than 7 days prior to the meeting. A newspaper
30 of general circulation is the newspaper that has the largest
31 daily circulation in that county and has its principal office

1 in that county. If the newspaper having the largest daily
2 circulation has its principal office outside the county, the
3 notices much appear in both the newspaper having the largest
4 circulation in that county and in a newspaper authorized to
5 publish legal notices in that county.

6 Section 17. Subsection (1) of section 403.5252,
7 Florida Statutes, is amended to read:

8 403.5252 Determination of completeness.--

9 (1)(a) Within 30 days after the filing ~~distribution~~ of
10 an application, the affected agencies shall file a statement
11 with the department containing the recommendations of each
12 agency concerning the completeness of the application for
13 certification.

14 (b) Within ~~37~~ 7 days after the filing ~~receipt~~ of the
15 application ~~completeness statements of each agency~~, the
16 department shall file a statement with the Division of
17 Administrative Hearings, with the applicant, and with all
18 parties declaring its position with regard to the completeness
19 of the application. The statement of the department shall be
20 based upon its consultation with the affected agencies.

21 Section 18. Subsection (6) of section 403.527, Florida
22 Statutes, is amended to read:

23 403.527 Certification hearing, parties,
24 participants.--

25 (6)(a) No later than ~~29~~ 25 days before the
26 certification hearing, the department or the applicant may
27 request that the administrative law judge cancel the
28 certification hearing and relinquish jurisdiction to the
29 department if all parties to the proceeding stipulate that
30 there are no disputed issues of material fact or law to be
31 raised at the certification hearing.

1 (b) The administrative law judge shall issue an order
2 granting or denying the request within 5 days.

3 (c) If the administrative law judge grants the
4 request, the department and the applicant shall publish
5 notices of the cancellation of the certification hearing in
6 accordance with s. 403.5363.

7 (d)1. If the administrative law judge grants the
8 request, the department shall prepare and issue a final order
9 in accordance with s. 403.529(1)(a).

10 2. Parties may submit proposed final orders to the
11 department no later than 10 days after the administrative law
12 judge issues an order relinquishing jurisdiction.

13 Section 19. Subsection (1) of section 403.5271,
14 Florida Statutes, is amended to read:

15 403.5271 Alternate corridors.--

16 (1) No later than 45 days before the originally
17 scheduled certification hearing, any party may propose
18 alternate transmission line corridor routes for consideration
19 under the provisions of this act.

20 (a) A notice of a proposed alternate corridor must be
21 filed with the administrative law judge, all parties, and any
22 local governments in whose jurisdiction the alternate corridor
23 is proposed. The filing must include the most recent United
24 States Geological Survey 1:24,000 quadrangle maps specifically
25 delineating the corridor boundaries, a description of the
26 proposed corridor, and a statement of the reasons the proposed
27 alternate corridor should be certified.

28 (b)1. Within 7 days after receipt of the notice, the
29 applicant and the department shall file with the
30 administrative law judge and all parties a notice of
31 acceptance or rejection of a proposed alternate corridor for

1 | consideration. If the alternate corridor is rejected by the
2 | applicant or the department, the certification hearing and the
3 | public hearings shall be held as scheduled. If both the
4 | applicant and the department accept a proposed alternate
5 | corridor for consideration, the certification hearing and the
6 | public hearings shall be rescheduled, if necessary.

7 | 2. If rescheduled, the certification hearing shall be
8 | held no more than 90 days after the previously scheduled
9 | certification hearing, unless the data submitted under
10 | paragraph (d) is determined to be incomplete, in which case
11 | the rescheduled certification hearing shall be held no more
12 | than 105 days after the previously scheduled certification
13 | hearing. If additional time is needed due to the alternate
14 | corridor crossing a local government jurisdiction that was not
15 | previously affected, the remainder of the schedule listed
16 | below shall be appropriately adjusted by the administrative
17 | law judge to allow that local government to prepare a report
18 | pursuant to s. 403.526(2)(a)5.

19 | (c) Notice of the filing of the alternate corridor, of
20 | the revised time schedules, of the deadline for newly affected
21 | persons and agencies to file notice of intent to become a
22 | party, of the rescheduled hearing date, and of the proceedings
23 | shall be published in accordance with s. 403.5363.

24 | (d) Within 21 days after acceptance of an alternate
25 | corridor by the department and the applicant, the party
26 | proposing an alternate corridor shall have the burden of
27 | providing all data to the agencies listed in s. 403.526(2) and
28 | newly affected agencies necessary for the preparation of a
29 | supplementary report on the proposed alternate corridor.

30 | (e)1. Reviewing agencies shall advise the department
31 | of any issues concerning completeness no later than 15 days

1 after the submittal of the data required by paragraph (d).
2 Within 22 days after receipt of the data, the department shall
3 issue a determination of completeness.

4 2. If the department determines that the data required
5 by paragraph (d) is not complete, the party proposing the
6 alternate corridor must file such additional data to correct
7 the incompleteness. This additional data must be submitted
8 within 14 days after the determination by the department.

9 3. Reviewing agencies may advise the department of any
10 issues concerning completeness of the additional data within
11 10 days after the filing by the applicant. If the department,
12 within 14 days after receiving the additional data, determines
13 that the data remains incomplete, the incompleteness of the
14 data is deemed a withdrawal of the proposed alternate
15 corridor. The department may make its determination based on
16 recommendations made by other affected agencies.

17 (f) The agencies listed in s. 403.526(2) and any newly
18 affected agencies shall file supplementary reports with the
19 applicant and the department which address the proposed
20 alternate corridors no later than 24 days after the data
21 submitted pursuant to paragraph (d) or paragraph (e) is
22 determined to be complete.

23 (g) The agency reports on alternate corridors must
24 include all information required by s. 403.526(2).

25 (h) When an agency whose agency head is a collegial
26 body, such as a commission, board, or council, is required to
27 submit a report pursuant to this section and is required by
28 its own internal procedures to have the report reviewed by its
29 agency head prior to finalization, the agency may submit to
30 the department a draft version of the report by the deadline
31 indicated in paragraph (f), and shall submit a final version

1 of the report after review by the agency head no later than 7
2 days after the deadline indicated in paragraph (f).

3 (i) The department shall file with the administrative
4 law judge, the applicant, and all parties a project analysis
5 consistent with s. 403.526(3) no more than 16 days after
6 submittal of agency reports on the proposed alternate
7 corridor.

8 Section 20. Section 403.5317, Florida Statutes, is
9 amended to read:

10 403.5317 Postcertification activities.--

11 (1)(a) If, subsequent to certification, a licensee
12 proposes any material change to the application or prior
13 amendments, the licensee shall submit to the department a
14 written request for amendment and description of the proposed
15 change to the application. The department shall, within 30
16 days after the receipt of the request for the amendment,
17 determine whether the proposed change to the application
18 requires a modification of the conditions of certification.

19 (b) If the department concludes that the change would
20 not require a modification of the conditions of certification,
21 the department shall notify, in writing, the licensee, all
22 agencies, and all parties of the determination on approval of
23 the amendment.

24 (c) If the department concludes that the change would
25 require a modification of the conditions of certification, the
26 department shall notify the licensee that the proposed change
27 to the application requires a request for modification under
28 s. 403.5315.

29 (2) Postcertification submittals filed by a licensee
30 with one or more agencies are for the purpose of monitoring
31 for compliance with the issued certification. Each submittal

1 must be reviewed by each agency on an expedited and priority
2 basis because each facility certified under this act is a
3 critical infrastructure facility. Postcertification review may
4 not be completed more than 90 days after complete information
5 for a segment of the certified transmission line is submitted
6 to the reviewing agencies.

7 Section 21. Subsection (3) of section 403.5363,
8 Florida Statutes, is amended to read:

9 403.5363 Public notices; requirements.--

10 (3) The department shall arrange for the publication
11 of the following notices in the manner specified by chapter
12 120:

13 (a) The notice of the filing of an application and the
14 date by which a person intending to become a party must file a
15 petition to intervene or a notice of intent to be a party. The
16 notice must be published no later than 21 days after the
17 application has been filed.

18 (b) The notice of any administrative hearing for
19 certification, if applicable. The notice must be published not
20 less than 65 days before the date set for a hearing, except
21 that notice for a rescheduled certification hearing after
22 acceptance of an alternative corridor must be published not
23 less than 50 days before the date set for the hearing.

24 (c) The notice of the cancellation of a certification
25 hearing, if applicable. The notice must be published not later
26 than 3 ~~7~~ days before the date of the originally scheduled
27 certification hearing.

28 (d) The notice of the hearing before the siting board,
29 if applicable.

30 (e) The notice of stipulations, proposed agency
31 action, or a petition for modification.

1 Section 22. Section 376.30715, Florida Statutes, is
2 amended to read:

3 376.30715 Innocent victim petroleum storage system
4 restoration.--A contaminated site acquired by the current
5 property owner prior to July 1, 1990, which has ceased
6 operating as a petroleum storage or retail business prior to
7 January 1, 1985, is eligible for financial assistance pursuant
8 to s. 376.305(6), notwithstanding s. 376.305(6)(a). For the
9 purposes of this section, the term "acquired" means the
10 acquisition of the title to the property; however, a
11 subsequent transfer of the property to a spouse, a surviving
12 spouse in trust or free of trust, or to a revocable trust
13 created for the benefit of the settlor shall not disqualify
14 the site from financial assistance pursuant to s. 376.305(6).
15 Eligible sites shall be ranked in accordance with s.
16 376.3071(5).

17 Section 23. Chapter 325, Florida Statutes, consisting
18 of ss. 325.2055, 325.221, 325.222, and 325.223, Florida
19 Statutes, is repealed.

20 Section 24. Section 403.0875, Florida Statutes, is
21 repealed.

22 Section 25. Subsection (6) of section 373.459, Florida
23 Statutes, is amended to read:

24 373.459 Funds for surface water improvement and
25 management.--

26 (6)~~(a)~~ The match requirement of subsection (2) shall
27 not apply to the Suwannee River Water Management District, the
28 Northwest Florida Water Management District, or a financially
29 disadvantaged small local government as defined in s.
30 403.885(5).
31

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

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

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

24 ~~(e) This subsection expires July 1, 2007.~~

25 Section 26. The Department of Environmental Protection
26 shall conduct a salary study for environmental permitting
27 staff and submit a plan to the President of the Senate, the
28 Speaker of the House of Representatives, and the Legislative
29 Committee on Intergovernmental Relations by November 1, 2007,
30 which implements a pay parity compensation plan not to exceed
31 3 years beginning fiscal year 2009 which is comparable to

1 similar positions within water management districts, local
2 governments, and the private sector marine construction
3 industry. The plan shall enable the Department of
4 Environmental Protection to attract, train, and retain
5 qualified staff involved with environmental resource
6 permitting and related wetlands permit programs at the state
7 and district levels.

8 Section 27. The Department of Environmental Protection
9 shall develop a project management plan to implement the
10 remaining phases of an e-permitting program that allows for
11 timely submittal, processing, and exchange of permit
12 application and compliance information that yields positive
13 benefits in support of the department's mission, permit
14 applicants, permit holders, and the public. The plan shall
15 include an implementation timetable, estimated costs, and
16 transaction fees. The Department of Environmental Protection
17 shall submit the plan to the President of the Senate, the
18 Speaker of the House of Representatives, and the Legislative
19 Committee on Intergovernmental Relations by November 1, 2007.

20 Section 28. Notwithstanding any other provision of
21 law, a local government is prohibited from specifying the
22 method or format of a determination by the Department of
23 Environmental Protection or a water management district that a
24 project meets the provisions of authorization under chapter
25 253, chapter 373, or chapter 403, Florida Statutes.

26 Section 29. Subsection (41) is added to section
27 403.061, Florida Statutes, to read:

28 403.061 Department; powers and duties.--The department
29 shall have the power and the duty to control and prohibit
30 pollution of air and water in accordance with the law and
31 rules adopted and promulgated by it and, for this purpose, to:

1 (41) Maintain a list of projects or activities that
2 applicants may consider when developing proposals to meet the
3 applicable public interest and mitigation requirements of
4 chapter 253, chapter 373, or this chapter. Maintenance of such
5 a list is not a rule under the provisions of chapter 120, and
6 listing of a specific project or activity shall not be
7 construed to imply approval as meeting the conditions of
8 issuance for an authorization for any specific project. County
9 governments shall develop an inventory of projects or
10 activities for inclusion on the list by obtaining input from
11 local stakeholder groups in the public, private, and nonprofit
12 sectors to include: municipal and county governments, port
13 authorities, marine contractors and other representatives of
14 the marine construction industry, environmental or
15 conservation organizations, and other interested parties
16 representing working waterfronts.

17
18 The department shall implement such programs in conjunction
19 with its other powers and duties and shall place special
20 emphasis on reducing and eliminating contamination that
21 presents a threat to humans, animals or plants, or to the
22 environment.

23 Section 30. This act shall take effect July 1, 2007.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/CS/SB 2054

Requires the Department of Environmental Protection to conduct a salary study of its environmental resource permitting staff and to develop a plan to implement the remaining phases of the e-permitting program.

Clarifies the self-certification process for single family docks and other relevant projects.

For the purpose of air and water quality control and pollution abatement, authorizes the department to maintain a list of projects or activities in order satisfy the public interest and mitigation requirements of law.

Directs county governments to develop an inventory of projects or activities for inclusion on the list.