

1 A bill to be entitled
2 An act relating to environmental protection; amending s.
3 253.034, F.S.; establishing a date by which land
4 management plans for conservation lands must contain
5 certain outcomes, goals, and elements; amending s.
6 253.111, F.S.; deleting a 40-day timeframe for a board of
7 county commissioners to decide whether to acquire county
8 land being sold by the Board of Trustees of the Internal
9 Improvement Trust Fund; amending s. 259.035, F.S.;
10 increasing the maximum number of terms of appointed
11 members of the Acquisition and Restoration Council;
12 revising provisions for the appointment of members;
13 clarifying that vacancies in the unexpired term of
14 appointed members shall be filled in the same manner as
15 the original appointment; requiring a majority vote of the
16 council for certain decisions; amending s. 259.037, F.S.;
17 establishing certain dates by which agencies managing
18 certain lands must submit certain reports and lists to the
19 Land Management Uniform Accounting Council; amending s.
20 259.105, F.S.; specifying capital project expenditures
21 eligible to receive certain proceeds from the Florida
22 Forever Trust Fund; revising legislative intent for the
23 distribution of funds from the Florida Communities Trust;
24 requiring the amendment of rule criteria to increase the
25 available point total for awarding grants to public vessel
26 access projects; requiring a majority vote of the
27 Acquisition and Restoration Council for certain decisions;
28 amending s. 253.12, F.S.; clarifying that title to certain

29 | sovereignty lands that were judicially adjudicated are
30 | excluded from automatically becoming private property;
31 | amending s. 373.236, F.S.; authorizing the Department of
32 | Environmental Protection and water management districts to
33 | issue 50-year consumptive use permits to specified
34 | entities for certain alternative water supply development
35 | projects; providing for compliance reporting and review,
36 | modification, and revocation relating to such permits;
37 | amending s. 373.414, F.S.; revising permitting criteria
38 | for activities in surface waters and wetlands; providing a
39 | presumption of compliance for certain permit applications
40 | for activities in surface waters and wetlands; requiring
41 | the department and third parties to prove noncompliance by
42 | a preponderance of the evidence in challenges of such
43 | permit applications; authorizing the department and water
44 | management districts to file complaints under certain
45 | conditions; prohibiting professionals from certifying
46 | permit applications under certain conditions; amending s.
47 | 373.427, F.S.; increasing the amount of time for filing a
48 | petition for an administrative hearing on an application
49 | to use board of trustees-owned submerged lands; amending
50 | s. 403.0876, F.S.; providing that the department's failure
51 | to approve or deny certain air construction permits within
52 | 90 days does not automatically result in approval or
53 | denial; amending s. 403.121, F.S.; excluding certain air
54 | pollution violations from certain departmental actions;
55 | clarifying when a respondent in an administrative action
56 | is the prevailing party; revising the penalties that may

57 | be assessed for violations involving drinking water
58 | contamination, wastewater, dredge, fill, or stormwater,
59 | mangrove trimming or alterations, solid waste, air
60 | emission, storage tank system and petroleum contamination,
61 | and contaminated site rehabilitation; providing for
62 | assessment of administrative penalties for other
63 | violations; increasing fines relating to public water
64 | system requirements; revising provisions relating to a
65 | limit on the amount of a fine for a particular violation
66 | by certain violators; amending ss. 712.03 and 712.04,
67 | F.S.; providing an exception from an entitlement to
68 | marketable record title to interests held by governmental
69 | entities; amending ss. 373.036, 373.4135, and 373.4136,
70 | F.S.; conforming cross-references; providing an effective
71 | date.

72 |
73 | Be It Enacted by the Legislature of the State of Florida:

74 |
75 | Section 1. Paragraphs (a) and (c) of subsection (5) of
76 | section 253.034, Florida Statutes, are amended to read:

77 | 253.034 State-owned lands; uses.--

78 | (5) Each manager of conservation lands shall submit to the
79 | Division of State Lands a land management plan at least every 10
80 | years in a form and manner prescribed by rule by the board and
81 | in accordance with the provisions of s. 259.032. Each manager of
82 | conservation lands shall also update a land management plan
83 | whenever the manager proposes to add new facilities or make
84 | substantive land use or management changes that were not

85 | addressed in the approved plan, or within 1 year of the addition
86 | of significant new lands. Each manager of nonconservation lands
87 | shall submit to the Division of State Lands a land use plan at
88 | least every 10 years in a form and manner prescribed by rule by
89 | the board. The division shall review each plan for compliance
90 | with the requirements of this subsection and the requirements of
91 | the rules established by the board pursuant to this section. All
92 | land use plans, whether for single-use or multiple-use
93 | properties, shall include an analysis of the property to
94 | determine if any significant natural or cultural resources are
95 | located on the property. Such resources include archaeological
96 | and historic sites, state and federally listed plant and animal
97 | species, and imperiled natural communities and unique natural
98 | features. If such resources occur on the property, the manager
99 | shall consult with the Division of State Lands and other
100 | appropriate agencies to develop management strategies to protect
101 | such resources. Land use plans shall also provide for the
102 | control of invasive nonnative plants and conservation of soil
103 | and water resources, including a description of how the manager
104 | plans to control and prevent soil erosion and soil or water
105 | contamination. Land use plans submitted by a manager shall
106 | include reference to appropriate statutory authority for such
107 | use or uses and shall conform to the appropriate policies and
108 | guidelines of the state land management plan. Plans for managed
109 | areas larger than 1,000 acres shall contain an analysis of the
110 | multiple-use potential of the property, which analysis shall
111 | include the potential of the property to generate revenues to
112 | enhance the management of the property. Additionally, the plan

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113 shall contain an analysis of the potential use of private land
114 managers to facilitate the restoration or management of these
115 lands. In those cases where a newly acquired property has a
116 valid conservation plan that was developed by a soil and
117 conservation district, such plan shall be used to guide
118 management of the property until a formal land use plan is
119 completed.

120 (a) State lands shall be managed to ensure the
121 conservation of the state's plant and animal species and ~~to~~
122 ~~ensure~~ the accessibility of state lands for the benefit and
123 enjoyment of all people of the state, both present and future.
124 Beginning July 1, 2009, each newly developed or updated land
125 management plan must ~~shall~~ provide a desired outcome, describe
126 both short-term and long-term management goals, and include
127 measurable objectives for achieving these ~~to achieve those~~
128 goals. Short-term goals must ~~shall~~ be achievable within a 2-year
129 planning period, and long-term goals must ~~shall~~ be achievable
130 within a 10-year planning period. These short-term and long-term
131 management goals shall be the basis for all subsequent land
132 management activities.

133 (c) Beginning July 1, 2009, a newly developed or updated
134 ~~the~~ land management plan must, ~~shall~~ at a minimum, contain the
135 following elements:

- 136 1. A physical description of the land.
- 137 2. A quantitative data description of the land which
138 includes an inventory of forest and other natural resources;
139 exotic and invasive plants; hydrological features;
140 infrastructure, including recreational facilities; and other

141 significant land, cultural, or historical features. The
142 inventory must ~~shall~~ reflect the number of acres for each
143 resource and feature, as ~~when~~ appropriate. The inventory shall
144 be of such detail that objective measures and benchmarks can be
145 established for each tract of land and monitored during the
146 lifetime of the plan. All quantitative data collected must ~~shall~~
147 be aggregated, standardized, collected, and presented in an
148 electronic format to allow for uniform management reporting and
149 analysis. The information collected by the Department of
150 Environmental Protection pursuant to s. 253.0325(2) shall be
151 available to the land manager and his or her assignee.

152 3. A detailed description of each short-term and long-term
153 land management goal, the associated measurable objectives, and
154 the related activities that are to be performed to meet the land
155 management objectives. Each land management objective must be
156 addressed by the land management plan, and where practicable,
157 may not ~~no land management objective shall~~ be performed to the
158 detriment of ~~the~~ other land management objectives.

159 4. A schedule of land management activities which contains
160 short-term and long-term land management goals and ~~the~~ related
161 measurable objective and activities. The schedule must ~~shall~~
162 include ~~for each activity~~ a timeline for completing each
163 activity completion, quantitative measures, and detailed expense
164 and manpower budgets. The schedule must ~~shall~~ provide a
165 management tool that facilitates the development of performance
166 measures.

167 5. A summary budget for the scheduled land management
168 activities of the land management plan. For state lands

169 containing or anticipated to contain imperiled species habitat,
 170 the summary budget must ~~shall~~ include any fees anticipated from
 171 public or private entities for projects to offset adverse
 172 impacts to imperiled species or such habitat, which ~~fees~~ shall
 173 be used solely to restore, manage, enhance, repopulate, or
 174 acquire imperiled species habitat. The summary budget must ~~shall~~
 175 be prepared in a ~~such~~ manner that ~~it~~ facilitates computing an
 176 aggregate of land management costs for all state-managed lands
 177 using the categories described in s. 259.037(3).

178 Section 2. Subsection (2) of section 253.111, Florida
 179 Statutes, is amended to read:

180 253.111 Notice to board of county commissioners before
 181 sale.--The Board of Trustees of the Internal Improvement Trust
 182 Fund of the state may not sell any land to which they hold title
 183 unless and until they afford an opportunity to the county in
 184 which such land is situated to receive such land on the
 185 following terms and conditions:

186 (2) The board of county commissioners of the county in
 187 which such land is situated shall, ~~within 40 days after receipt~~
 188 ~~of such notification from the board,~~ determine by resolution
 189 whether ~~or not~~ it proposes to acquire such land.

190 Section 3. Subsections (1), (2), and (5) of section
 191 259.035, Florida Statutes, are amended to read:

192 259.035 Acquisition and Restoration Council.--

193 (1) There is created the Acquisition and Restoration
 194 Council, ~~,-~~

195 ~~(a) The council shall be composed of 11 eleven voting~~
 196 ~~members, with six members appointed pursuant to paragraphs (a),~~

197 ~~(b), and (c) four of whom shall be appointed by the Governor. Of~~
 198 ~~these four appointees, three shall be from scientific~~
 199 ~~disciplines related to land, water, or environmental sciences~~
 200 ~~and the fourth shall have at least 5 years of experience in~~
 201 ~~managing lands for both active and passive types of recreation.~~
 202 ~~They shall serve 4 year terms, except that, initially, to~~
 203 ~~provide for staggered terms, two of the appointees shall serve~~
 204 ~~2-year terms. All subsequent appointments shall be for 4-year~~
 205 staggered terms. An ~~no~~ appointee may not shall serve more than
 206 two terms 6 years. A vacancy shall be filled for the remainder
 207 of an unexpired term in the same manner as the original
 208 appointment. The Governor may at any time fill a vacancy for the
 209 unexpired term of a member appointed under this paragraph.

210 (a) Four members shall be appointed by the Governor. Three
 211 of such members shall be from scientific disciplines related to
 212 land, water, or environmental sciences and the fourth member
 213 must have at least 5 years of experience in managing lands for
 214 both active and passive types of recreation.

215 (b) One member shall be appointed by the Commissioner of
 216 Agriculture from a discipline related to agriculture, including
 217 silviculture.

218 (c) One member shall be appointed by the Fish and Wildlife
 219 Conservation Commission from a discipline related to wildlife
 220 management or wildlife ecology.

221 (d) ~~(b)~~ The five remaining members appointees shall be
 222 composed of the Secretary of Environmental Protection, the
 223 director of the Division of Forestry of the Department of
 224 Agriculture and Consumer Services, the executive director of the

225 Fish and Wildlife Conservation Commission, the director of the
 226 Division of Historical Resources of the Department of State, and
 227 the Secretary of ~~the Department of~~ Community Affairs, or their
 228 respective designees.

229 ~~(c) One member shall be appointed by the Commissioner of~~
 230 ~~Agriculture with a discipline related to agriculture including~~
 231 ~~silviculture. One member shall be appointed by the Fish and~~
 232 ~~Wildlife Conservation Commission with a discipline related to~~
 233 ~~wildlife management or wildlife ecology.~~

234 (e)~~(d)~~ The Governor shall appoint the chair of the
 235 council, and a vice chair shall be elected from among the
 236 members.

237 (f)~~(e)~~ The council shall hold periodic meetings at the
 238 request of the chair.

239 (g)~~(f)~~ The Department of Environmental Protection shall
 240 provide primary staff support to the council and shall ensure
 241 that council meetings are electronically recorded. Such
 242 recording must ~~shall~~ be preserved pursuant to chapters 119 and
 243 257.

244 (h)~~(g)~~ The board of trustees may ~~has authority to~~ adopt
 245 rules ~~pursuant to~~ administer ~~ss. 120.536(1) and 120.54 to~~
 246 ~~implement the provisions of this section.~~

247 (2) The six appointed ~~four~~ members of the council
 248 ~~appointed pursuant to paragraph (a) and the two members of the~~
 249 ~~council appointed pursuant to paragraph (c)~~ shall receive
 250 reimbursement for expenses and per diem for travel, to attend
 251 council meetings, ~~as allowed state officers and employees while~~
 252 ~~in the performance of their duties,~~ pursuant to s. 112.061.

253 (5) An affirmative vote of six ~~five~~ members of the council
 254 is required ~~in order~~ to change a project boundary or to place a
 255 proposed project on a list developed pursuant to subsection (4).
 256 Any member of the council who by family or a business
 257 relationship has a connection with all or a portion of any
 258 proposed project shall declare the interest before voting on its
 259 inclusion on a list.

260 Section 4. Paragraph (b) of subsection (3) and subsection
 261 (6) of section 259.037, Florida Statutes, are amended to read:

262 259.037 Land Management Uniform Accounting Council.--

263 (3)

264 (b) Beginning July 1, 2009, each reporting agency shall
 265 also:

266 1. Include a report of the available public use
 267 opportunities for each management unit of state land, the total
 268 management cost for public access and public use, and the cost
 269 associated with each use option.

270 2. List the acres of land requiring minimal management
 271 effort, moderate management effort, and significant management
 272 effort pursuant to s. 259.032(11)(c). For each category created
 273 in paragraph (a), the reporting agency shall include the amount
 274 of funds requested, the amount of funds received, and the amount
 275 of funds expended for land management.

276 3. List acres managed and cost of management for each
 277 park, preserve, forest, reserve, or management area.

278 4. List acres managed, cost of management, and lead
 279 manager for each state lands management unit for which secondary
 280 management activities were provided.

281 5. Include a report of the estimated calculable financial
 282 benefits to the public for the ecosystem services provided by
 283 conservation lands, based on the best readily available
 284 information or science that provides a standard measurement
 285 methodology to be consistently applied by the land managing
 286 agencies. Such information may include, but need not be limited
 287 to, the value of natural lands for protecting the quality and
 288 quantity of drinking water through natural water filtration and
 289 recharge, contributions to protecting and improving air quality,
 290 benefits to agriculture through increased soil productivity and
 291 preservation of biodiversity, and savings to property and lives
 292 through flood control.

293 (6) Beginning July 1, 2010 ~~Biennially~~, each reporting
 294 agency shall also submit an operational report every 5 years for
 295 each management area for which a new or updated ~~along with an~~
 296 ~~approved~~ management plan has been approved by the board of
 297 trustees pursuant to ss. 253.034(5) and 259.032(10). The report
 298 should assess ~~the~~ progress toward achieving short-term and long-
 299 term management goals of the approved management plan, including
 300 all land management activities, and identify any deficiencies in
 301 management and corrective actions to address identified
 302 deficiencies as appropriate. This report shall be submitted to
 303 the Acquisition and Restoration Council and the division for
 304 inclusion in its annual report required pursuant to s. 259.036.

305 Section 5. Paragraphs (b), (c), (e), (f), (g), and (h) of
 306 subsection (3) and subsection (13) of section 259.105, Florida
 307 Statutes, are amended to read:

308 259.105 The Florida Forever Act.--

309 (3) Less the costs of issuing and the costs of funding
 310 reserve accounts and other costs associated with bonds, the
 311 proceeds of cash payments or bonds issued pursuant to this
 312 section shall be deposited into the Florida Forever Trust Fund
 313 created by s. 259.1051. The proceeds shall be distributed by the
 314 Department of Environmental Protection in the following manner:

315 (b) Thirty-five percent to the Department of Environmental
 316 Protection for the acquisition of lands and capital project
 317 expenditures described in this section. Of the proceeds
 318 distributed ~~pursuant to this paragraph~~, it is the intent of the
 319 Legislature that ~~an~~ increased priority be given to those
 320 acquisitions which achieve a combination of conservation goals,
 321 including protecting Florida's water resources and natural
 322 groundwater recharge. At a minimum, 3 percent, and no more than
 323 10 percent, of the funds allocated pursuant to this paragraph
 324 shall be spent on capital project expenditures identified in the
 325 management prospectus prepared pursuant to s. 259.032(9)(d)
 326 during the time of acquisition, or in the management plan
 327 prepared pursuant to s. 259.032(10). Such capital projects must
 328 ~~which~~ meet land management planning activities necessary for
 329 public access.

330 (c) Twenty-one percent to the Department of Community
 331 Affairs for use by the Florida Communities Trust for the
 332 purposes of part III of chapter 380, as described and limited by
 333 this subsection, and grants to local governments or nonprofit
 334 environmental organizations that are tax-exempt under s.
 335 501(c)(3) of the United States Internal Revenue Code for the
 336 acquisition of community-based projects, urban open spaces,

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337 parks, and greenways to implement local government comprehensive
338 plans. From funds available to the trust and used for land
339 acquisition, 75 percent shall be matched by local governments on
340 a dollar-for-dollar basis. The Legislature intends that the
341 Florida Communities Trust emphasize funding projects in low-
342 income or otherwise disadvantaged communities and projects that
343 provide areas for direct water access and water-dependent
344 facilities that are open to the public and offer public access
345 by vessels to waters of the state, including boat ramps and
346 associated parking and other support facilities, by amending
347 rule criteria for awarding grants for public vessel access
348 projects to increase the available point total for those
349 projects. At least 30 percent of the total allocation provided
350 to the trust shall be used in Standard Metropolitan Statistical
351 Areas, but one-half of that amount shall be used in localities
352 in which the project site is located in built-up commercial,
353 industrial, or mixed-use areas and functions to intersperse open
354 spaces within congested urban core areas. From funds allocated
355 to the trust, no less than 5 percent shall be used to acquire
356 lands for recreational trail systems, provided that in the event
357 these funds are not needed for such projects, they will be
358 available for other trust projects. Local governments may use
359 federal grants or loans, private donations, or environmental
360 mitigation funds, including environmental mitigation funds
361 required pursuant to s. 338.250, for any part or all of any
362 local match required for acquisitions funded through the Florida
363 Communities Trust. Any lands purchased by nonprofit
364 organizations using funds allocated under this paragraph must

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365 provide for such lands to remain permanently in public use
366 through a reversion of title to local or state government,
367 conservation easement, or other appropriate mechanism. Projects
368 funded with funds allocated to the Trust shall be selected in a
369 competitive process measured against criteria adopted in rule by
370 the Trust.

371 (e) One and five-tenths percent to the Department of
372 Environmental Protection for the purchase of inholdings and
373 additions to state parks and for capital project expenditures as
374 described in this section. At a minimum, 1 percent, and no more
375 than 10 percent, of the funds allocated pursuant to this
376 paragraph shall be spent on capital project expenditures
377 identified in the management prospectus prepared pursuant to s.
378 259.032(9)(d) during the time of acquisition, or in the
379 management plan prepared pursuant to s. 259.032(10). Such
380 capital projects must ~~which~~ meet land management planning
381 activities necessary for public access. For the purposes of this
382 paragraph, the term "state park" means any real property in the
383 state which is under the jurisdiction of the Division of
384 Recreation and Parks of the department, or which may come under
385 its jurisdiction.

386 (f) One and five-tenths percent to the Division of
387 Forestry of the Department of Agriculture and Consumer Services
388 to fund the acquisition of state forest inholdings and additions
389 pursuant to s. 589.07, the implementation of reforestation plans
390 or sustainable forestry management practices, and for capital
391 project expenditures as described in this section. At a minimum,
392 1 percent, and no more than 10 percent, of the funds allocated

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393 for the acquisition of inholdings and additions pursuant to this
394 paragraph shall be spent on capital project expenditures
395 identified in the management prospectus prepared pursuant to s.
396 259.032(9)(d) during the time of acquisition, or in the
397 management plan prepared pursuant to s. 259.032(10). Such
398 capital projects must ~~which~~ meet land management planning
399 activities necessary for public access.

400 (g) One and five-tenths percent to the Fish and Wildlife
401 Conservation Commission to fund the acquisition of inholdings
402 and additions to lands managed by the commission which are
403 important to the conservation of fish and wildlife and for
404 capital project expenditures as described in this section. At a
405 minimum, 1 percent, and no more than 10 percent, of the funds
406 allocated pursuant to this paragraph shall be spent on capital
407 project expenditures identified in the management prospectus
408 prepared pursuant to s. 259.032(9)(d) during the time of
409 acquisition, or in the management plan prepared pursuant to s.
410 259.032(10). Such capital projects must ~~which~~ meet land
411 management planning activities necessary for public access.

412 (h) One and five-tenths percent to the Department of
413 Environmental Protection for the Florida Greenways and Trails
414 Program, to acquire greenways and trails or greenways and trail
415 systems pursuant to chapter 260, including, but not limited to,
416 abandoned railroad rights-of-way and the Florida National Scenic
417 Trail and for capital project expenditures as described in this
418 section. At a minimum, 1 percent, and no more than 10 percent,
419 of the funds allocated pursuant to this paragraph shall be spent
420 on capital project expenditures identified in the management

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421 plan prepared pursuant to s. 259.032(10). Such capital projects
 422 must ~~during the time of acquisition which~~ meet land management
 423 planning activities necessary for public access.

424 (13) An affirmative vote of six ~~five~~ members of the
 425 Acquisition and Restoration Council is ~~shall be~~ required ~~in~~
 426 ~~order~~ to place a proposed project on the list developed pursuant
 427 to subsection (8). Any member of the council who by family or a
 428 business relationship has a connection with any project proposed
 429 to be ranked shall declare such interest before ~~prior to~~ voting
 430 for a project's inclusion on the list.

431 Section 6. Subsection (10) of section 253.12, Florida
 432 Statutes, is amended to read:

433 253.12 Title to tidal lands vested in state.--

434 (10) Subsection (9) does ~~shall~~ not ~~operate to~~ affect the
 435 title to lands which have been judicially adjudicated or which
 436 were the subject of litigation pending on January 1, 1993,
 437 involving title to such lands. Further, the provisions of
 438 subsection (9) do ~~shall~~ not apply to spoil islands, ~~nor~~ to any
 439 lands that ~~which~~ are included on an official acquisition list,
 440 on July 1, 1993, of a state agency or water management district
 441 for conservation, preservation, or recreation, ~~nor~~ to lands
 442 maintained as state or local recreation areas or shore
 443 protection structures, or to sovereignty lands that were filled
 444 before July 1, 1975, by any governmental entity for a public
 445 purpose or pursuant to proprietary authorization from the Board
 446 of Trustees of the Internal Improvement Trust Fund.

447 Section 7. Subsection (6) is added to section 373.236,
 448 Florida Statutes, to read:

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449 373.236 Duration of permits; compliance reports.--
450 (6) (a) The Legislature finds that the need for alternative
451 water supply development projects to meet anticipated public
452 water supply demands of the state is so important that it is
453 essential to encourage participation in and contribution to such
454 projects by private rural landowners who characteristically have
455 relatively modest near-term water demands but substantially
456 increasing demands after the 20-year planning period in s.
457 373.0361. Therefore, where such landowners make extraordinary
458 contributions of lands or construction funding to enable the
459 expeditious implementation of such projects, water management
460 districts and the department may grant permits for such projects
461 for a period of up to 50 years to municipalities, counties,
462 special districts, regional water supply authorities,
463 multijurisdictional water supply entities, and publicly or
464 privately owned utilities, with the exception of any publicly or
465 privately owned utilities created for or by a private landowner
466 after April 1, 2008, which have entered into an agreement with
467 the private landowner for the purpose of more efficiently
468 pursuing alternative public water supply development projects
469 identified in a district's regional water supply plan and
470 meeting water demands of both the applicant and the landowner.
471 (b) A permit under paragraph (a) shall be granted only for
472 that period for which there is sufficient data to provide
473 reasonable assurance that the conditions for permit issuance
474 will be met. Such a permit shall require a compliance report by
475 the permittee every 5 years during the term of the permit. The
476 report shall contain sufficient data to maintain reasonable

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477 assurance that the conditions for permit issuance applicable at
478 the time of district review of the compliance report are met.
479 After review of the report, the governing board or the
480 department may modify the permit to ensure that the use meets
481 the conditions for permit issuance. This subsection does not
482 limit the existing authority of the department or the governing
483 board to modify or revoke a consumptive use permit.

484 Section 8. Paragraphs (b) and (c) of subsection (1) of
485 section 373.414, Florida Statutes, are redesignated as
486 paragraphs (c) and (d), respectively, and a new paragraph (b) is
487 added to that subsection to read:

488 373.414 Additional criteria for activities in surface
489 waters and wetlands.--

490 (1) As part of an applicant's demonstration that an
491 activity regulated under this part will not be harmful to the
492 water resources or will not be inconsistent with the overall
493 objectives of the district, the governing board or the
494 department shall require the applicant to provide reasonable
495 assurance that state water quality standards applicable to
496 waters as defined in s. 403.031(13) will not be violated and
497 reasonable assurance that such activity in, on, or over surface
498 waters or wetlands, as delineated in s. 373.421(1), is not
499 contrary to the public interest. However, if such an activity
500 significantly degrades or is within an Outstanding Florida
501 Water, as provided by department rule, the applicant must
502 provide reasonable assurance that the proposed activity will be
503 clearly in the public interest.

504 (b)1. A permit application prepared and signed by a

505 professional engineer licensed under chapter 471, a professional
506 surveyor and mapper licensed under chapter 472, a professional
507 landscape architect licensed under chapter 481, or a
508 professional geologist licensed under chapter 492 that is
509 determined to be complete by the department is presumed to
510 comply with the provisions of this section. If the department
511 determines to deny such permit application or if such permit
512 application is challenged by a third party, the department or
513 the challenging party has the burden of proving noncompliance by
514 a preponderance of the evidence.

515 2. The department or the water management district may
516 forward to the appropriate professional regulatory board or the
517 Department of Business and Professional Regulation a complaint
518 against a licensed professional when the permitting agency finds
519 that a review under s. 455.227 is warranted. If the professional
520 regulatory board sanctions the professional pursuant to a
521 complaint under this subparagraph, the professional shall be
522 prohibited from certifying under this section during the period
523 of the sanction. If a professional is sanctioned three times by
524 his or her respective board pursuant to a complaint under this
525 subparagraph, the professional shall be permanently prohibited
526 from certifying under this section.

527 Section 9. Paragraph (c) of subsection (2) of section
528 373.427, Florida Statutes, is amended to read:

529 373.427 Concurrent permit review.--

530 (2) In addition to the provisions set forth in subsection
531 (1) and notwithstanding s. 120.60, the procedures established in
532 this subsection shall apply to concurrently reviewed

533 applications which request proprietary authorization to use
 534 board of trustees-owned submerged lands for activities for which
 535 there has been no delegation of authority to take final agency
 536 action without action by the board of trustees.

537 (c) Any petition for an administrative hearing pursuant to
 538 ss. 120.569 and 120.57 must be filed within 21 ~~14~~ days after ~~of~~
 539 the notice of consolidated intent to grant or deny. Unless
 540 waived by the applicant, within 60 days after the recommended
 541 order is submitted, or at the next regularly scheduled meeting
 542 for which notice may be properly given, whichever is latest, the
 543 board of trustees shall determine what action to take on a ~~any~~
 544 recommended order issued under ss. 120.569 and 120.57 on the
 545 application to use board of trustees-owned submerged lands, and
 546 shall direct the department or water management district on what
 547 action to take in the final order concerning the application ~~to~~
 548 ~~use board of trustees-owned submerged lands~~. The department or
 549 water management district shall determine what action to take on
 550 any recommended order issued under ss. 120.569 and 120.57
 551 regarding any concurrently processed permits, waivers,
 552 variances, or approvals required by this chapter or chapter 161.
 553 The department or water management district shall ~~then~~ take
 554 final agency action by entering a consolidated final order
 555 addressing each of the concurrently reviewed authorizations,
 556 permits, waivers, or approvals. Failure to satisfy these
 557 timeframes may ~~shall~~ not result in approval by default of the
 558 application to use board of trustees-owned submerged lands. Any
 559 provisions relating to authorization to use such ~~board of~~
 560 ~~trustees-owned submerged~~ lands shall be as directed by the board

561 of trustees. Issuance of the consolidated final order within 45
 562 days after receipt of the direction of the board of trustees
 563 regarding the application to use board of trustees-owned
 564 submerged lands is deemed in compliance with the timeframes for
 565 issuance of final orders under s. 120.60. The final order is
 566 ~~shall be~~ subject to ~~the provisions of~~ s. 373.4275.

567 Section 10. Paragraph (c) of subsection (2) of section
 568 403.0876, Florida Statutes, is amended to read:

569 403.0876 Permits; processing.--

570 (2)

571 (c) The failure of the department to approve or deny an
 572 application for an air construction permit for which a federally
 573 delegated or approved program requires a public participation
 574 period of at least 30 days, or for an operation permit for a
 575 major source of air pollution, as defined in s. 403.0872, within
 576 the 90-day ~~time~~ period shall not result in the automatic
 577 approval or denial of the permit and shall not prevent the
 578 inclusion of specific permit conditions that ~~which~~ are necessary
 579 to ensure compliance with applicable statutes and rules. If the
 580 department fails to approve or deny such an operation permit ~~for~~
 581 ~~a major source of air pollution~~ within the 90-day period
 582 specified in this section or in s. 403.0872, as applicable, the
 583 applicant or a party who participated in the public comment
 584 process may petition for a writ of mandamus to compel the
 585 department to act.

586 Section 11. Paragraphs (b) and (f) of subsection (2) and
 587 subsections (3), (4), (5), and (9) of section 403.121, Florida
 588 Statutes, are amended to read:

589 403.121 Enforcement; procedure; remedies.--The department
 590 shall have the following judicial and administrative remedies
 591 available to it for violations of this chapter, as specified in
 592 s. 403.161(1).

593 (2) Administrative remedies:

594 (b) If the department has reason to believe a violation
 595 has occurred, it may institute an administrative proceeding to
 596 order the prevention, abatement, or control of the conditions
 597 creating the violation or other appropriate corrective action.
 598 Except for violations involving hazardous wastes, asbestos,
 599 major sources of air pollution, or underground injection, the
 600 department shall proceed administratively in all cases in which
 601 the department seeks administrative penalties that do not exceed
 602 \$10,000 per assessment as calculated in accordance with
 603 subsections (3), (4), (5), (6), ~~and (7)~~, and (9). Pursuant to 42
 604 U.S.C. s. 300g-2, the administrative penalty assessed pursuant
 605 to subsection (3), subsection (4), or subsection (5) against a
 606 public water system serving a population of more than 10,000 may
 607 ~~shall be not be~~ less than \$1,000 per day per violation. The
 608 department may ~~shall~~ not impose administrative penalties greater
 609 than ~~in excess of~~ \$10,000 in a notice of violation. The
 610 department may ~~shall~~ not have more than one notice of violation
 611 seeking administrative penalties pending against the same party
 612 at the same time unless the violations occurred at a different
 613 site or the violations were discovered by the department after
 614 ~~subsequent to~~ the filing of a previous notice of violation.

615 (f) In any administrative proceeding brought by the
 616 department, the prevailing party shall recover all costs as

617 provided in ss. 57.041 and 57.071. The costs must be included in
 618 the final order. The respondent is the prevailing party when a
 619 final ~~a~~ order is entered which does not require the respondent
 620 to perform any corrective actions or award any damages or
 621 ~~awarding no~~ penalties to the department and such order has not
 622 been reversed on appeal or the time for seeking judicial review
 623 has expired. The respondent is ~~shall be~~ entitled to an award of
 624 attorney's fees if the administrative law judge determines that
 625 the notice of violation issued by the department seeking the
 626 imposition of administrative penalties was not substantially
 627 justified as defined in s. 57.111(3) ~~s. 57.111(3)(e)~~. An ~~No~~
 628 award of attorney's fees as provided by this subsection may not
 629 ~~shall~~ exceed \$15,000.

630 (3) Except for violations involving hazardous wastes,
 631 asbestos, major sources of air pollution, or underground
 632 injection, administrative penalties must be in accordance with
 633 ~~calculated according to~~ the following schedule:

634 (a) For ~~a~~ drinking water violations ~~contamination~~
 635 ~~violation~~, the department shall assess:

636 1. A penalty of \$2,000 for a maximum contaminant
 637 ~~containment~~ level ~~(MCL)~~ violation; plus \$1,000 if the violation
 638 is for a primary inorganic, organic, or radiological maximum
 639 contaminant level or ~~it is~~ a fecal coliform bacteria violation;
 640 plus \$1,000 if the violation occurs at a community water system;
 641 and plus \$1,000 if any maximum contaminant level is exceeded by
 642 more than 100 percent.

643 2. A penalty of \$3,000 for failure to obtain a clearance
 644 letter before ~~prior to~~ placing a drinking water system into

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645 service ~~if when~~ the system would not have been eligible for
646 clearance, ~~the department shall assess a penalty of \$3,000. All~~
647 other failures to obtain a clearance letter before placing a
648 drinking water system into service shall result in a penalty of
649 \$1,500.

650 3. A penalty of \$2,000 for failure to properly complete a
651 required public notice of violations, exceedances, or failures
652 that may pose an acute risk to human health, plus \$2,000 if the
653 violation occurs at a community water system. All other failures
654 to properly complete a required public notice relating to
655 maximum contaminant level violations shall result in a penalty
656 of \$1,000.

657 4. A penalty of \$1,000 for failure to submit a consumer
658 confidence report.

659 5. A penalty of \$1,000 for failure to provide or meet
660 licensed operator or staffing requirements at a drinking water
661 facility, plus \$1,000 if the violation occurs at a community
662 water system.

663 (b) For wastewater violations, the department shall
664 assess:

665 1. A penalty of \$5,000 for failure to obtain a required
666 wastewater permit before construction or modification, other
667 than a permit required for surface water discharge.

668 2. A penalty of \$4,000 for failure to obtain a permit to
669 construct a domestic wastewater collection or transmission
670 system.

671 3. A penalty of \$1,000 for failure to renew ~~obtain~~ a
672 required wastewater permit, other than a permit required for

673 surface water discharge, ~~the department shall assess a penalty~~
 674 ~~of \$1,000.~~

675 4. For a domestic or industrial wastewater violation not
 676 involving a surface water or groundwater quality violation, ~~the~~
 677 ~~department shall assess a penalty of \$2,000 for an unpermitted~~
 678 or unauthorized discharge or effluent-limitation exceedance.

679 5. A penalty of \$5,000 for an unpermitted or unauthorized
 680 discharge or effluent-limitation exceedance that resulted in a
 681 surface water or groundwater quality violation, ~~the department~~
 682 ~~shall assess a penalty of \$5,000.~~

683 6. A penalty of \$2,000 for failure to properly notify the
 684 department of an unauthorized spill, discharge, or abnormal
 685 event that may impact public health or the environment.

686 7. A penalty of \$2,000 for failure to provide or meet
 687 requirements for licensed operators or staffing at a wastewater
 688 facility.

689 (c) For a dredge, and fill, or stormwater violation, the
 690 department shall assess:

691 1. A penalty of \$1,000 for unpermitted or unauthorized
 692 dredging, ~~or~~ filling, or unauthorized construction of a
 693 stormwater management system against the person or persons
 694 responsible; ~~for the illegal dredging or filling, or~~
 695 ~~unauthorized construction of a stormwater management system~~ plus
 696 \$2,000 if the dredging or filling occurs in an aquatic preserve,
 697 Outstanding Florida Water, ~~conservation easement,~~ or Class I or
 698 Class II surface water; ~~and~~ plus \$1,000 if the area dredged or
 699 filled is greater than one-quarter acre but less than or equal
 700 to one-half acre; ~~and~~ plus \$1,000 if the area dredged or filled

701 is greater than one-half acre but less than or equal to one
 702 acre; and plus \$3,000 if the person or persons responsible
 703 previously applied for or obtained authorization from the
 704 department to dredge or fill within wetlands or surface waters.
 705 The administrative penalty schedule does ~~shall~~ not apply to a
 706 dredge or ~~and~~ fill violation if the area dredged or filled
 707 exceeds 1 ~~one~~ acre. The department retains the authority to seek
 708 the judicial imposition of civil penalties for all dredge and
 709 fill violations involving more than 1 ~~one~~ acre. ~~The department~~
 710 ~~shall assess~~

711 2. A penalty of \$10,000 for dredge, fill, or stormwater
 712 management system violations occurring in a conservation
 713 easement.

714 3. A penalty of \$3,000 for the failure to complete
 715 required mitigation, failure to record a required conservation
 716 easement, or for a water quality violation resulting from
 717 dredging or filling activities, stormwater construction
 718 activities, or failure of a stormwater treatment facility.

719 4. For stormwater management systems serving less than 5
 720 acres, ~~the department shall assess~~ a penalty of \$2,000 for the
 721 failure to properly or timely construct a stormwater management
 722 system.

723 5. In addition to the penalties authorized in this
 724 subsection, ~~the department shall assess~~ a penalty of \$5,000 per
 725 violation against the contractor or agent of the owner or tenant
 726 that conducts unpermitted or unauthorized dredging or filling.
 727 For purposes of this paragraph, the preparation or signing of a
 728 permit application by a person currently licensed under chapter

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729 471 to practice as a professional engineer does ~~shall~~ not make
730 that person an agent of the owner or tenant.

731 (d) For mangrove trimming or alteration violations, the
732 department shall assess:

733 1. A penalty of \$5,000 per violation against any person
734 who violates ss. 403.9321-403.9333 ~~the contractor or agent of~~
735 ~~the owner or tenant that conducts mangrove trimming or~~
736 ~~alteration without a permit as required by s. 403.9328.~~ For
737 purposes of this paragraph, the preparation or signing of a
738 permit application by a person currently licensed under chapter
739 471 to practice as a professional engineer does ~~shall~~ not
740 constitute a violation ~~make that person an agent of the owner or~~
741 ~~tenant.~~

742 2. For second and subsequent violations of subparagraph
743 1., an additional penalty of \$100 for each mangrove illegally
744 trimmed and \$250 for each mangrove illegally altered or removed,
745 not to exceed a total of \$10,000.

746 3. For second and subsequent violations of subparagraph 1.
747 by a professional mangrove trimmer, an additional penalty of
748 \$250 for each mangrove illegally trimmed or altered, not to
749 exceed a total of \$10,000.

750 (e) For solid waste violations, the department shall
751 assess:

752 1. A penalty of \$2,000 for the unpermitted or unauthorized
753 disposal or storage of solid waste; plus \$1,000 if the solid
754 waste is Class I or Class III ~~(excluding yard trash)~~ ~~or if the~~
755 ~~solid waste~~ is construction and demolition debris in excess of
756 20 cubic yards; 7 plus \$1,000 if the solid waste is disposed of

757 or stored in any natural or artificial body of water or within
 758 500 feet of a potable water well; and, plus \$1,000 if the solid
 759 waste contains PCB at a concentration of 50 parts per million or
 760 greater; untreated biomedical waste; more than 1 cubic meter of
 761 regulated friable asbestos material that ~~greater than 1 cubic~~
 762 ~~meter which~~ is not wetted, bagged, and covered; more than 25
 763 gallons of used oil ~~greater than 25 gallons~~; or 10 or more lead
 764 acid batteries.

765 2. A penalty of \$5,000 for failure to timely implement
 766 evaluation monitoring or corrective actions in response to
 767 adverse impacts to water quality at permitted facilities. The
 768 ~~department shall assess~~

769 3. A penalty of \$3,000 for failure to properly maintain
 770 leachate control; unauthorized burning; failure to have a
 771 trained spotter or trained operator on duty as required by
 772 department rule at the working face when accepting waste;
 773 failure to apply and maintain adequate initial, intermediate, or
 774 final cover; failure to control or correct erosion resulting in
 775 exposed waste; failure to implement a gas management system as
 776 required by department rule; or processing or disposing of
 777 unauthorized waste ~~failure to provide access control for three~~
 778 ~~consecutive inspections. The department shall assess~~

779 4. A penalty of \$2,000 for failure to construct or
 780 maintain a required stormwater management system; failure to
 781 compact and slope waste as required by department rule; or
 782 failure to maintain a small working face as required by
 783 department rule.

784 5. A penalty of \$1,000 for failure to timely submit annual

785 updates required for financial assurance.

786 (f) For ~~an~~ air emission violations ~~violation~~, the
 787 department shall assess a penalty of \$1,000 for an unpermitted
 788 or unauthorized air emission or an air-emission-permit
 789 exceedance; ~~plus \$1,000 if the emission results in an air~~
 790 ~~quality violation~~, plus \$3,000 if the emission was from a major
 791 source and the source was major for the pollutant in violation;
 792 and plus \$1,000 if the emission was more than 150 percent of the
 793 allowable level.

794 (g) For storage tank system and petroleum contamination
 795 violations, the department shall assess:

796 1. A penalty of \$5,000 for failure to empty a damaged
 797 storage system as necessary to ensure that a release does not
 798 occur until repairs to the storage system are completed; if ~~when~~
 799 a release has occurred from that storage tank system; for
 800 failure to timely recover free product as required by
 801 department rule; for failure to submit a site assessment report;
 802 or for failure to conduct remediation or monitoring activities
 803 until a no-further-action or site-rehabilitation completion
 804 order has been issued. ~~The department shall assess~~

805 2. A penalty of \$3,000 for failure to timely upgrade a
 806 storage tank system or to timely assess or remediate petroleum
 807 contamination as required by department rule. ~~The department~~
 808 ~~shall assess~~

809 3. A penalty of \$2,000 for failure to conduct or maintain
 810 required release detection; failure to timely investigate a
 811 suspected release from a storage system as required by
 812 department rule; depositing motor fuel into an unregistered

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813 storage tank system; ~~failure to timely assess or remediate~~
814 ~~petroleum contamination;~~ or failure to properly install a
815 storage tank system. ~~The department shall assess~~

816 4. A penalty of \$1,000 for failure to properly operate,
817 maintain, repair, or close a storage tank system.

818 (h) For contaminated site rehabilitation violations, the
819 department shall assess:

820 1. A penalty of \$5,000 for failure to submit a complete
821 site assessment report; failure to provide notice of
822 contamination beyond property boundaries or complete a well
823 survey as required by department rule; for the use or injection
824 of substances or materials to surface water or groundwater for
825 remediation purposes without prior department approval; or for
826 the operation of a remedial treatment system without prior
827 department approval.

828 2. A penalty of \$3,000 for failure to timely assess or
829 remediate contamination as required by department rule.

830 (4) In an administrative proceeding, in addition to ~~the~~
831 any penalties that may be assessed under subsection (3), or for
832 violations not otherwise listed in subsection (3), the
833 department shall assess administrative penalties according to
834 the following schedule:

835 (a) For failure to satisfy financial responsibility
836 requirements or for violation of s. 377.371(1), \$5,000.

837 (b) For failure to properly install, operate, maintain, or
838 use a required pollution control, collection, treatment, or
839 disposal system or device, or failure to use appropriate best
840 management practices or erosion and sediment controls, \$4,000.

841 (c) For failure to obtain a required permit or license
 842 ~~before construction or modification~~, \$3,000 if the facility is
 843 constructed, modified, or operated in compliance with applicable
 844 requirements, or \$5,000 if the facility is not constructed,
 845 modified, or operated in compliance with applicable
 846 requirements.

847 (d) For failure to conduct required monitoring or testing;
 848 failure to conduct required release detection; or failure to
 849 construct in compliance with a permit, \$2,000.

850 (e) For failure to maintain required staff to respond to
 851 emergencies; failure to conduct required training; failure to
 852 prepare, maintain, or update required contingency plans; failure
 853 to adequately respond to emergencies to bring an emergency
 854 situation under control; or failure to submit required
 855 notification to the department, \$1,000.

856 (f) Except as provided in subsection (2) with respect to
 857 public water systems serving a population of more than 10,000,
 858 for failure to prepare, submit, maintain, or use required
 859 reports or other required documentation, \$1,000 ~~\$500~~.

860 (5) Except as provided in subsection (2) with respect to
 861 public water systems serving a population of more than 10,000,
 862 for failure to comply with any other departmental regulatory
 863 statute or rule requirement not otherwise identified in this
 864 section, the department may assess a penalty of \$1,000 ~~\$500~~.

865 (9) The administrative penalties assessed for any
 866 particular violation may ~~shall~~ not exceed \$5,000 against any one
 867 violator, unless the violator has a history of noncompliance,
 868 the violator received economic benefit from ~~of~~ the violation ~~as~~

869 ~~described in subsection (8) exceeds \$5,000,~~ or there are
 870 multiday violations. The total administrative penalties may
 871 ~~shall~~ not exceed \$10,000 per assessment for all violations
 872 attributable to a specific person in the notice of violation.

873 Section 12. Subsection (9) is added to section 712.03,
 874 Florida Statutes, to read:

875 712.03 Exceptions to marketability.--Such marketable
 876 record title shall not affect or extinguish the following
 877 rights:

878 (9) Any right, title, or interest held by any governmental
 879 entity, including, but not limited to, the Federal Government,
 880 the state, any state agency, the Board of Trustees of the
 881 Internal Improvement Trust Fund, any water management district
 882 created pursuant to chapter 373, any county, any municipality,
 883 any school district, any special district, or any other
 884 political subdivision.

885 Section 13. Section 712.04, Florida Statutes, is amended
 886 to read:

887 712.04 Interests extinguished by marketable record
 888 title.--Subject to the matters stated in s. 712.03, a ~~such~~
 889 marketable record title is ~~shall be~~ free and clear of all
 890 estates, interests, claims, or charges whatsoever, the existence
 891 of which depends upon any act, title transaction, event or
 892 omission that occurred before ~~prior to~~ the effective date of the
 893 root of title. All such estates, interests, claims, or charges,
 894 however denominated, whether such estates, interests, claims, or
 895 charges are or appear to be held or asserted by a person sui
 896 juris or under a disability, whether such person is within or

897 | without the state or, ~~whether such person~~ is natural or
 898 | corporate, ~~or is private or governmental~~, are hereby declared to
 899 | be null and void, ~~except that this chapter shall not be deemed~~
 900 | ~~to affect any right, title, or interest of the United States,~~
 901 | ~~Florida, or any of its officers, boards, commissions, or other~~
 902 | ~~agencies reserved in the patent or deed by which the United~~
 903 | ~~States, Florida, or any of its agencies parted with title.~~

904 | Section 14. Paragraph (b) of subsection (7) of section
 905 | 373.036, Florida Statutes, is amended to read:

906 | 373.036 Florida water plan; district water management
 907 | plans.--

908 | (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL
 909 | REPORT.--

910 | (b) The consolidated annual report shall contain the
 911 | following elements, as appropriate to that water management
 912 | district:

913 | 1. A district water management plan annual report or the
 914 | annual work plan report allowed in subparagraph (2)(e)4.

915 | 2. The department-approved minimum flows and levels annual
 916 | priority list and schedule required by s. 373.042(2).

917 | 3. The annual 5-year capital improvements plan required by
 918 | s. 373.536(6)(a)3.

919 | 4. The alternative water supplies annual report required
 920 | by s. 373.1961(3)(n).

921 | 5. The final annual 5-year water resource development work
 922 | program required by s. 373.536(6)(a)4.

923 | 6. The Florida Forever Water Management District Work Plan
 924 | annual report required by s. 373.199(7).

925 7. The mitigation donation annual report required by s.
926 373.414(1) (c) ~~(b)~~2.

927 Section 15. Paragraph (e) of subsection (6) and subsection
928 (7) of section 373.4135, Florida Statutes, are amended to read:

929 373.4135 Mitigation banks and offsite regional
930 mitigation.--

931 (6) An environmental creation, preservation, enhancement,
932 or restoration project, including regional offsite mitigation
933 areas, for which money is donated or paid as mitigation, that is
934 sponsored by the department, a water management district, or a
935 local government and provides mitigation for five or more
936 applicants for permits under this part, or for 35 or more acres
937 of adverse impacts, shall be established and operated under a
938 memorandum of agreement. The memorandum of agreement shall be
939 between the governmental entity proposing the mitigation project
940 and the department or water management district, as appropriate.
941 Such memorandum of agreement need not be adopted by rule. For
942 the purposes of this subsection, one creation, preservation,
943 enhancement, or restoration project shall mean one or more
944 parcels of land with similar ecological communities that are
945 intended to be created, preserved, enhanced, or restored under a
946 common scheme.

947 (e) Projects governed by this subsection, except for
948 projects established pursuant to subsection (7), shall be
949 subject to the provisions of s. 373.414(1) (c) ~~(b)~~1.

950 (7) The department, water management districts, and local
951 governments may elect to establish and manage mitigation sites,
952 including regional offsite mitigation areas, or contract with

953 permitted mitigation banks, to provide mitigation options for
 954 private single-family lots or homeowners. The department, water
 955 management districts, and local governments shall provide a
 956 written notice of their election under this subsection by United
 957 States mail to those individuals who have requested, in writing,
 958 to receive such notice. The use of mitigation options
 959 established under this subsection are not subject to the full-
 960 cost-accounting provision of s. 373.414(1) (c) ~~(b)~~1. To use a
 961 mitigation option established under this subsection, the
 962 applicant for a permit under this part must be a private,
 963 single-family lot or homeowner, and the land upon which the
 964 adverse impact is located must be intended for use as a single-
 965 family residence by the current owner. The applicant must not be
 966 a corporation, partnership, or other business entity. However,
 967 the provisions of this subsection shall not apply to other
 968 entities that establish offsite regional mitigation as defined
 969 in this section and s. 373.403.

970 Section 16. Paragraph (d) of subsection (6) of section
 971 373.4136, Florida Statutes, is amended to read:

972 373.4136 Establishment and operation of mitigation
 973 banks.--

974 (6) MITIGATION SERVICE AREA.--The department or water
 975 management district shall establish a mitigation service area
 976 for each mitigation bank permit. The department or water
 977 management district shall notify and consider comments received
 978 on the proposed mitigation service area from each local
 979 government within the proposed mitigation service area. Except
 980 as provided herein, mitigation credits may be withdrawn and used

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981 only to offset adverse impacts in the mitigation service area.
982 The boundaries of the mitigation service area shall depend upon
983 the geographic area where the mitigation bank could reasonably
984 be expected to offset adverse impacts. Mitigation service areas
985 may overlap, and mitigation service areas for two or more
986 mitigation banks may be approved for a regional watershed.

987 (d) If the requirements in s. 373.414(1) (c) ~~(b)~~ and (8) are
988 met, the following projects or activities regulated under this
989 part shall be eligible to use a mitigation bank, regardless of
990 whether they are located within the mitigation service area:

991 1. Projects with adverse impacts partially located within
992 the mitigation service area.

993 2. Linear projects, such as roadways, transmission lines,
994 distribution lines, pipelines, or railways.

995 3. Projects with total adverse impacts of less than 1 acre
996 in size.

997 Section 17. This act shall take effect July 1, 2009.