

20081294e1

1 A bill to be entitled
2 An act relating to environmental protection; reenacting
3 and amending s. 20.255, F.S., relating to the
4 establishment of the department; renaming the Office of
5 Legislative and Government Affairs as the "Office of
6 Legislative Affairs"; creating the Office of
7 Intergovernmental Programs within the department; renaming
8 the Division of Resource Assessment and Management as the
9 "Division of Environmental Assessment and Restoration";
10 authorizing the Environmental Regulation Commission to
11 employ independent counsel and contract for outside
12 technical consultants; amending s. 211.3103, F.S.,
13 relating to the tax on the severance of phosphate rock;
14 deleting obsolete provisions; providing for a surcharge to
15 be levied per ton severed until a specified amount of
16 revenue is generated; providing for an adjustment in the
17 surcharge under certain conditions; providing for the
18 distribution of all taxes, interest, and penalties
19 collected from the severance of phosphate rock; providing
20 for the use of such revenues by certain counties; defining
21 the term "phosphate-related expenses" for purposes of the
22 act; amending s. 253.002, F.S.; authorizing the Board of
23 Trustees of the Internal Improvement Trust Fund to
24 delegate certain duties regarding submerged lands to the
25 Fish and Wildlife Conservation Commission; amending s.
26 373.414, F.S.; exempting certain lands added to a
27 conceptual reclamation plan from rules governing
28 activities in surface waters and wetlands; amending s.
29 378.205, F.S.; providing that administrative challenges to

20081294e1

30 state agency action regarding phosphate mines and
31 reclamation are subject to summary hearings; amending s.
32 369.20, F.S.; providing for the Fish and Wildlife
33 Conservation Commission rather than the Department of
34 Environmental Protection to direct the control,
35 eradication, and regulation of noxious aquatic weeds;
36 requiring the commission to adopt rules; authorizing the
37 commission to collect aquatic plants, quarantine or
38 confiscate noxious aquatic plant material, and conduct a
39 public information program; amending s. 369.22, F.S.;
40 revising a short title; revising definitions; providing
41 duties of the Fish and Wildlife Conservation Commission
42 with respect to supervising and directing all management
43 programs for aquatic plants; authorizing the commission to
44 delegate its authority and disburse funds; requiring the
45 commission to post a report on its website; providing for
46 the commission to adopt rules for issuing permits for the
47 control, eradication, and removal of aquatic plants;
48 amending ss. 369.25 and 369.251, F.S.; providing for the
49 Department of Agriculture and Consumer Services rather
50 than the Department of Environmental Protection to
51 regulate the importation, transport, cultivation, and
52 possession of certain aquatic plants and invasive
53 nonnative plants; authorizing the Department of
54 Agriculture and Consumer Services to adopt rules;
55 providing duties of the department; amending s. 369.252,
56 F.S.; requiring the Fish and Wildlife Conservation
57 Commission to establish a program to control invasive
58 plants on public lands; revising requirements for the use

20081294e1

59 of funds in the Invasive Plant Control Trust Fund;
60 amending s. 206.606, F.S.; providing for the distribution
61 of certain proceeds from the fuel tax by the Fish and
62 Wildlife Conservation Commission; amending s. 328.76,
63 F.S., relating to funds transferred to the Invasive Plant
64 Control Trust Fund; conforming provisions to changes made
65 by the act; amending s. 373.228, F.S.; requiring that
66 certain entities review the standards and guidelines for
67 landscape irrigation and xeriscape ordinances by a date
68 certain; amending s. 376.303, F.S.; requiring a
69 drycleaning facility to display a current and valid
70 certificate of registration issued by the Department of
71 Environmental Protection; prohibiting the sale or transfer
72 of drycleaning solvents after a certain date to owners or
73 operators of drycleaning facilities unless a registration
74 certificate is displayed; providing penalties; amending s.
75 403.031, F.S.; conforming the definition of the term
76 "regulated air pollutant" to changes made in the federal
77 Clean Air Act; amending s. 403.0623, F.S.; providing
78 rulemaking authority for biological sampling techniques;
79 amending s. 403.0872, F.S.; conforming the requirements
80 for air operation permits to changes made to Title V of
81 the Clean Air Act to delete certain minor sources from the
82 Title V permitting requirements; amending s. 373.109,
83 F.S.; requiring the department to initiate rulemaking by a
84 date certain to adjust permit fees; providing for fees to
85 be imposed for verifying that certain activities are
86 exempt from regulation; providing for a fee for conducting
87 informal wetland boundary determinations; specifying

20081294e1

88 special conditions that apply to such determinations;
89 amending s. 403.087, F.S.; providing minimum and maximum
90 amounts for certain fees relating to wastewater treatment
91 facilities; amending s. 403.861, F.S.; providing for a
92 public water system application fee; requiring the
93 department to adopt rules for periodically adjusting the
94 application fee; amending s. 403.873, F.S.; providing
95 rulemaking authority for continuing education requirements
96 for water utility operators; amending s. 403.874, F.S.;
97 providing for the reinstatement of certain water utility
98 operator certifications; prohibiting the Department of
99 Environmental Protection from issuing a permit for a Class
100 I landfill located in a specified water use caution area
101 designated by rule; repealing s. 378.011, F.S., relating
102 to the Land Use Advisory Committee; repealing ch. 325,
103 F.S., consisting of ss. 325.2055, 325.221, 325.222, and
104 325.223, F.S., relating to motor vehicle air conditioning
105 refrigerants; repealing s. 403.08725, F.S., relating to
106 citrus juice processing facilities; providing an effective
107 date.

108
109 Be It Enacted by the Legislature of the State of Florida:

110
111 Section 1. Section 20.255, Florida Statutes, is reenacted
112 and amended to read:

113 20.255 Department of Environmental Protection.--There is
114 created a Department of Environmental Protection.

115 (1) The head of the Department of Environmental Protection
116 shall be a secretary, who shall be appointed by the Governor,

20081294e1

117 with the concurrence of three or more members of the Cabinet. The
118 secretary shall be confirmed by the Florida Senate. The secretary
119 shall serve at the pleasure of the Governor.

120 (2) (a) There shall be three deputy secretaries who are to
121 be appointed by and shall serve at the pleasure of the secretary.
122 The secretary may assign any deputy secretary the responsibility
123 to supervise, coordinate, and formulate policy for any division,
124 office, or district. The following special offices are
125 established and headed by managers, each of whom is to be
126 appointed by and serve at the pleasure of the secretary:

- 127 1. Office of Chief of Staff;τ
- 128 2. Office of General Counsel;τ
- 129 3. Office of Inspector General;τ
- 130 4. Office of External Affairs;τ
- 131 5. Office of Legislative ~~and Government~~ Affairs;τ and
- 132 6. Office of Intergovernmental Programs; and
- 133 7.6. Office of Greenways and Trails.

134 (b) There shall be six administrative districts involved in
135 regulatory matters of waste management, water resource
136 management, wetlands, and air resources, which shall be headed by
137 managers, each of whom is to be appointed by and serve at the
138 pleasure of the secretary. Divisions of the department may have
139 one assistant or two deputy division directors, as required to
140 facilitate effective operation.

141
142 The managers of all divisions and offices specifically named in
143 this section and the directors of the six administrative
144 districts are exempt from part II of chapter 110 and are included
145 in the Senior Management Service in accordance with s.

20081294e1

146 110.205(2)(j).

147 (3) The following divisions of the Department of
148 Environmental Protection are established:

149 (a) Division of Administrative Services.

150 (b) Division of Air Resource Management.

151 (c) Division of Water Resource Management.

152 (d) Division of Law Enforcement.

153 (e) Division of Environmental Assessment and Restoration
154 ~~Resource Assessment and Management.~~

155 (f) Division of Waste Management.

156 (g) Division of Recreation and Parks.

157 (h) Division of State Lands, the director of which is to be
158 appointed by the secretary of the department, subject to
159 confirmation by the Governor and Cabinet sitting as the Board of
160 Trustees of the Internal Improvement Trust Fund.

161
162 In order to ensure statewide and intradepartmental consistency,
163 the department's divisions shall direct the district offices and
164 bureaus on matters of interpretation and applicability of the
165 department's rules and programs.

166 (4) Law enforcement officers of the Department of
167 Environmental Protection who meet the provisions of s. 943.13 are
168 constituted law enforcement officers of this state with full
169 power to investigate and arrest for any violation of the laws of
170 this state, and the rules of the department and the Board of
171 Trustees of the Internal Improvement Trust Fund. The general laws
172 applicable to investigations, searches, and arrests by peace
173 officers of this state apply to such law enforcement officers.

174 (5) Records and documents of the Department of

20081294e1

175 Environmental Protection shall be retained by the department as
176 specified in record retention schedules established under the
177 general provisions of chapters 119 and 257. Further, the
178 department is authorized to:

179 (a) Destroy, or otherwise dispose of, those records and
180 documents in conformity with the approved retention schedules.

181 (b) Photograph, microphotograph, or reproduce such records
182 and documents on film, as authorized and directed by the approved
183 retention schedules, whereby each page will be exposed in exact
184 conformity with the original records and documents retained in
185 compliance with the provisions of this section. Photographs or
186 microphotographs in the form of film or print of any records,
187 made in compliance with the provisions of this section, shall
188 have the same force and effect as the originals thereof would
189 have and shall be treated as originals for the purpose of their
190 admissibility in evidence. Duly certified or authenticated
191 reproductions of such photographs or microphotographs shall be
192 admitted in evidence equally with the original photographs or
193 microphotographs. The impression of the seal of the Department of
194 Environmental Protection on a certificate made by the department
195 and signed by the Secretary of Environmental Protection entitles
196 the certificate to be received in all courts and in all
197 proceedings in this state and is prima facie evidence of all
198 factual matters set forth in the certificate. A certificate may
199 relate to one or more records as set forth in the certificate or
200 in a schedule attached to the certificate.

201 (6) The Department of Environmental Protection may require
202 that bond be given by any employee of the department, payable to
203 the Governor of the state and the Governor's successor in office,

20081294e1

204 for the use and benefit of those whom it concerns, in such penal
205 sums and with such good and sufficient surety or sureties as are
206 approved by the department, conditioned upon the faithful
207 performance of the duties of the employee.

208 (7) There is created as a part of the Department of
209 Environmental Protection an Environmental Regulation Commission.
210 The commission shall be composed of seven residents of this state
211 appointed by the Governor, subject to confirmation by the Senate.
212 In making appointments, the Governor shall provide reasonable
213 representation from all sections of the state. Membership shall
214 be representative of agriculture, the development industry, local
215 government, the environmental community, lay citizens, and
216 members of the scientific and technical community who have
217 substantial expertise in the areas of the fate and transport of
218 water pollutants, toxicology, epidemiology, geology, biology,
219 environmental sciences, or engineering. The Governor shall
220 appoint the chair, and the vice chair shall be elected from among
221 the membership. All appointments shall be for 4-year terms. The
222 Governor may at any time fill a vacancy for the unexpired term.
223 The members of the commission shall serve without compensation,
224 but shall be paid travel and per diem as provided in s. 112.061
225 while in the performance of their official duties.
226 Administrative, personnel, and other support services necessary
227 for the commission shall be furnished by the department. The
228 commission may employ independent counsel and contract for the
229 services of outside technical consultants.

230 (8) The department is the agency of state government
231 responsible for collecting and analyzing information concerning
232 energy resources in this state; for coordinating the energy

20081294e1

233 conservation programs of state agencies; and for coordinating the
234 development, review, and implementation of the state's energy
235 policy.

236 Section 2. Section 211.3103, Florida Statutes, is amended
237 to read:

238 211.3103 Levy of tax on severance of phosphate rock; rate,
239 basis, and distribution of tax.--

240 (1) There is hereby levied an excise tax upon every person
241 engaging in the business of severing phosphate rock from the
242 soils or waters of this state for commercial use. The tax shall
243 be collected, administered, and enforced by the department.

244 ~~(2) Beginning July 1, 2003, the proceeds of all taxes,~~
245 ~~interest, and penalties imposed under this section shall be paid~~
246 ~~into the State Treasury as follows:~~

247 ~~(a) The first \$10 million in revenue collected from the tax~~
248 ~~during each fiscal year shall be paid to the credit of the~~
249 ~~Conservation and Recreation Lands Trust Fund.~~

250 ~~(b) The remaining revenues collected from the tax during~~
251 ~~that fiscal year, after the required payment under paragraph (a),~~
252 ~~shall be paid into the State Treasury as follows:~~

253 ~~1. For payment to counties in proportion to the number of~~
254 ~~tons of phosphate rock produced from a phosphate rock matrix~~
255 ~~located within such political boundary, 18.75 percent. The~~
256 ~~department shall distribute this portion of the proceeds annually~~
257 ~~based on production information reported by the producers on the~~
258 ~~annual returns for the taxable year. Any such proceeds received~~
259 ~~by a county shall be used only for phosphate-related expenses.~~

260 ~~2. For payment to counties that have been designated a~~
261 ~~rural area of critical economic concern pursuant to s. 288.0656~~

20081294e1

262 ~~in proportion to the number of tons of phosphate rock produced~~
263 ~~from a phosphate rock matrix located within such political~~
264 ~~boundary, 15 percent. The department shall distribute this~~
265 ~~portion of the proceeds annually based on production information~~
266 ~~reported by the producers on the annual returns for the taxable~~
267 ~~year.~~

268 ~~3. To the credit of the Phosphate Research Trust Fund in~~
269 ~~the Department of Education, 11.25 percent.~~

270 ~~4. To the credit of the Minerals Trust Fund, 11.25 percent.~~

271 ~~5. To the credit of the Nonmandatory Land Reclamation Trust~~
272 ~~Fund, 43.75 percent.~~

273 (2)~~(3)~~ Beginning July 1, 2004, the proceeds of all taxes,
274 interest, and penalties imposed under this section shall be paid
275 into the State Treasury as follows:

276 (a) The first \$10 million in revenue collected from the tax
277 during each fiscal year shall be paid to the credit of the
278 Conservation and Recreation Lands Trust Fund.

279 (b) The remaining revenues collected from the tax during
280 that fiscal year, after the required payment under paragraph (a),
281 shall be paid into the State Treasury as follows:

282 1. To the credit of the General Revenue Fund of the state,
283 40.1 percent.

284 2. For payment to counties in proportion to the number of
285 tons of phosphate rock produced from a phosphate rock matrix
286 located within such political boundary, 16.5 percent. The
287 department shall distribute this portion of the proceeds annually
288 based on production information reported by the producers on the
289 annual returns for the taxable year. Any such proceeds received
290 by a county shall be used only for phosphate-related expenses.

20081294e1

291 3. For payment to counties that have been designated a
292 rural area of critical economic concern pursuant to s. 288.0656
293 in proportion to the number of tons of phosphate rock produced
294 from a phosphate rock matrix located within such political
295 boundary, 13 percent. The department shall distribute this
296 portion of the proceeds annually based on production information
297 reported by the producers on the annual returns for the taxable
298 year. Payments under this subparagraph shall be made to the
299 counties unless the Legislature by special act creates a local
300 authority to promote and direct the economic development of the
301 county. If such authority exists, payments shall be made to that
302 authority.

303 4. To the credit of the Phosphate Research Trust Fund in
304 the Division of Universities of the Department of Education, 9.3
305 percent.

306 5. To the credit of the Minerals Trust Fund, 10.7 percent.

307 6. To the credit of the Nonmandatory Land Reclamation Trust
308 Fund, 10.4 percent.

309 ~~(3)~~(4) Beginning July 1, 2003, and annually thereafter, the
310 Department of Environmental Protection may use up to \$2 million
311 of the funds in the Nonmandatory Land Reclamation Trust Fund to
312 purchase a surety bond or a policy of insurance, the proceeds of
313 which would pay the cost of restoration, reclamation, and cleanup
314 of any phosphogypsum stack system and phosphate mining activities
315 in the event that an operator or permittee thereof has been
316 subject to a final order of bankruptcy and all funds available
317 therefrom are determined to be inadequate to accomplish such
318 restoration, reclamation, and cleanup. This section does not
319 imply that such operator or permittee is thereby relieved of its

20081294e1

320 obligations or relieved of any liabilities pursuant to any other
321 remedies at law, administrative remedies, statutory remedies, or
322 remedies pursuant to bankruptcy law. The department shall adopt
323 rules to implement this subsection, including the purchase and
324 oversight of the bond or policy.

325 (4)~~(5)~~ Funds distributed pursuant to subparagraphs (2) (b) 3.
326 ~~(2) (b) 2.~~ and (11) (e) 4. ~~(3) (b) 3.~~ shall be used for:

327 (a) Planning, preparing, and financing of infrastructure
328 projects for job creation and capital investment, especially
329 those related to industrial and commercial sites. Infrastructure
330 investments may include the following public or public-private
331 partnership facilities: stormwater systems, telecommunications
332 facilities, roads or other remedies to transportation
333 impediments, nature-based tourism facilities, or other physical
334 requirements necessary to facilitate trade and economic
335 development activities.

336 (b) Maximizing the use of federal, local, and private
337 resources, including, but not limited to, those available under
338 the Small Cities Community Development Block Grant Program.

339 (c) Projects that improve inadequate infrastructure that
340 has resulted in regulatory action that prohibits economic or
341 community growth, if such projects are related to specific job
342 creation or job retention opportunities.

343 (5)~~(6)~~ Beginning January 1, 2004, the tax rate shall be the
344 base rate of \$1.62 per ton severed.

345 (6)~~(7)~~ Beginning January 1, 2005, and annually thereafter,
346 the tax rate shall be the base rate times the base rate
347 adjustment for the tax year as calculated by the department in
348 accordance with subsection (8) ~~(9)~~.

20081294e1

349 ~~(7)~~(8) The excise tax levied by this section shall apply to
350 the total production of the producer during the taxable year,
351 measured on the basis of bone-dry tons produced at the point of
352 severance.

353 ~~(8)~~(9)(a) On or before March 30, 2004, and annually
354 thereafter, the department shall calculate the base rate
355 adjustment, if any, for phosphate rock based on the change in the
356 unadjusted annual producer price index for the prior calendar
357 year in relation to the unadjusted annual producer price index
358 for calendar year 1999.

359 (b) For the purposes of determining the base rate
360 adjustment for any year, the base rate adjustment shall be a
361 fraction, the numerator of which is the unadjusted annual
362 producer price index for the prior calendar year and the
363 denominator of which is the unadjusted annual producer price
364 index for calendar year 1999.

365 (c) The department shall provide the base rate, the base
366 rate adjustment, and the resulting tax rate to affected producers
367 by written notice on or before April 15 of the current year.

368 (d) If the producer price index for phosphate rock is
369 substantially revised, the department shall make appropriate
370 adjustment in the method used to compute the base rate adjustment
371 under this subsection which will produce results reasonably
372 consistent with the result that would have been obtained if the
373 producer price index for phosphate rock had not been revised.
374 However, the tax rate shall not be less than \$1.51 ~~\$1.56~~ per ton
375 severed.

376 (e) If the producer price index for phosphate rock is
377 discontinued, a comparable index shall be selected by the

20081294e1

378 department and adopted by rule.

379 (9)~~(10)~~ The excise tax levied on the severance of phosphate
380 rock shall be in addition to any ad valorem taxes levied upon the
381 separately assessed mineral interest in the real property upon
382 which the site of severance is located, or any other tax, permit,
383 or license fee imposed by the state or its political
384 subdivisions.

385 (10)~~(11)~~ The tax levied by this section shall be collected
386 in the manner prescribed in s. 211.33.

387 (11) (a) Beginning July 1, 2008, there is hereby levied a
388 surcharge of \$1.38 per ton severed in addition to the excise tax
389 levied by this section. The surcharge shall be levied until the
390 last day of the calendar quarter in which the total revenue
391 generated by the surcharge equals \$60 million. Revenues derived
392 from the surcharge shall be deposited into the Nonmandatory Land
393 Reclamation Trust Fund and shall be exempt from the general
394 revenue service charge provided in s. 215.20. Revenues derived
395 from the surcharge shall be used to augment funds appropriated
396 for the rehabilitation, management, and closure of the Piney
397 Point and Mulberry sites and for approved reclamation of
398 nonmandatory lands in accordance with chapter 378. A minimum of
399 75 percent of the revenues from the surcharge shall be dedicated
400 to the Piney Point and Mulberry sites.

401 (b) Beginning July 1, 2008, the excise tax rate shall be
402 \$1.945 per ton severed and the base rate adjustment provided in
403 subsection (6) shall not apply.

404 (c) Beginning July 1 of the fiscal year following the date
405 on which the amount of revenues collected from the surcharge
406 equals or exceeds \$60 million, the tax rate shall be the base

20081294e1

407 rate of \$1.51 per ton severed and the base rate adjustment
408 provided in subsection (6) shall not apply until the conditions
409 of paragraph (d) are met.

410 (d) Beginning July 1 of the fiscal year following the date
411 on which a taxpayer's surcharge offset equals or exceeds the
412 total amount of surcharge remitted by such taxpayer under
413 paragraph (a), and each year thereafter, the excise tax rate
414 levied on such taxpayer shall be adjusted as provided in
415 subsection (6). The surcharge offset for each taxpayer is an
416 amount calculated by the department equal to the cumulative
417 difference between the amount of excise tax that would have been
418 collected under subsections (5) and (6) and the excise tax
419 collected under paragraph (c) from such taxpayer.

420 (e) Beginning July 1 of the fiscal year after the revenues
421 from the surcharge equal \$60 million, the proceeds of all taxes,
422 interest, and penalties imposed under this section shall be
423 exempt from the general revenue service charge provided in s.
424 215.20, and shall be paid into the State Treasury as follows:

425 1. To the credit of the Conservation and Recreation Lands
426 Trust Fund, 25.5 percent.

427 2. To the credit of the General Revenue Fund of the state,
428 37 percent.

429 3. For payment to counties in proportion to the number of
430 tons of phosphate rock produced from a phosphate rock matrix
431 located within such political boundary, 13.6 percent. The
432 department shall distribute this portion of the proceeds annually
433 based on production information reported by the producers on the
434 annual returns for the taxable year. Any such proceeds received
435 by a county shall be used only for phosphate-related expenses.

20081294e1

436 4. For payment to counties that have been designated a
437 rural area of critical economic concern pursuant to s. 288.0656
438 in proportion to the number of tons of phosphate rock produced
439 from a phosphate rock matrix located within such political
440 boundary, 10.7 percent. The department shall distribute this
441 portion of the proceeds annually based on production information
442 reported by the producers on the annual returns for the taxable
443 year. Payments under this subparagraph shall be made to the
444 counties unless the Legislature by special act creates a local
445 authority to promote and direct the economic development of the
446 county. If such authority exists, payments shall be made to that
447 authority.

448 5. To the credit of the Nonmandatory Land Reclamation Trust
449 Fund, 6.6 percent.

450 6. To the credit of the Phosphate Research Trust Fund in
451 the Division of Universities of the Department of Education, 6.6
452 percent.

453 (f) For purposes of this section, "phosphate-related
454 expenses" means those expenses that provide for infrastructure or
455 services in support of the phosphate industry, reclamation or
456 restoration of phosphate lands, community infrastructure on such
457 reclaimed lands, and similar expenses directly related to support
458 of the industry.

459 Section 3. Subsection (1) of section 253.002, Florida
460 Statutes, is amended to read:

461 253.002 Department of Environmental Protection, water
462 management districts, and Department of Agriculture and Consumer
463 Services; duties with respect to state lands.--

464 (1) The Department of Environmental Protection shall

20081294e1

465 perform all staff duties and functions related to the
466 acquisition, administration, and disposition of state lands,
467 title to which is or will be vested in the Board of Trustees of
468 the Internal Improvement Trust Fund. However, upon the effective
469 date of rules adopted pursuant to s. 373.427, a water management
470 district created under s. 373.069 shall perform the staff duties
471 and functions related to the review of any application for
472 authorization to use board of trustees-owned submerged lands
473 necessary for an activity regulated under part IV of chapter 373
474 for which the water management district has permitting
475 responsibility as set forth in an operating agreement adopted
476 pursuant to s. 373.046(4); and the Department of Agriculture and
477 Consumer Services shall perform the staff duties and functions
478 related to the review of applications and compliance with
479 conditions for use of board of trustees-owned submerged lands
480 under authorizations or leases issued pursuant to ss. 253.67-
481 253.75 and 597.010. Unless expressly prohibited by law, the board
482 of trustees may delegate to the department any statutory duty or
483 obligation relating to the acquisition, administration, or
484 disposition of lands, title to which is or will be vested in the
485 board of trustees. The board of trustees may also delegate to any
486 water management district created under s. 373.069 the authority
487 to take final agency action, without any action on behalf of the
488 board, on applications for authorization to use board of
489 trustees-owned submerged lands for any activity regulated under
490 part IV of chapter 373 for which the water management district
491 has permitting responsibility as set forth in an operating
492 agreement adopted pursuant to s. 373.046(4). This water
493 management district responsibility under this subsection shall be

20081294e1

494 subject to the department's general supervisory authority
495 pursuant to s. 373.026(7). The board of trustees may also
496 delegate to the Department of Agriculture and Consumer Services
497 the authority to take final agency action on behalf of the board
498 on applications to use board of trustees-owned submerged lands
499 for any activity for which that department has responsibility
500 pursuant to ss. 253.67-253.75 and 597.010. However, the board of
501 trustees shall retain the authority to take final agency action
502 on establishing any areas for leasing, new leases, expanding
503 existing lease areas, or changing the type of lease activity in
504 existing leases. Upon issuance of an aquaculture lease or other
505 real property transaction relating to aquaculture, the Department
506 of Agriculture and Consumer Services must send a copy of the
507 document and the accompanying survey to the Department of
508 Environmental Protection. The board of trustees may also delegate
509 to the Fish and Wildlife Conservation Commission the authority to
510 take final agency action, without any action on behalf of the
511 board, on applications for authorization to use board of
512 trustees-owned submerged lands for any activity regulated under
513 s. 369.20.

514 Section 4. Subsection (15) of section 373.414, Florida
515 Statutes, is amended to read:

516 373.414 Additional criteria for activities in surface
517 waters and wetlands.--

518 (15) Activities associated with mining operations as
519 defined by and subject to ss. 378.201-378.212 and 378.701-378.703
520 and included in a conceptual reclamation plan or modification
521 application submitted prior to July 1, 1996, shall continue to be
522 reviewed under the rules of the department adopted pursuant to

20081294e1

523 ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983,
524 as amended, the rules of the water management districts under
525 this part, and interagency agreements, in effect on January 1,
526 1993. Such activities shall be exempt from rules adopted pursuant
527 to subsection (9) and the statewide methodology ratified pursuant
528 to s. 373.4211. As of January 1, 1994, such activities may be
529 issued permits authorizing construction for the life of the mine.
530 Lands added to a conceptual reclamation plan subject to this
531 subsection through a modification submitted after July 1, 1996,
532 which are contiguous to the conceptual reclamation plan area
533 shall be exempt from rules adopted under subsection (9), except
534 that the total acreage of the conceptual reclamation plan may not
535 be increased through such modification and the cumulative acreage
536 added may not exceed 3 percent of the conceptual reclamation plan
537 area. Lands that have been mined or disturbed by mining
538 activities, lands subject to a conservation easement under which
539 the grantee is a state or federal regulatory agency, and lands
540 otherwise preserved as part of a permitting review may not be
541 removed from the conceptual reclamation land area under this
542 subsection.

543 Section 5. Subsection (3) is added to section 378.205,
544 Florida Statutes, to read:

545 378.205 Administration; powers and duties of the
546 department; agency review responsibility.--

547 (3) Administrative challenges to proposed state agency
548 actions regarding phosphate mines and reclamation pursuant to
549 this chapter or part IV of chapter 373 are subject to the summary
550 hearing provisions of s. 120.574, except that the summary
551 proceeding must be conducted within 90 days after a party files a

20081294e1

552 motion for summary hearing, regardless of whether the parties
553 agree to the summary proceeding and the administrative law
554 judge's decision is a recommended order and not a final order.

555 Section 6. Section 369.20, Florida Statutes, is amended to
556 read:

557 369.20 Florida Aquatic Weed Control Act.--

558 (1) This act shall be known as the "Florida Aquatic Weed
559 Control Act."

560 (2) The Fish and Wildlife Conservation Commission
561 ~~Department of Environmental Protection~~ shall direct the control,
562 eradication, and regulation of noxious aquatic weeds and direct
563 the research and planning related to these activities, as
564 provided in this section, ~~excluding the authority to use fish as~~
565 ~~a biological control agent,~~ so as to protect human health,
566 safety, and recreation and, to the greatest degree practicable,
567 prevent injury to plant and animal life and property.

568 (3) It shall be the duty of the commission ~~department~~ to
569 guide and coordinate the activities of all public bodies,
570 authorities, agencies, and special districts charged with the
571 control or eradication of aquatic weeds and plants. It may
572 delegate all or part of such functions to any appropriate state
573 agency, special district, unit of local or county government,
574 commission, authority, or other public body ~~the Fish and Wildlife~~
575 ~~Conservation Commission.~~

576 (4) The commission ~~department~~ shall also promote, develop,
577 and support research activities directed toward the more
578 effective and efficient control of aquatic plants. In the
579 furtherance of this purpose, the commission ~~department~~ is
580 authorized to:

20081294e1

581 (a) Accept donations and grants of funds and services from
582 both public and private sources;

583 (b) Contract or enter into agreements with public or
584 private agencies or corporations for research and development of
585 aquatic plant control methods or for the performance of aquatic
586 plant control activities;

587 (c) Construct, acquire, operate, and maintain facilities
588 and equipment; and

589 (d) Enter upon, or authorize the entry upon, private
590 property for purposes of making surveys and examinations and to
591 engage in aquatic plant control activities; and such entry shall
592 not be deemed a trespass.

593 (5) The commission ~~Department of Environmental Protection~~
594 may disburse funds to any special district or other local
595 authority charged with the responsibility of controlling or
596 eradicating aquatic plants, upon:

597 ~~(a) Receipt of satisfactory proof that such district or~~
598 ~~authority has sufficient funds on hand to match the state funds~~
599 ~~herein referred to on an equal basis;~~

600 (a) ~~(b)~~ Approval by the commission ~~department~~ of the control
601 techniques to be used by the district or authority; and

602 (b) ~~(c)~~ Review and approval of the program of the district
603 or authority by the commission ~~department to be in conformance~~
604 ~~with the state control plan.~~

605 (6) The commission ~~department~~ shall adopt rules pursuant to
606 ss. 120.536(1) and 120.54 to implement provisions of this section
607 conferring powers or duties upon it and perform any other acts
608 necessary for the proper administration, enforcement, or
609 interpretation of this section, including creating general

20081294e1

610 permits and exemptions and adopting rules and forms governing
611 reports.

612 (7) No person or public agency shall control, eradicate,
613 remove, or otherwise alter any aquatic weeds or plants in waters
614 of the state unless a permit for such activity has been issued by
615 the commission ~~department~~, ~~or~~ unless the activity or is in waters
616 are expressly exempted by commission ~~department~~ rule. The
617 commission ~~department~~ shall develop standards by rule which shall
618 address, at a minimum, chemical, biological, and mechanical
619 control activities; an evaluation of the benefits of such
620 activities to the public; specific criteria recognizing the
621 differences between natural and artificially created waters; and
622 the different amount and quality of littoral vegetation on
623 various waters. Applications for a permit to engage in aquatic
624 plant control activities, including applications to engage in
625 control activities on sovereign submerged lands, shall be made to
626 the commission ~~department~~. In reviewing such applications, the
627 commission ~~department~~ shall consider the criteria set forth in
628 subsection (2) and, in accordance with applicable rules, take
629 final agency action on permit applications for the use of aquatic
630 plant control activities on sovereign submerged lands.

631 (8) As an exemption to all permitting requirements in this
632 section and ss. 369.22 and 369.25, in all freshwater bodies,
633 except aquatic preserves designated under chapter 258 and
634 Outstanding Florida Waters designated under chapter 403, a
635 riparian owner may physically or mechanically remove herbaceous
636 aquatic plants and semiwoody herbaceous plants, such as shrub
637 species and willow, within an area delimited by up to 50 percent
638 of the property owner's frontage or 50 feet, whichever is less,

20081294e1

639 and by a sufficient length waterward from, and perpendicular to,
640 the riparian owner's shoreline to create a corridor to allow
641 access for a boat or swimmer to reach open water. All unvegetated
642 areas shall be cumulatively considered when determining the width
643 of the exempt corridor. Physical or mechanical removal does not
644 include the use of any chemicals or any activity that requires a
645 permit pursuant to part IV of chapter 373.

646 (9) A permit issued pursuant to this section for the
647 application of herbicides to waters in the state for the control
648 of aquatic plants, algae, or invasive exotic plants is exempt
649 from the requirement to obtain a water pollution operation permit
650 pursuant to s. 403.088.

651 (10) Notwithstanding s. 369.25, the commission may collect
652 aquatic plants to be used for habitat enhancement, research,
653 education, and for other purposes as necessary to implement the
654 provisions of this section.

655 (11) The commission may quarantine or confiscate noxious
656 aquatic plant material incidentally adhering to a boat or boat
657 trailer.

658 (12) The commission may conduct a public information
659 program, including, but not limited to, erection of road signs,
660 in order to inform the public and interested parties of this
661 section and its associated rules and of the dangers of noxious
662 aquatic plant introductions.

663 Section 7. Section 369.22, Florida Statutes, is amended to
664 read:

665 369.22 ~~Nonindigenous~~ Aquatic plant management control.--

666 (1) This section shall be known as the "Florida
667 ~~Nonindigenous~~ Aquatic Plant Management Control Act."

20081294e1

668 (2) For the purpose of this section, the following words
669 and phrases shall have the following meanings:

670 (a) "Commission" means the Fish and Wildlife Conservation
671 Commission ~~"Department" means the Department of Environmental~~
672 ~~Protection.~~

673 (b) "Aquatic plant" is any plant growing in, or closely
674 associated with, the aquatic environment and includes "floating,"
675 "emersed," "submersed," and "ditch bank" species.

676 ~~(c) "Nonindigenous aquatic plant" is any aquatic plant that~~
677 ~~is nonnative to the State of Florida and has certain~~
678 ~~characteristics, such as massive productivity, choking density,~~
679 ~~or an obstructive nature, which render it detrimental, obnoxious,~~
680 ~~or unwanted in a particular location.~~

681 ~~(c)(d)~~ A "maintenance program" is a method for the
682 management control of ~~nonindigenous~~ aquatic plants in which
683 control techniques are utilized in a coordinated manner ~~on a~~
684 ~~continuous basis in order to maintain the plant population at the~~
685 ~~lowest feasible level~~ as determined by the commission ~~department~~.

686 ~~(d)(e)~~ An "eradication program" is a method for the
687 management control of ~~nonindigenous~~ aquatic plants in which
688 control techniques are utilized in a coordinated manner in an
689 attempt to kill all the aquatic plants on a permanent basis in a
690 given geographical area.

691 ~~(e)(f)~~ A "complaint spray program" is a method for the
692 management control of ~~nonindigenous~~ aquatic plants in which weeds
693 are allowed to grow unhindered to a given level of
694 undesirability, at which point eradication techniques are applied
695 in an effort to restore the area in question to a relatively low
696 level of infestation.

20081294e1

697 (f)~~(g)~~ "Waters" means rivers, streams, lakes, navigable
698 waters and associated tributaries, canals, meandered lakes,
699 enclosed water systems, and any other bodies of water.

700 ~~(h) "Intercounty waters" means any waters which lie in more
701 than one county or form any part of the boundary between two or
702 more counties, as determined by the department.~~

703 ~~(i) "Intracounty waters" means any waters which lie wholly
704 within the boundaries of one county as determined by the
705 department.~~

706 (g)~~(j)~~ "Districts" means the six water management districts
707 created by law and named, respectively, the Northwest Florida
708 Water Management District, the Suwannee River Water Management
709 District, the St. Johns River Water Management District, the
710 Southwest Florida Water Management District, the Central and
711 Southern Florida Flood Control District, and the Ridge and Lower
712 Gulf Coast Water Management District; and on July 1, 1975, shall
713 mean the five water management districts created by chapter 73-
714 190, Laws of Florida, and named, respectively, the Northwest
715 Florida Water Management District, the Suwannee River Water
716 Management District, the St. Johns River Water Management
717 District, the Southwest Florida Water Management District, and
718 the South Florida Water Management District.

719 (3) The Legislature recognizes that the uncontrolled growth
720 of ~~nonindigenous~~ aquatic plants in the waters of Florida poses a
721 variety of environmental, health, safety, and economic problems.
722 The Legislature acknowledges the responsibility of the state to
723 cope with the uncontrolled and seemingly never-ending growth of
724 ~~nonindigenous~~ aquatic plants in the waters throughout Florida. It
725 is, therefore, the intent of the Legislature that the state

20081294e1

726 policy for the management control of ~~nonindigenous~~ aquatic plants
727 in waters of state responsibility be carried out under the
728 general supervision and control of the commission department, ~~and~~
729 ~~that the state itself be responsible for the control of such~~
730 ~~plants in all intercounty waters; but that control of such plants~~
731 ~~in intracounty waters be the designated responsibility of the~~
732 ~~appropriate unit of local or county government, special district,~~
733 ~~authority, or other public body.~~ It is the intent of the
734 Legislature that the management control of ~~nonindigenous~~ aquatic
735 plants be carried out primarily by means of maintenance programs,
736 rather than eradication or complaint spray programs, for the
737 purpose of achieving more effective management control at a lower
738 long-range cost. It is also the intent of the Legislature that
739 the commission department guide, review, approve, and coordinate
740 all ~~nonindigenous~~ aquatic plant management control programs
741 within each of the water management districts as defined in
742 paragraph (2)(g) ~~(2)(j)~~. It is the intent of the Legislature to
743 account for the costs of ~~nonindigenous~~ aquatic plant management
744 ~~maintenance~~ programs by watershed for comparison ~~management~~
745 purposes.

746 (4) The commission department shall supervise and direct
747 all management maintenance programs for ~~control of nonindigenous~~
748 aquatic plants, as provided in this section, ~~excluding the~~
749 ~~authority to use fish as a biological control agent,~~ so as to
750 protect human health, safety, and recreation and, to the greatest
751 degree practicable, prevent injury to plant, fish, and animal
752 life and to property.

753 (5) When state funds are involved, or when waters of state
754 responsibility are involved, it is the duty of the commission

20081294e1

755 ~~department~~ to guide, review, approve, and coordinate the
756 activities of all public bodies, authorities, state agencies,
757 units of local or county government, commissions, districts, and
758 special districts engaged in operations to manage ~~maintain,~~
759 ~~control,~~ or eradicate ~~nonindigenous~~ aquatic plants, ~~except for~~
760 ~~activities involving biological control programs using fish as~~
761 ~~the control agent.~~ The commission ~~department~~ may delegate all or
762 part of such functions to any appropriate state agency, special
763 district, unit of local or county government, commission,
764 authority, or other public body. However, special attention shall
765 be given to the keeping of accounting and cost data in order to
766 prepare the annual fiscal report required in subsection (7).

767 (6) The commission ~~department~~ may disburse funds to any
768 district, special district, or other local authority for the
769 purpose of operating a maintenance program for managing
770 ~~controlling nonindigenous~~ aquatic plants and ~~other noxious~~
771 ~~aquatic plants~~ in the waters of state responsibility upon:

772 ~~(a) Receipt of satisfactory proof that such district or~~
773 ~~authority has sufficient funds on hand to match the state funds~~
774 ~~herein referred to on an equal basis;~~

775 ~~(a)(b)~~ Approval by the commission ~~department~~ of the
776 management ~~maintenance control~~ techniques to be used by the
777 district or authority; and

778 ~~(b)(c)~~ Review and approval of the program of the district
779 or authority by the commission ~~department~~ ~~to be in conformance~~
780 ~~with the state maintenance control plan.~~

781 (7) The commission ~~department~~ shall prepare ~~submit~~ an
782 annual report on the status of the ~~nonindigenous~~ aquatic plant
783 management maintenance program which shall be posted on the

20081294e1

784 ~~commission's Internet website to the President of the Senate, the~~
785 ~~Speaker of the House of Representatives, and the Governor and~~
786 ~~Cabinet by January 1 of the following year. This report shall~~
787 ~~include a statement of the degree of maintenance control achieved~~
788 ~~by individual nonindigenous aquatic plant species in the~~
789 ~~intercounty waters of each of the water management districts for~~
790 ~~the preceding county fiscal year, together with an analysis of~~
791 ~~the costs of achieving this degree of control. This cost~~
792 ~~accounting shall include the expenditures by all governmental~~
793 ~~agencies in the waters of state responsibility. If the level of~~
794 ~~maintenance control achieved falls short of that which is deemed~~
795 ~~adequate by the department, then the report shall include an~~
796 ~~estimate of the additional funding that would have been required~~
797 ~~to achieve this level of maintenance control. All measures of~~
798 ~~maintenance program achievement and the related cost shall be~~
799 ~~presented by water management districts so that comparisons may~~
800 ~~be made among the water management districts, as well as with the~~
801 ~~state as a whole.~~

802 (8) The commission ~~department~~ shall have the authority to
803 cooperate with the United States and to enter into such
804 cooperative agreements or commitments as the commission
805 ~~department~~ may determine necessary to carry out the ~~maintenance,~~
806 ~~control,~~ or eradication of water hyacinths, alligator weed, and
807 other noxious aquatic plant growths from the waters of the state
808 and to enter into contracts with the United States obligating the
809 state to indemnify and save harmless the United States from any
810 and all claims and liability arising out of the initiation and
811 prosecution of any project undertaken under this section.
812 However, any claim or claims required to be paid under this

20081294e1

813 section shall be paid from money appropriated to the
814 ~~nonindigenous~~ aquatic plant management ~~control~~ program.

815 (9) The commission ~~department~~ may delegate various
816 ~~nonindigenous~~ aquatic plant management ~~control and maintenance~~
817 functions to any appropriate state agency, special district, unit
818 of local or county government, commission, authority, or other
819 public body ~~the Fish and Wildlife Conservation Commission~~. The
820 recipient of such delegation ~~commission~~ shall, in accepting
821 commitments to engage in ~~nonindigenous~~ aquatic plant management
822 ~~control and maintenance~~ activities, be subject to the rules of
823 the commission ~~department~~, ~~except that the commission shall~~
824 ~~regulate, control, and coordinate the use of any fish for aquatic~~
825 ~~weed control in fresh waters of the state~~. In addition, the
826 recipient ~~commission~~ shall render technical and other assistance
827 to the commission ~~department~~ in order to carry out most
828 effectively the purposes of s. 369.20. ~~However, nothing herein~~
829 ~~shall diminish or impair the regulatory authority of the~~
830 ~~commission with respect to the powers granted to it by s. 9, Art.~~
831 ~~IV of the State Constitution.~~

832 (10) The commission ~~department~~ is directed to use
833 biological agents, ~~excluding fish~~, for the management ~~control~~ of
834 ~~nonindigenous~~ aquatic plants when determined to be appropriate by
835 the commission.

836 (11) The commission ~~department~~ shall adopt rules pursuant
837 to ss. 120.536(1) and 120.54 to implement the provisions of this
838 section conferring powers or duties upon it and perform any other
839 acts necessary for the proper administration, enforcement, or
840 interpretation of this section, including adopting rules and
841 forms governing reports.

20081294e1

842 (12) No person or public agency shall control, eradicate,
843 remove, or otherwise alter any ~~nonindigenous~~ aquatic plants in
844 waters of the state unless a permit for such activity has been
845 issued by the commission department, or unless the activity or is
846 ~~in~~ waters are expressly exempted by commission department rule.
847 The commission department shall develop standards by rule which
848 shall address, at a minimum, chemical, biological, and mechanical
849 control activities; an evaluation of the benefits of such
850 activities to the public; specific criteria recognizing the
851 differences between natural and artificially created waters; and
852 the different amount and quality of littoral vegetation on
853 various waters. Applications for a permit to engage in aquatic
854 plant management control activities, including applications to
855 engage in management activities on sovereign submerged lands,
856 shall be made to the commission department. In reviewing such
857 applications, the commission department shall consider the
858 criteria set forth in subsection (4) and, in accordance with
859 applicable rules, shall take final agency action on permit
860 applications for the use of aquatic plant activities on sovereign
861 submerged lands.

862 Section 8. Section 369.25, Florida Statutes, is amended to
863 read:

864 369.25 Aquatic plants; definitions; permits; powers of
865 department; penalties.--

866 (1) As used in this section, the term:

867 (a) "Aquatic plant" means any plant, including a floating,
868 emersed, submersed, or ditch bank species, growing in, or closely
869 associated with, an aquatic environment and includes any part or
870 seed of such plant.

20081294e1

871 (b) "Department" means the Department of Agriculture and
872 Consumer Services ~~Environmental Protection~~.

873 (c) "Nonnursery cultivation" means the tending of aquatic
874 plant species for harvest in the natural environment.

875 (d) "Noxious aquatic plant" means any part, including, but
876 not limited to, seeds or reproductive parts, of an aquatic plant
877 which has the potential to hinder the growth of beneficial
878 plants, interfere with irrigation or navigation, or adversely
879 affect the public welfare or the natural resources of this state.

880 (e) "Person" includes a natural person, a public or private
881 corporation, a governmental entity, or any other kind of entity.

882 (2) No person shall engage in any business involving the
883 importation, transportation, ~~nonnursery~~ cultivation, collection,
884 sale, or possession of any aquatic plant species without a permit
885 issued by the department ~~or the Department of Agriculture and~~
886 ~~Consumer Services~~. No person shall import, transport, ~~nonnursery~~
887 cultivate, collect, sell, or possess any noxious aquatic plant
888 listed on the prohibited aquatic plant list established by the
889 department without a permit issued by the department ~~or the~~
890 ~~Department of Agriculture and Consumer Services~~. No permit shall
891 be issued until the department determines that the proposed
892 activity poses no threat or danger to the waters, wildlife,
893 natural resources, or environment of the state.

894 (3) The department has the following powers:

895 (a) To make such rules governing the importation,
896 transportation, nonnursery cultivation, collection, and
897 possession of aquatic plants as may be necessary for the
898 eradication, control, or prevention of the dissemination of
899 noxious aquatic plants that are not inconsistent with rules of

20081294e1

900 the Fish and Wildlife Conservation Commission ~~Department of~~
901 ~~Agriculture and Consumer Services.~~

902 (b) To establish by rule lists of aquatic plant species
903 regulated under this section, including those exempted from such
904 regulation, provided ~~the Department of Agriculture and Consumer~~
905 ~~Services and the Fish and Wildlife Conservation Commission~~
906 approves ~~approve~~ such lists prior to the lists becoming
907 effective.

908 (c) To evaluate an aquatic plant species through research
909 or other means to determine whether such species poses a threat
910 or danger to the waters, wildlife, natural resources, or
911 environment of the state.

912 (d) To declare a quarantine against aquatic plants,
913 including the vats, pools, or other containers or bodies of water
914 in which such plants are growing, ~~except in aquatic plant~~
915 ~~nurseries,~~ to prevent the dissemination of any noxious aquatic
916 plant.

917 (e) To make rules governing the application for, issuance
918 of, suspension of, and revocation of permits under this section.

919 (f) To enter into cooperative agreements with any person as
920 necessary or desirable to carry out and enforce the provisions of
921 this section.

922 (g) To purchase all necessary supplies, material,
923 facilities, and equipment and accept all grants and donations
924 useful in the implementation and enforcement of the provisions of
925 this section.

926 (h) To enter upon and inspect any facility or place, ~~except~~
927 ~~aquatic plant nurseries regulated by the Department of~~
928 ~~Agriculture and Consumer Services,~~ where aquatic plants are

20081294e1

929 cultivated, held, packaged, shipped, stored, or sold, or any
930 vehicle of conveyance of aquatic plants, to ascertain whether the
931 provisions of this section and department regulations are being
932 complied with, and to seize and destroy, without compensation,
933 any aquatic plants imported, transported, cultivated, collected,
934 or otherwise possessed in violation of this section or department
935 regulations.

936 ~~(i) To conduct a public information program, including, but~~
937 ~~not limited to, erection of road signs, in order to inform the~~
938 ~~public and interested parties of this section and its associated~~
939 ~~rules and of the dangers of noxious aquatic plant introductions.~~

940 (i)~~(j)~~ To adopt rules requiring the revegetation of a site
941 on sovereignty lands where excessive collection has occurred.

942 (j)~~(k)~~ To enforce this chapter in the same manner and to
943 the same extent as provided in s. 581.211 ~~ss. 403.121, 403.131,~~
944 ~~403.141, and 403.161.~~

945 (4) The department shall adopt rules that ~~which~~ limit the
946 sanctions available for violations under this act to quarantine
947 and confiscation:

948 (a) If the prohibited activity apparently results from
949 natural dispersion; or

950 (b) If a small amount of noxious aquatic plant material
951 incidentally adheres to a boat or boat trailer operated by a
952 person who is not involved in any phase of the aquatic plant
953 business and if that person is not knowingly violating this act.

954 (5) (a) Any person who violates the provisions of this
955 section commits ~~is guilty of~~ a misdemeanor of the second degree,
956 punishable as provided in s. 775.082 or s. 775.083.

957 (b) All law enforcement officers of the state and its

20081294e1

958 agencies with power to make arrests for violations of state law
959 shall enforce the provisions of this section.

960 Section 9. Section 369.251, Florida Statutes, is amended to
961 read:

962 369.251 Invasive nonnative plants; prohibitions; study;
963 removal; rules.--

964 (1) A person may not sell, transport, collect, cultivate,
965 or possess any plant, including any part or seed, of the species
966 *Melaleuca quinquenervia*, *Schinus terebinthifolius*, *Casuarina*
967 *equisetifolia*, *Casuarina glauca*, or *Mimosa pigra* without a permit
968 from the Department of Agriculture and Consumer Services. Any
969 person who violates this section commits a misdemeanor of the
970 second degree, punishable by fine only, as provided in s.
971 775.083.

972 (2) The department, in coordination with the Fish and
973 Wildlife Conservation Commission, shall study methods of control
974 of plants of the species *Melaleuca quinquenervia*, *Schinus*
975 *terebinthifolius*, *Casuarina equisetifolia*, *Casuarina glauca*, and
976 *Mimosa pigra*. The South Florida Water Management District shall
977 undertake programs to remove such plants from conservation area
978 I, conservation area II, and conservation area III of the
979 district.

980 (3) The department has authority to adopt rules pursuant to
981 ss. 120.536(1) and 120.54 to implement the provisions of this
982 section. Possession or transportation resulting from natural
983 dispersion, mulching operations, control and disposal, or use in
984 herbaria or other educational or research institutions, or for
985 other reasons determined by the department to be consistent with
986 this section and where there is neither the danger of, nor intent

20081294e1

987 to, further disperse any plant species prohibited by this
988 section, is not subject to the permit or penalty provisions of
989 this section.

990 Section 10. Section 369.252, Florida Statutes, is amended
991 to read:

992 369.252 Invasive ~~exotic~~ plant control on public lands.--The
993 Fish and Wildlife Conservation Commission ~~department~~ shall
994 establish a program to:

995 (1) Achieve eradication or maintenance control of invasive
996 exotic plants on public lands when the scientific data indicate
997 that they are detrimental to the state's natural environment or
998 when the Commissioner of Agriculture finds that such plants or
999 specific populations thereof are a threat to the agricultural
1000 productivity of the state;

1001 (2) Assist state and local government agencies in the
1002 development and implementation of coordinated management plans
1003 for the eradication or maintenance control of invasive exotic
1004 plant species on public lands;

1005 (3) Contract, or enter into agreements, with entities in
1006 the State University System or other governmental or private
1007 sector entities for research concerning control agents;
1008 production and growth of biological control agents; and
1009 development of workable methods for the eradication or
1010 maintenance control of invasive exotic plants on public lands;
1011 and

1012 (4) Use funds in the Invasive Plant Control Trust Fund as
1013 authorized by the Legislature for carrying out activities under
1014 this section on public lands. A minimum of 20 ~~Twenty~~ percent of
1015 the amount credited to the Invasive Plant Control Trust Fund

20081294e1

1016 pursuant to s. 201.15(6) shall be used for the purpose of
1017 controlling nonnative, upland, invasive plant species on public
1018 lands.

1019 Section 11. Paragraph (a) of subsection (1) of section
1020 206.606, Florida Statutes, is amended to read:

1021 206.606 Distribution of certain proceeds.--

1022 (1) Moneys collected pursuant to ss. 206.41(1)(g) and
1023 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust
1024 Fund. Such moneys, after deducting the service charges imposed by
1025 s. 215.20, the refunds granted pursuant to s. 206.41, and the
1026 administrative costs incurred by the department in collecting,
1027 administering, enforcing, and distributing the tax, which
1028 administrative costs may not exceed 2 percent of collections,
1029 shall be distributed monthly to the State Transportation Trust
1030 Fund, except that:

1031 (a) \$6.30 million shall be transferred to the Fish and
1032 Wildlife Conservation Commission ~~Department of Environmental~~
1033 ~~Protection~~ in each fiscal year and deposited in the Invasive
1034 Plant Control Trust Fund to be used for aquatic plant management,
1035 including nonchemical control of aquatic weeds, research into
1036 nonchemical controls, and enforcement activities. Beginning in
1037 fiscal year 1993-1994, the department shall allocate at least \$1
1038 million of such funds to the eradication of melaleuca.

1039 Section 12. Paragraphs (b) and (c) of subsection (1) of
1040 section 328.76, Florida Statutes, are amended to read:

1041 328.76 Marine Resources Conservation Trust Fund; vessel
1042 registration funds; appropriation and distribution.--

1043 (1) Except as otherwise specified in this subsection and
1044 less \$1.4 million for any administrative costs which shall be

20081294e1

1045 deposited in the Highway Safety Operating Trust Fund, in each
1046 fiscal year beginning on or after July 1, 2001, all funds
1047 collected from the registration of vessels through the Department
1048 of Highway Safety and Motor Vehicles and the tax collectors of
1049 the state, except for those funds designated as the county
1050 portion pursuant to s. 328.72(1), shall be deposited in the
1051 Marine Resources Conservation Trust Fund for recreational channel
1052 marking; public launching facilities; law enforcement and quality
1053 control programs; aquatic weed control; manatee protection,
1054 recovery, rescue, rehabilitation, and release; and marine mammal
1055 protection and recovery. The funds collected pursuant to s.
1056 328.72(1) shall be transferred as follows:

1057 (b) An amount equal to \$2 from each recreational vessel
1058 registration fee, except that for class A-1 vessels, shall be
1059 transferred by the Department of Highway Safety and Motor
1060 Vehicles to the Invasive Plant Control Trust Fund in the Fish and
1061 Wildlife Conservation Commission ~~Department of Environmental~~
1062 ~~Protection~~ for aquatic weed research and control.

1063 (c) An amount equal to 40 percent of the registration fees
1064 from commercial vessels shall be transferred by the Department of
1065 Highway Safety and Motor Vehicles to the Invasive Plant Control
1066 Trust Fund in the Fish and Wildlife Conservation Commission
1067 ~~Department of Environmental Protection~~ for aquatic plant research
1068 and control.

1069 Section 13. Section 373.228, Florida Statutes, is amended
1070 to read:

1071 373.228 Landscape irrigation design.--

1072 (1) The Legislature finds that multiple areas throughout
1073 the state have been identified by water management districts as

20081294e1

1074 water resource caution areas, which indicates that in the near
1075 future water demand in those areas will exceed the current
1076 available water supply and that conservation is one of the
1077 mechanisms by which future water demand will be met.

1078 (2) The Legislature finds that landscape irrigation
1079 comprises a significant portion of water use and that the current
1080 typical landscape irrigation system and xeriscape designs offer
1081 significant potential water conservation benefits.

1082 (3) It is the intent of the Legislature to improve
1083 landscape irrigation water use efficiency by ensuring that
1084 landscape irrigation systems meet or exceed minimum design
1085 criteria.

1086 (4) The water management districts shall work with the
1087 Florida Nurserymen and Growers Association, the Florida Chapter
1088 of the American Society of Landscape Architects, the Florida
1089 Irrigation Society, the Department of Agriculture and Consumer
1090 Services, the Institute of Food and Agricultural Sciences, the
1091 Department of Environmental Protection, the Department of
1092 Transportation, the Florida League of Cities, the Florida
1093 Association of Counties, and the Florida Association of Community
1094 Developers to develop landscape irrigation and xeriscape design
1095 standards for new construction which incorporate a landscape
1096 irrigation system and develop scientifically based model
1097 guidelines for urban, commercial, and residential landscape
1098 irrigation, including drip irrigation, for plants, trees, sod,
1099 and other landscaping. The landscape and irrigation design
1100 standards shall be based on the irrigation code defined in the
1101 Florida Building Code, Plumbing Volume, Appendix F. Local
1102 governments shall use the standards and guidelines when

20081294e1

1103 developing landscape irrigation and xeriscape ordinances. By
1104 January 1, 2011 ~~Every 5 years~~, the agencies and entities
1105 specified in this subsection shall review the standards and
1106 guidelines to determine whether new research findings require a
1107 change or modification of the standards and guidelines.

1108 Section 14. Paragraph (d) of subsection (1) of section
1109 376.303, Florida Statutes, is amended to read:

1110 376.303 Powers and duties of the Department of
1111 Environmental Protection.--

1112 (1) The department has the power and the duty to:

1113 (d) Establish a registration program for drycleaning
1114 facilities and wholesale supply facilities.

1115 1. Owners or operators of drycleaning facilities and
1116 wholesale supply facilities and real property owners shall
1117 jointly register each facility owned and in operation with the
1118 department by June 30, 1995, pay initial registration fees by
1119 December 31, 1995, and pay annual renewal registration fees by
1120 December 31, 1996, and each year thereafter, in accordance with
1121 this subsection. If the registration form cannot be jointly
1122 submitted, then the applicant shall provide notice of the
1123 registration to other interested parties. The department shall
1124 establish reasonable requirements for the registration of such
1125 facilities. The department shall use reasonable efforts to
1126 identify and notify drycleaning facilities and wholesale supply
1127 facilities of the registration requirements by certified mail,
1128 return receipt requested. The department shall provide to the
1129 Department of Revenue a copy of each applicant's registration
1130 materials, within 30 working days of the receipt of the
1131 materials. This copy may be in such electronic format as the two

20081294e1

1132 agencies mutually designate.

1133 2.a. The department shall issue an invoice for annual
1134 registration fees to each registered drycleaning facility or
1135 wholesale supply facility by December 31 of each year. Owners of
1136 drycleaning facilities and wholesale supply facilities shall
1137 submit to the department an initial fee of \$100 and an annual
1138 renewal registration fee of \$100 for each drycleaning facility or
1139 wholesale supply facility owned and in operation. The fee shall
1140 be paid within 30 days after receipt of billing by the
1141 department. Facilities that fail to pay their renewal fee within
1142 30 days after receipt of billing are subject to a late fee of
1143 \$75.

1144 b. Revenues derived from registration, renewal, and late
1145 fees shall be deposited into the Water Quality Assurance Trust
1146 Fund to be used as provided in s. 376.3078.

1147 3. Effective March 1, 2009, a registered drycleaning
1148 facility shall display in the vicinity of its drycleaning
1149 machines the original or a copy of a valid and current
1150 certificate evidencing registration with the department pursuant
1151 to this paragraph. After that date, a person may not sell or
1152 transfer any drycleaning solvents to an owner or operator of a
1153 drycleaning facility unless the owner or operator of the
1154 drycleaning facility displays the certificate issued by the
1155 department. Violators of this subparagraph are subject to the
1156 remedies available to the department pursuant to s. 376.302.

1157 Section 15. Subsection (19) of section 403.031, Florida
1158 Statutes, is amended to read:

1159 403.031 Definitions.--In construing this chapter, or rules
1160 and regulations adopted pursuant hereto, the following words,

20081294e1

1161 phrases, or terms, unless the context otherwise indicates, have
1162 the following meanings:

1163 (19) "Regulated air pollutant" means any pollutant
1164 regulated under the federal Clean Air Act.†

1165 ~~(a) Nitrogen oxides or any volatile organic compound;~~

1166 ~~(b) Any pollutant regulated under 42 U.S.C. s. 7411 or s.~~
1167 ~~7412; or~~

1168 ~~(c) Any pollutant for which a national primary ambient air~~
1169 ~~quality standard has been adopted.~~

1170 Section 16. Section 403.0623, Florida Statutes, is amended
1171 to read:

1172 403.0623 Environmental data; quality assurance.--The
1173 department must establish, by rule, appropriate quality assurance
1174 requirements for environmental data submitted to the department
1175 and the criteria by which environmental data may be rejected by
1176 the department. The department may adopt and enforce rules to
1177 establish data quality objectives and specify requirements for
1178 training of laboratory and field staff, sample collection
1179 methodology, proficiency testing, and audits of laboratory and
1180 field sampling activities. Such rules may be in addition to any
1181 laboratory certification provisions under ss. 403.0625 and
1182 403.863.

1183 Section 17. Subsection (1) of section 403.0872, Florida
1184 Statutes, is amended to read:

1185 403.0872 Operation permits for major sources of air
1186 pollution; annual operation license fee.--Provided that program
1187 approval pursuant to 42 U.S.C. s. 7661a has been received from
1188 the United States Environmental Protection Agency, beginning
1189 January 2, 1995, each major source of air pollution, including

20081294e1

1190 electrical power plants certified under s. 403.511, must obtain
1191 from the department an operation permit for a major source of air
1192 pollution under this section. This operation permit is the only
1193 department operation permit for a major source of air pollution
1194 required for such source; provided, at the applicant's request,
1195 the department shall issue a separate acid rain permit for a
1196 major source of air pollution that is an affected source within
1197 the meaning of 42 U.S.C. s. 7651a(1). Operation permits for major
1198 sources of air pollution, except general permits issued pursuant
1199 to s. 403.814, must be issued in accordance with the procedures
1200 contained in this section and in accordance with chapter 120;
1201 however, to the extent that chapter 120 is inconsistent with the
1202 provisions of this section, the procedures contained in this
1203 section prevail.

1204 (1) For purposes of this section, a major source of air
1205 pollution means a stationary source of air pollution, or any
1206 group of stationary sources within a contiguous area and under
1207 common control, which emits any regulated air pollutant and which
1208 is ~~any of the following~~:

1209 (a) A major source within the meaning of 42 U.S.C. s.
1210 7412(a)(1);

1211 (b) A major stationary source or major emitting facility
1212 within the meaning of 42 U.S.C. s. 7602(j) or 42 U.S.C.
1213 subchapter I, part C or part D;

1214 (c) An affected source within the meaning of 42 U.S.C. s.
1215 7651a(1);

1216 (d) An air pollution source subject to standards or
1217 regulations under 42 U.S.C. s. 7411 or s. 7412; provided that a
1218 source is not a major source solely because of its regulation

20081294e1

1219 under 42 U.S.C. s. 7412(r); or

1220 (e) A stationary air pollution source belonging to a
1221 category designated as a 40 C.F.R. part 70 source by regulations
1222 adopted by the administrator of the United States Environmental
1223 Protection Agency under 42 U.S.C. ss. 7661 et seq. The department
1224 shall exempt those facilities that are subject to this section
1225 solely because they are subject to requirements under 42 U.S.C.
1226 s. 7411 or s. 7412 or solely because they are subject to
1227 reporting requirements under 42 U.S.C. s. 7412 for as long as the
1228 exemption is available under federal law.

1229 Section 18. Section 373.109, Florida Statutes, is amended
1230 to read:

1231 373.109 Permit application fees.--When a water management
1232 district governing board, the department, or a local government
1233 implements a regulatory system under this chapter or one which
1234 has been delegated pursuant to chapter 403, it may establish a
1235 schedule of fees for filing applications for the required
1236 permits. Such fees shall not exceed the cost to the district, the
1237 department, or the local government for processing, monitoring,
1238 and inspecting for compliance with the permit.

1239 (1) (a) The department shall initiate rulemaking no later
1240 than December 1, 2008, to increase each application fee
1241 authorized under part IV of this chapter and adopted by rule to
1242 ensure that such fees reflect, at a minimum, any upward
1243 adjustment in the Consumer Price Index compiled by the United
1244 States Department of Labor, or similar inflation indicator, since
1245 the original fee was established or most recently revised. The
1246 department shall establish by rule the inflation index to be used
1247 for this purpose.

20081294e1

1248 (b) The department shall charge a fee of at least \$250 for
1249 a noticed general permit or individual permit as established in
1250 department rules.

1251 (c) Notwithstanding s. 120.60(2), the fee for verification
1252 that an activity is exempt from regulation under s. 403.813 or
1253 part IV of this chapter shall be at least \$100 or as otherwise
1254 established by department rule, but not to exceed \$500.

1255 (d) The department shall charge a fee of at least \$100 and
1256 not to exceed \$500 for conducting informal wetland boundary
1257 determinations as a public service to applicants or potential
1258 applicants for permits under part IV of this chapter. An informal
1259 wetland boundary determination is not an application for a
1260 permit, is not subject to the permit review timeframes
1261 established in this chapter or chapter 120, and does not
1262 constitute final agency action.

1263 (2) The department shall review the fees authorized under
1264 part IV of this chapter at least once every 5 years and shall
1265 adjust the fees upward, as necessary, to reflect changes in the
1266 Consumer Price Index or similar inflation indicator. In the event
1267 of deflation, the department shall consult with the Executive
1268 Office of the Governor and the Legislature to determine whether
1269 downward fee adjustments are appropriate based on the current
1270 budget and appropriation considerations.

1271 (3)~~(1)~~ All moneys received under the provisions of this
1272 section shall be allocated for the use of the water management
1273 district, the department, or the local government, whichever
1274 processed the permit, and shall be in addition to moneys
1275 otherwise appropriated in any general appropriation act. All
1276 moneys received by the department under the provisions of this

20081294e1

1277 section shall be deposited in the Florida Permit Fee Trust Fund
1278 established by s. 403.0871 and shall be used by the department as
1279 provided therein. Moneys received by a water management district
1280 or the department under the provisions of this section shall be
1281 in addition to moneys otherwise appropriated in any general
1282 appropriation act.

1283 (4)~~(2)~~ The failure of any person to pay the fees
1284 established hereunder constitutes grounds for revocation or
1285 denial of the permit.

1286 (5) Effective July 1, 2008, the minimum fee amounts shall
1287 be the minimum fees prescribed in this section, and such fee
1288 amounts shall remain in effect until the effective date of fees
1289 adopted by rule by the department.

1290 Section 19. Section 403.087, Florida Statutes, is amended
1291 to read:

1292 403.087 Permits; general issuance; denial; revocation;
1293 prohibition; penalty.--

1294 (1) A stationary installation that is reasonably expected
1295 to be a source of air or water pollution must not be operated,
1296 maintained, constructed, expanded, or modified without an
1297 appropriate and currently valid permit issued by the department,
1298 unless exempted by department rule. In no event shall a permit
1299 for a water pollution source be issued for a term of more than 10
1300 years, nor may an operation permit issued after July 1, 1992, for
1301 a major source of air pollution have a fixed term of more than 5
1302 years. However, upon expiration, a new permit may be issued by
1303 the department in accordance with this chapter and the rules of
1304 the department.

1305 (2) The department shall adopt, and may amend or repeal,

20081294e1

1306 rules for the issuance, denial, modification, and revocation of
1307 permits under this section.

1308 (3) A renewal of an operation permit for a domestic
1309 wastewater treatment facility other than a facility regulated
1310 under the National Pollutant Discharge Elimination System (NPDES)
1311 Program under s. 403.0885 must be issued upon request for a term
1312 of up to 10 years, for the same fee and under the same conditions
1313 as a 5-year permit, in order to provide the owner or operator
1314 with a financial incentive, if:

1315 (a) The waters from the treatment facility are not
1316 discharged to Class I municipal injection wells or the treatment
1317 facility is not required to comply with the federal standards
1318 under the Underground Injection Control Program under chapter 62-
1319 528 of the Florida Administrative Code;

1320 (b) The treatment facility is not operating under a
1321 temporary operating permit or a permit with an accompanying
1322 administrative order and does not have any enforcement action
1323 pending against it by the United States Environmental Protection
1324 Agency, the department, or a local program approved under s.
1325 403.182;

1326 (c) The treatment facility has operated under an operation
1327 permit for 5 years and, for at least the preceding 2 years, has
1328 generally operated in conformance with the limits of permitted
1329 flows and other conditions specified in the permit;

1330 (d) The department has reviewed the discharge-monitoring
1331 reports required under department rule and is satisfied that the
1332 reports are accurate;

1333 (e) The treatment facility has generally met water quality
1334 standards in the preceding 2 years, except for violations

20081294e1

1335 attributable to events beyond the control of the treatment plant
1336 or its operator, such as destruction of equipment by fire, wind,
1337 or other abnormal events that could not reasonably be expected to
1338 occur; and

1339 (f) The department, or a local program approved under s.
1340 403.182, has conducted, in the preceding 12 months, an inspection
1341 of the facility and has verified in writing to the operator of
1342 the facility that it is not exceeding the permitted capacity and
1343 is in substantial compliance.

1344
1345 The department shall keep records of the number of 10-year
1346 permits applied for and the number and duration of permits issued
1347 for longer than 5 years.

1348 (4) The department shall issue permits on such conditions
1349 as are necessary to effect the intent and purposes of this
1350 section.

1351 (5) The department shall issue permits to construct,
1352 operate, maintain, expand, or modify an installation which may
1353 reasonably be expected to be a source of pollution only when it
1354 determines that the installation is provided or equipped with
1355 pollution control facilities that will abate or prevent pollution
1356 to the degree that will comply with the standards or rules
1357 adopted by the department, except as provided in s. 403.088 or s.
1358 403.0872. However, separate construction permits shall not be
1359 required for installations permitted under s. 403.0885, except
1360 that the department may require an owner or operator proposing to
1361 construct, expand, or modify such an installation to submit for
1362 department review, as part of application for permit or permit
1363 modification, engineering plans, preliminary design reports, or

20081294e1

1364 other information 90 days prior to commencing construction. The
1365 department may also require the engineer of record or another
1366 registered professional engineer, within 30 days after
1367 construction is complete, to certify that the construction was
1368 completed in accordance with the plans submitted to the
1369 department, noting minor deviations which were necessary because
1370 of site-specific conditions.

1371 (6) (a) The department shall require a processing fee in an
1372 amount sufficient, to the greatest extent possible, to cover the
1373 costs of reviewing and acting upon any application for a permit
1374 or request for site-specific alternative criteria or for an
1375 exemption from water quality criteria and to cover the costs of
1376 surveillance and other field services and related support
1377 activities associated with any permit or plan approval issued
1378 pursuant to this chapter. The department shall review the fees
1379 authorized under this chapter at least once every 5 years and
1380 shall adjust the fees upward, as necessary, within the fee caps
1381 established in this paragraph to reflect changes in the Consumer
1382 Price Index or similar inflation indicator. The department shall
1383 establish by rule the inflation index to be used for this
1384 purpose. In the event of deflation, the department shall consult
1385 with the Executive Office of the Governor and the Legislature to
1386 determine whether downward fee adjustments are appropriate based
1387 on the current budget and appropriation considerations. However,
1388 when an application is received without the required fee, the
1389 department shall acknowledge receipt of the application and shall
1390 immediately return the unprocessed application to the applicant
1391 and shall take no further action until the application is
1392 received with the appropriate fee. The department shall adopt a

20081294e1

1393 schedule of fees by rule, subject to the following limitations:
1394 1. The fee for any of the following may not exceed \$32,500:
1395 a. Hazardous waste, construction permit.
1396 b. Hazardous waste, operation permit.
1397 c. Hazardous waste, postclosure permit, or clean closure
1398 plan approval.
1399 d. Hazardous waste, corrective action permit.
1400 2. The permit fee for a drinking water construction or
1401 operation permit, not including the operation license fee
1402 required under s. 403.861(7), shall be at least \$500 and may not
1403 exceed \$15,000.
1404 3.2. The permit fee for a Class I injection well
1405 construction permit may not exceed \$12,500.
1406 4.3. The permit fee for any of the following permits may
1407 not exceed \$10,000:
1408 a. Solid waste, construction permit.
1409 b. Solid waste, operation permit.
1410 c. Class I injection well, operation permit.
1411 5.4. The permit fee for any of the following permits may
1412 not exceed \$7,500:
1413 a. Air pollution, construction permit.
1414 b. Solid waste, closure permit.
1415 ~~e. Drinking water, construction or operation permit.~~
1416 ~~c.d.~~ Domestic waste residuals, construction or operation
1417 permit.
1418 ~~d.e.~~ Industrial waste, operation permit.
1419 ~~e.f.~~ Industrial waste, construction permit.
1420 6.5. The permit fee for any of the following permits may
1421 not exceed \$5,000:

20081294e1

- 1422 a. Domestic waste, operation permit.
- 1423 b. Domestic waste, construction permit.
- 1424 ~~7.6.~~ The permit fee for any of the following permits may
- 1425 not exceed \$4,000:
- 1426 a. Wetlands resource management--(dredge and fill and
- 1427 mangrove alteration), ~~standard form permit.~~
- 1428 b. Hazardous waste, research and development permit.
- 1429 c. Air pollution, operation permit, for sources not subject
- 1430 to s. 403.0872.
- 1431 d. Class III injection well, construction, operation, or
- 1432 abandonment permits.
- 1433 8. The permit fee for a drinking water distribution system
- 1434 permit, including a general permit, shall be at least \$500 and
- 1435 may not exceed \$1,000.
- 1436 ~~9.7.~~ The permit fee for Class V injection wells,
- 1437 construction, operation, and abandonment permits may not exceed
- 1438 \$750.
- 1439 ~~10.8.~~ The permit fee for domestic waste collection system
- 1440 permits any of the following permits may not exceed \$500:
- 1441 ~~a. Domestic waste, collection system permits.~~
- 1442 ~~b. Wetlands resource management--(dredge and fill and~~
- 1443 ~~mangrove alterations), short permit form.~~
- 1444 ~~c. Drinking water, distribution system permit.~~
- 1445 ~~11.9.~~ The permit fee for stormwater operation permits may
- 1446 not exceed \$100.
- 1447 ~~12.10.~~ Except as provided in subparagraph 8., the general
- 1448 permit fees for permits that require certification by a
- 1449 registered professional engineer or professional geologist may
- 1450 not exceed \$500, and ~~the general permit fee for other permit~~

20081294e1

1451 types may not exceed \$100.

1452 ~~13.11.~~ The fee for a permit issued pursuant to s. 403.816
1453 is \$5,000, and the fee for any modification of such permit
1454 requested by the applicant is \$1,000.

1455 14.12. The regulatory program and surveillance fees for
1456 facilities permitted pursuant to s. 403.088 or s. 403.0885, or
1457 for facilities permitted pursuant to s. 402 of the Clean Water
1458 Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the
1459 department has been granted administrative authority, shall be
1460 limited as follows:

1461 a. The fees for domestic wastewater facilities shall not
1462 exceed \$7,500 annually. The department shall establish a sliding
1463 scale of fees based on the permitted capacity and shall ensure
1464 smaller domestic waste dischargers do not bear an inordinate
1465 share of costs of the program.

1466 b. The annual fees for industrial waste facilities shall
1467 not exceed \$11,500. The department shall establish a sliding
1468 scale of fees based upon the volume, concentration, or nature of
1469 the industrial waste discharge and shall ensure smaller
1470 industrial waste dischargers do not bear an inordinate share of
1471 costs of the program.

1472 c. The department may establish a fee, not to exceed the
1473 amounts in subparagraphs 4. and 5., to cover additional costs of
1474 review required for permit modification or construction
1475 engineering plans.

1476 (b) If substantially similar air pollution sources are to
1477 be constructed or modified at the same facility, the applicant
1478 may submit a single application and permit fee for construction
1479 or modification of the sources at that facility. If substantially

20081294e1

1480 similar air pollution sources located at the same facility do not
1481 constitute a major source of air pollution subject to permitting
1482 under s. 403.0872, the applicant may submit a single application
1483 and permit fee for the operation of those sources. The department
1484 may develop, by rule, criteria for determining what constitutes
1485 substantially similar sources.

1486 (c) The fee schedule shall be adopted by rule. The amount
1487 of each fee shall be reasonably related to the costs of
1488 permitting, field services, and related support activities for
1489 the particular permitting activity taking into consideration
1490 consistently applied standard cost-accounting principles and
1491 economies of scale. If the department requires, by rule or by
1492 permit condition, that a permit be renewed more frequently than
1493 once every 5 years, the permit fee shall be prorated based upon
1494 the permit fee schedule in effect at the time of permit renewal.

1495 (d) Nothing in this subsection authorizes the construction
1496 or expansion of any stationary installation except to the extent
1497 specifically authorized by department permit or rule.

1498 (e) For all domestic waste collection system permits and
1499 drinking water distribution system permits, the department shall
1500 adopt a fee schedule, by rule, based on a sliding scale relating
1501 to pipe diameter, length of the proposed main, or equivalent
1502 dwelling units, or any combination of these factors. The
1503 department shall require a separate permit application and fee
1504 for each noncontiguous project within the system.

1505 (7) A permit issued pursuant to this section shall not
1506 become a vested right in the permittee. The department may revoke
1507 any permit issued by it if it finds that the permitholder:

1508 (a) Has submitted false or inaccurate information in his or

20081294e1

1509 her application;

1510 (b) Has violated law, department orders, rules, or
1511 regulations, or permit conditions;

1512 (c) Has failed to submit operational reports or other
1513 information required by department rule or regulation; or

1514 (d) Has refused lawful inspection under s. 403.091.

1515 (8) The department shall not issue a permit to any person
1516 for the purpose of engaging in, or attempting to engage in, any
1517 activity relating to the extraction of solid minerals not exempt
1518 pursuant to chapter 211 within any state or national park or
1519 state or national forest when the activity will degrade the
1520 ambient quality of the waters of the state or the ambient air
1521 within those areas. In the event the Federal Government prohibits
1522 the mining or leasing of solid minerals on federal park or forest
1523 lands, then, and to the extent of such prohibition, this act
1524 shall not apply to those federal lands.

1525 (9) A violation of this section is punishable as provided
1526 in this chapter.

1527 (10) Effective July 1, 2008, the minimum fee amounts shall
1528 be the minimum fees prescribed in this section, and such fee
1529 amounts shall remain in effect until the effective date of fees
1530 adopted by rule by the department.

1531 Section 20. Subsections (7) and (8) of section 403.861,
1532 Florida Statutes, are amended to read:

1533 403.861 Department; powers and duties.--The department
1534 shall have the power and the duty to carry out the provisions and
1535 purposes of this act and, for this purpose, to:

1536 (7) Issue permits for constructing, altering, extending, or
1537 operating a public water system, based upon the size of the

20081294e1

1538 system, type of treatment provided by the system, or population
1539 served by the system, including issuance of an annual operation
1540 license.

1541 (a) The department may issue a permit for a public water
1542 system based upon review of a preliminary design report or plans
1543 and specifications, ~~and~~ a completed permit application form, and
1544 other required information as set forth in department rule,
1545 including receipt of an appropriate fee. The department may

1546 ~~(8)~~ require a fee in an amount sufficient to cover the
1547 costs of viewing and acting upon any application for the
1548 construction and operation of a public water supply system and
1549 the costs of surveillance and other field services associated
1550 with any permit issued, but the amount in no case shall exceed
1551 \$15,000 ~~\$7,500~~. The fee schedule shall be adopted by rule based
1552 on a sliding scale relating to the size, type of treatment, or
1553 population served by the system that is proposed by the
1554 applicant.

1555 (b) Each public water system that operates in this state
1556 shall submit annually to the department an operation license fee,
1557 separate from and in addition to any permit application fees
1558 required under paragraph (a), in an amount established by
1559 department rule. The amount of each fee shall be reasonably
1560 related to the size of the public water system, type of
1561 treatment, population served, amount of source water used, or any
1562 combination of these factors, but the fee may not be less than
1563 \$50 or greater than \$7,500. Public water systems shall pay annual
1564 operation license fees at a time and in a manner prescribed by
1565 department rule.

1566 (8) Initiate rulemaking no later than July 1, 2008, to

20081294e1

1567 increase each drinking water permit application fee authorized
1568 under s. 403.087(6) and this part and adopted by rule to ensure
1569 that such fees are increased to reflect, at a minimum, any upward
1570 adjustment in the Consumer Price Index compiled by the United
1571 States Department of Labor, or similar inflation indicator, since
1572 the original fee was established or most recently revised.

1573 (a) The department shall establish by rule the inflation
1574 index to be used for this purpose. The department shall review
1575 the drinking water permit application fees authorized under s.
1576 403.087(6) and this part at least once every 5 years and shall
1577 adjust the fees upward, as necessary, within the established fee
1578 caps to reflect changes in the Consumer Price Index or similar
1579 inflation indicator. In the event of deflation, the department
1580 shall consult with the Executive Office of the Governor and the
1581 Legislature to determine whether downward fee adjustments are
1582 appropriate based on the current budget and appropriation
1583 considerations. The department shall also review the drinking
1584 water operation license fees established pursuant to paragraph
1585 (7)(b) at least once every 5 years to adopt, as necessary, the
1586 same inflationary adjustments provided for in this subsection.

1587 (b) Effective July 1, 2008, the minimum fee amount shall be
1588 the minimum fee prescribed in this section, and such fee amount
1589 shall remain in effect until the effective date of fees adopted
1590 by rule by the department.

1591 Section 21. Section 403.873, Florida Statutes, is amended
1592 to read:

1593 403.873 Renewal of license.--

1594 (1) The department shall renew a license upon receipt of
1595 the renewal application, proof of completion of department-

20081294e1

1596 approved continuing education units during the current biennium,
1597 and the renewal fee, and in accordance with the other provisions
1598 of ss. 403.865-403.876.

1599 (2) The department shall adopt rules establishing a
1600 procedure for the biennial renewal of licenses, including the
1601 requirements for continuing education.

1602 Section 22. Section 403.874, Florida Statutes, is amended
1603 to read:

1604 403.874 Inactive status.--

1605 (1) The department shall reactivate an inactive license
1606 upon receipt of the reactivation application and fee within the
1607 2-year period immediately following the expiration date of the
1608 license. Any license not reactivated within this 2-year period
1609 shall be null and void and an operator seeking a license
1610 thereafter must meet the training, examination, and experience
1611 requirements for the type and class or level of license sought.

1612 (2) The department shall adopt rules relating to licenses
1613 that have become inactive and for the reactivation of inactive
1614 licenses, and procedures for null and void licenses and how to
1615 obtain a new license after a license has become null and void.

1616 Section 23. The Department of Environmental Protection may
1617 not issue any permit for a Class I landfill that will be located
1618 on or adjacent to a Class III landfill that was permitted on or
1619 before January 1, 2006, and that is located in the Southern Water
1620 Use Caution Area designated by rule by the Southwest Florida
1621 Water Management District. This section applies to all
1622 applications for any Class I landfill permit submitted after
1623 January 1, 2006, for which the department has not issued a final
1624 permit.

20081294e1

- 1625 Section 24. Section 378.011, Florida Statutes, is repealed.
- 1626 Section 25. Chapter 325, Florida Statutes, consisting of
- 1627 ss. 325.2055, 325.221, 325.222, and 325.223, Florida Statutes, is
- 1628 repealed.
- 1629 Section 26. Section 403.08725, Florida Statutes, is
- 1630 repealed.
- 1631 Section 27. This act shall take effect upon becoming a law.