By the Committees on Environmental Preservation and Conservation; and Community Affairs; and Senator Altman

592-04887-09 20092026c2

A bill to be entitled

An act relating to regulatory reform; providing for an extension and renewal of certain permits, development orders, or other land use approvals; providing for retroactive application of the extension and renewal; amending s. 120.569, F.S.; providing for an electronic notice of hearing rights; amending s. 120.60, F.S., relating to additional information for license applications; providing for an agency to process a permit application under certain circumstances; amending s. 125.022, F.S.; providing that counties may not require certain permits or approvals as a condition of approving a development permit; creating s. 161.032, F.S.; providing for review of applications; providing requirements for timely submittal of additional information requested; providing circumstances in which an application may be denied; amending s. 166.033, F.S.; providing that municipalities may not require certain permits or approvals as a condition of approving a development permit; amending s. 253.034, F.S.; providing for the deposition of dredged material on state-owned submerged lands in certain circumstances and for certain purposes; amending s. 373.026, F.S.; providing for the expansion of Internet-based self-certification for exemptions and general permits; amending s. 373.441, F.S.; restricting the authority of the Department of Environmental Protection and the appropriate water management district to regulate

certain activities delegated to a county, municipality, or local pollution control program; providing exceptions; amending s. 373.4141, F.S.; providing requirements for requests for additional information; amending s. 373.079, F.S.; requiring the water management district governing boards to delegate certain permitting responsibilities to the district executive directors; amending s. 373.083, F.S.; requiring the delegation of certain authority by the governing board to the executive director of the water management district; providing an exception to requirements of ch. 120, F.S.; providing a prohibition; amending s. 373.118, F.S.; providing for the delegation of general permit authority by a water management district governing board to the district executive director; providing an exception to the requirements of ch. 120, F.S.; amending s. 373.236, F.S.; providing for 50-year consumptive use permits in certain circumstances; providing requirements for issuance of a permit; providing for certain permits to be granted for terms of at least 25 years; requiring reports by the permittees; amending s. 373.243, F.S.; providing that certain permits may not be revoked unless nonuse of the water supply allowed by the permit is for 4 years or more; amending s. 373.406, F.S.; providing a permit exemption for certain public use facilities on county-owned natural areas; creating s. 373.4061, F.S.; providing requirements for noticed general permits for counties; providing requirements,

restrictions, and limitations; amending s. 403.061, F.S.; amending the powers and duties of the Department of Environmental Protection; providing that department rules may include criteria for approval of certain dock facilities; authorizing the department to maintain certain lists of projects or activities that meet specified mitigation or public-interest requirements; providing an exception; providing restrictions; requiring the department of implement a project management plan to implement e-permitting; providing project requirements; requiring the department to submit the plan to the President of the Senate and the Speaker of the House of Representatives by January 15, 2010; authorizing the department to expand the use of Internet-based self-certification services for appropriate exemptions and general permits; providing restrictions on local governments relating to method or form of documentation; amending s. 403.813, F.S., relating to permits issued at district centers; providing exceptions; amending s. 403.814, F.S.; directing the Department of Environmental Protection to expand the use of Internet-based self-certification services for exemptions and general permits; requiring the submission of a report to the President of the Senate and the Speaker of the House of Representatives; amending s. 403.973, F.S., relating to expedited permitting and comprehensive plan amendments; specifying that certain biofuel projects are eligible

for expedited permitting; transferring certain responsibilities from the Office of Tourism, Trade, and Economic Development in the Executive Office of the Governor to the Secretary of Environmental Protection; revising the time by which certain final orders must be issued; providing additional requirements for recommended orders; amending s. 258.42, F.S.; authorizing the placement of roofs on certain slips and private residential single-family docks; providing that such roofs may not be included in the calculation to determine the square footage of the terminal platform; providing for retroactive application of specified provisions; creating part IV of ch. 369, F.S.; providing a short title; providing legislative findings and intent with respect to the need to protect and restore springs and ground water; providing definitions; requiring the Department of Environmental Protection to delineate the springsheds of specified springs; requiring the department to adopt spring protection zones by secretarial order; requiring the department to adopt total maximum daily loads and basin management action plans for spring systems; providing effluent requirements for domestic wastewater treatment facilities; providing requirements for onsite sewage treatment and disposal systems; providing requirements for agricultural operations; authorizing the Department of Environmental Protection, the Department of Health, and the Department of Agriculture and Consumer

Services to adopt rules; amending s. 163.3177, F.S.; requiring certain local governments to adopt a springs protection element as one of the required elements of the comprehensive plan by a specified date; providing that certain design principles be included in the element; requiring the Department of Environmental Protection and the state land planning agency to make information available concerning best-management practices; prohibiting a local government that fails to adopt a springs protection element from amending its comprehensive plan; amending s. 403.1835, F.S.; including certain areas of critical state concern and the spring protection zones established by the act among projects that are eligible for certain financial assistance; requiring the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and water management districts to assess nitrogen loading and begin implementing management plans within the spring protection zones by a specified date; amending s. 381.0065, F.S.; requiring the Department of Health to implement a statewide onsite sewage treatment and disposal system inspection program; providing a 10-year phase-in cycle; requiring inspection; providing specific exemptions; providing fee requirements; providing disposition of fees; amending s. 259.105, F.S.; providing priority under the Florida Forever Act for projects within a springs protection zone; creating s. 403.9335, F.S.; providing legislative findings; providing for model ordinances

for the protection of urban and residential environments and water; requiring the Department of Environmental Protection to adopt a model ordinance by a specified date; requiring municipalities and counties having impaired water bodies or segments to adopt the ordinance; creating s. 403.9337, F.S.; providing definitions; prohibiting use of certain fertilizers after a specified date; providing for exemptions; transferring by a type II transfer the Bureau of Onsite Sewage from the Department of Health to the Department of Environmental Protection; amending s. 369.317, F.S.; clarifying mitigation offsets in the Wekiva Study Area; amending s. 373.185, F.S.; revising the definition of Florida-friendly landscaping; deleting references to "xeriscape"; requiring water management districts to provide model Florida-friendly landscaping ordinances to local governments; revising eligibility criteria for certain incentive programs of the water management districts; requiring certain local government ordinances and amendments to include certain design standards and identify specified invasive exotic plant species; requiring water management districts to consult with additional entities for activities relating to Florida-friendly landscaping practices; specifying programs for the delivery of educational programs relating to such practices; providing legislative findings; providing that certain regulations prohibiting the implementation of Florida-friendly

landscaping or conflicting with provisions governing the permitting of consumptive uses of water are prohibited; providing that the act does not limit the authority of the department or the water management districts to require Florida-friendly landscaping ordinances or practices as a condition of certain permit; creating s. 373.187, F.S.; requiring water management districts to implement Florida-friendly landscaping practices on specified properties; requiring districts to develop specified programs for implementing such practices on other specified properties; amending s. 373.228, F.S.; requiring water management districts to work with specified entities to develop certain standards; requiring water management districts to consider certain information in evaluating water use applications from public water suppliers; conforming provisions to changes made by the act; amending s. 373.323, F.S.; revising application requirements for water well contractor licensure; requiring applicants to provide specified documentation; amending s. 373.333, F.S.; authorizing an administrative fine to be imposed for each occurrence of unlicensed well water contracting; amending ss. 125.568, 166.048, 255.259, 335.167, 380.061, 388.291, 481.303, and 720.3075, F.S.; conforming provisions to changes made by the act; revising provisions requiring the use of Florida-friendly landscaping for specified public properties and highway construction and maintenance projects;

establishing a task force to develop recommendations relating to stormwater management system design; specifying study criteria; providing for task force membership, meetings, and expiration; requiring the task force to submit findings and legislative recommendations to the Legislature by a specified date; providing effective dates.

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

Section 1. (1) Except as provided in subsection (4), and in recognition of the 2009 real estate market conditions, any permit issued by the Department of Environmental Protection or by a water management district under part IV of chapter 373, Florida Statutes, any development order issued by the Department of Community Affairs pursuant to s. 380.06, Florida Statutes, and any development order, building permit, or other land use approval issued by a local government which expired or will expire on or after September 1, 2008, but before September 1, 2011, is extended and renewed for a period of 2 years following its date of expiration. For development orders and land use approvals, including, but not limited to, certificates of concurrency and development agreements, this extension also includes phase, commencement, and buildout dates, including any buildout date extension previously granted under s. 380.06(19)(c), Florida Statutes. This subsection does not prohibit conversion from the construction phase to the operation phase upon completion of construction for combined construction and operation permits.

(2) The completion date for any required mitigation associated with a phased construction project shall be extended and renewed so that mitigation takes place in the same timeframe relative to the phase as originally permitted.

(3) The holder of an agency or district permit or a development order, building permit, or other land use approval issued by a local government which is eligible for the 2-year extension shall notify the authorizing agency in writing no later than September 30, 2010, identifying the specific authorization for which the holder intends to use the extended or renewed permit, order, or approval.

(4) The extensions and renewals provided for in subsection (1) do not apply to:

(a) A permit or other authorization under any programmatic or regional general permit issued by the United States Army Corps of Engineers.

(b) An agency or district permit or a development order, building permit, or other land use approval issued by a local government and held by an owner or operator determined to be in significant noncompliance with the conditions of the permit, order, or approval as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency.

(5) Permits, development orders, and other land use approvals extended and renewed under this section shall continue to be governed by rules in effect at the time the permit, order, or approval was issued. This subsection applies to any modification of the plans, terms, and conditions of such permit,

development order, or other land use approval which lessens the environmental impact, except that any such modification shall not extend the permit, order, or other land use approval beyond the 2 years authorized under subsection (1).

Section 2. Subsection (1) of section 120.569, Florida Statutes, is amended to read:

120.569 Decisions which affect substantial interests.—

(1) The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency, unless the parties are proceeding under s. 120.573 or s. 120.574. Unless waived by all parties, s. 120.57(1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, s. 120.57(2) applies in all other cases. If a disputed issue of material fact arises during a proceeding under s. 120.57(2), then, unless waived by all parties, the proceeding under s. 120.57(2) shall be terminated and a proceeding under s. 120.57(1) shall be conducted. Parties shall be notified of any order, including a final order. Unless waived, a copy of the order shall be delivered or mailed to each party or the party's attorney of record at the address of record. Each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review; and shall state the time limits which apply. Notwithstanding any other provision of law, notice of the procedure to obtain an administrative hearing or judicial review, including any items required by the Uniform Rules of Procedure adopted pursuant to s. 120.54(5), may be provided via

a link to a publicly available Internet site.

Section 3. Subsection (1) of section 120.60, Florida Statutes, is amended to read:

120.60 Licensing.—

(1) Upon receipt of an application for a license, an agency shall examine the application and, within 30 days after such receipt, notify the applicant of any apparent errors or omissions and request any additional information the agency is permitted by law to require. If the applicant believes that the request for such additional information is not authorized by law or agency rule, the agency, at the applicant's request, shall proceed to process the permit application. An agency shall not deny a license for failure to correct an error or omission or to supply additional information unless the agency timely notified the applicant within this 30-day period. An application shall be considered complete upon receipt of all requested information and correction of any error or omission for which the applicant was timely notified or when the time for such notification has expired. Every application for a license shall be approved or denied within 90 days after receipt of a completed application or the applicant's written request to begin processing the application, unless a shorter period of time for agency action is provided by law. The 90-day time period shall be tolled by the initiation of a proceeding under ss. 120.569 and 120.57. Any application for a license that is not approved or denied within the 90-day or shorter time period, within 15 days after conclusion of a public hearing held on the application, or within 45 days after a recommended order is submitted to the agency and the parties, whichever action and timeframe is latest

and applicable, is considered approved unless the recommended order recommends that the agency deny the license. Subject to the satisfactory completion of an examination if required as a prerequisite to licensure, any license that is considered approved shall be issued and may include such reasonable conditions as are authorized by law. Any applicant for licensure seeking to claim licensure by default under this subsection shall notify the agency clerk of the licensing agency, in writing, of the intent to rely upon the default license provision of this subsection, and shall not take any action based upon the default license until after receipt of such notice by the agency clerk.

Section 4. Section 125.022, Florida Statutes, is amended to read:

125.022 Development permits.—When a county denies an application for a development permit, the county shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. As used in this section, the term "development permit" has the same meaning as in s. 163.3164. No county may require as a condition of approval for a development permit that an applicant obtain a permit or approval from any other state or federal agency. Issuance of a development permit by a county does not in any way create any rights on the part of an applicant to obtain a permit from another state or federal agency and does not create any liability on the part of the county for issuance of the permit in the event that an applicant fails to fulfill its legal obligations to obtain requisite approvals or fulfill the

obligations imposed by other state or federal agencies. Counties may attach this disclaimer to the issuance of development permits and may include a permit condition that all other applicable state or federal permits must be obtained prior to development. This shall not be construed to prohibit a county from providing information to an applicant regarding what other state or federal permits may be applicable.

Section 5. Section 161.032, Florida Statutes, is created to read:

161.032 Application reviews; additional information.—

(1) Within 30 days after receipt of an application for a permit under this part, the department shall review the application and shall request submittal of all additional information the department is permitted by law or rule to require. If the applicant believes any request for additional information is not authorized by law or rule, the applicant may request a hearing pursuant to s. 120.57. Within 30 days after receipt of such additional information, the department shall review it and may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information. If the applicant believes the request of the department for such additional information is not authorized by law or rule, the department, at the applicant’s request, shall proceed to process the permit application.

(2) Notwithstanding the provisions of s. 120.60, an applicant for a permit under this part shall have 90 days following the date of a timely request for additional information to submit that information. If an applicant requires

more than 90 days in which to respond to a request for additional information, the applicant may notify the agency processing the permit application in writing of the circumstances, at which time the application shall be held in active status for no more than one additional period of up to 90 days. Additional extensions may be granted for good cause shown by the applicant. A showing that the applicant is making a diligent effort to obtain the requested additional information constitutes good cause. Failure of an applicant to provide the timely requested information by the applicable deadline shall result in denial of the application without prejudice.

Section 6. Section 166.033, Florida Statutes, is amended to read:

166.033 Development permits.—When a municipality denies an application for a development permit, the municipality shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. As used in this section, the term "development permit" has the same meaning as in s. 163.3164. No municipality may require as a condition of approval for a development permit that an applicant obtain a permit or approval from any other state or federal agency. Issuance of a development permit by a municipality does not in any way create any rights on the part of an applicant to obtain a permit from another state or federal agency and does not create any liability on the part of the municipality for issuance of the permit in the event that an applicant fails to fulfill its legal obligations to obtain requisite approvals or fulfill the obligations imposed by other state or federal

agencies. Municipalities may attach this disclaimer to the issuance of development permits and may include a permit condition that all other applicable state or federal permits must be obtained prior to development. This shall not be construed to prohibit a municipality from providing information to an applicant regarding what other state or federal permits may be applicable.

Section 7. Present subsection (14) of section 253.034, Florida Statutes, is renumbered as subsection (15), and a new subsection (14) is added to that section, to read:

253.034 State-owned lands; uses.—

(14) Deposition of dredged material on state-owned submerged lands for the purpose of restoring previously dredged holes to natural conditions shall be conducted in such a manner as to maximize environmental benefits. In such cases, the dredged material shall be placed in the dredge hole at an elevation consistent with the surrounding area to allow light penetration so as to maximize propagation of native vegetation. When available dredged material is of insufficient quantity to raise the entire dredge hole to prior natural elevations, placement shall be limited to a portion of the dredge hole where elevations can be restored to natural elevations.

Section 8. Subsection (10) is added to section 373.026, Florida Statutes, to read:

373.026 General powers and duties of the department.—The department, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, it is the policy of the state that, to the greatest extent possible, the department may enter into interagency or

interlocal agreements with any other state agency, any water management district, or any local government conducting programs related to or materially affecting the water resources of the state. All such agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the department shall, to the greatest extent possible:

(10) Expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the department and water management districts. In addition to expanding the use of Internet-based self-certification services for appropriate exemptions and general permits, the department and water management districts shall identify and develop general permits for activities currently requiring individual review which could be expedited through the use of professional certifications.

Section 9. Subsection (4) is added to section 373.441, Florida Statutes, to read:

373.441 Role of counties, municipalities, and local pollution control programs in permit processing.—

(4) Upon delegation to a qualified local government, the department and water management district shall not regulate the activities subject to the delegation within that jurisdiction unless regulation is required pursuant to the terms of the delegation agreement.

Section 10. Subsection (2) of section 373.4141, Florida Statutes, is amended to read:

373.4141 Permits; processing.—

(2) An applicant for a permit under this part shall have 90 days following the date of a timely request for additional

information to submit that information. If an applicant requires more than 90 days in which to respond to a request for additional information, the applicant may notify the agency processing the permit application in writing of the circumstances, at which time the application shall be held in active status for no more than one additional period of up to 90 days. Additional extensions may be granted for good cause shown by the applicant. A showing that the applicant is making a diligent effort to obtain the requested additional information constitutes good cause. Failure of an applicant to provide the timely requested information by the applicable deadline may result in denial of the application without prejudice. ~~A permit shall be approved or denied within 90 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.~~

Section 11. Paragraph (a) of subsection (4) of section 373.079, Florida Statutes, is amended to read:

373.079 Members of governing board; oath of office; staff.—

(4)(a) The governing board of the district is authorized to employ an executive director, ombudsman, and such engineers, other professional persons, and other personnel and assistants as it deems necessary and under such terms and conditions as it may determine and to terminate such employment. The appointment of an executive director by the governing board is subject to approval by the Governor and must be initially confirmed by the Florida Senate. The governing board may delegate all or part of its authority under this paragraph to the executive director. However, the governing board shall delegate all of its authority

to take final action on permit applications under part II or part IV, or petitions for variances or waivers of permitting requirements under part II or part IV, except as provided for under ss. 373.083(5) and 373.118(4). This delegation is not subject to the rulemaking requirements of chapter 120. The executive director must be confirmed by the Senate upon employment and must be confirmed or reconfirmed by the Senate during the second regular session of the Legislature following a gubernatorial election.

Section 12. Subsection (5) of section 373.083, Florida Statutes, is amended to read:

373.083 General powers and duties of the governing board.—In addition to other powers and duties allowed it by law, the governing board is authorized to:

(5) Execute any of the powers, duties, and functions vested in the governing board through a member or members thereof, the executive director, or other district staff as designated by the governing board. The governing board may establish the scope and terms of any delegation. ~~However, if~~ The governing board shall delegate to the executive director ~~delegates~~ the authority to take final action on permit applications under part II or part IV, or petitions for variances or waivers of permitting requirements under part II or part IV, and this delegation is not subject to the rulemaking requirements of chapter 120. However, the governing board shall provide a process for referring any denial of such application or petition to the governing board to take final action. Such process shall expressly prohibit any member of a governing board from intervening in the review of an application prior to the

application being referred to the governing board for final action. The authority in this subsection is supplemental to any other provision of this chapter granting authority to the governing board to delegate specific powers, duties, or functions.

Section 13. Subsection (4) of section 373.118, Florida Statutes, is amended to read:

373.118 General permits; delegation.—

(4) To provide for greater efficiency, the governing board shall ~~may~~ delegate ~~by rule~~ its powers and duties pertaining to general permits to the executive director and this delegation is not subject to the rulemaking requirements of chapter 120. The executive director may execute such delegated authority through designated staff. However, when delegating the authority to take final action on permit applications under part II or part IV or petitions for variances or waivers of permitting requirements under part II or part IV, the governing board shall provide a process for referring any denial of such application or petition to the governing board to take such final action.

Section 14. Subsections (6) and (7) are added to section 373.236, Florida Statutes, to read:

373.236 Duration of permits; compliance reports.—

(6)(a) The need for alternative water supply development projects to meet anticipated public water supply demands of the state is such that it is essential to encourage participation in and contribution to such projects by private rural landowners who characteristically have relatively modest near-term water demands but substantially increasing demands after the 20-year planning horizon provided in s. 373.0361. Where such landowners

make extraordinary contributions of lands or construction funding to enable the expeditious implementation of such projects, water management districts and the department are authorized to grant permits for such projects for a period of up to 50 years to municipalities, counties, special districts, regional water supply authorities, multijurisdictional water supply entities, and publicly owned or privately owned utilities created for or by the private landowners on or before April 1, 2009, which entities have entered into an agreement with the private landowner, for the purposes of more efficiently pursuing alternative public water supply development projects identified in a district's regional water supply plan and meeting water demands of both the applicant and the landowner.

(b) Any permit pursuant to paragraph (a) shall be granted only for that period of time for which there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met. Such a permit shall require a compliance report by the permittee every 5 years during the term of the permit. The report shall contain sufficient data to maintain reasonable assurance that the conditions for permit issuance, applicable at the time of district review of the compliance report, are met. Following review of the report, the governing board or the department may modify the permit to ensure that the use meets the conditions for issuance.

This subsection shall not be construed to limit the authority of the department or a water management district governing board to modify or revoke a consumptive use permit.

(7) A permit that is approved for the use of water for a

renewable energy generating facility or for cultivating agricultural products on lands of 1,000 acres or more for renewable energy, as defined in s. 366.91(2)(d), shall be granted for a term of at least 25 years upon the applicant's request, based on the anticipated life of the facility, if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Otherwise, a permit may be issued for a shorter duration that reflects the longest period for which such reasonable assurances are provided. The permittee shall provide a compliance report every 5 years during the term of the permit, as required in subsection (4).

Section 15. Subsection (4) of section 373.243, Florida Statutes, is amended to read:

373.243 Revocation of permits.—The governing board or the department may revoke a permit as follows:

(4) For nonuse of the water supply allowed by the permit for a period of 2 years or more, the governing board or the department may revoke the permit permanently and in whole unless the user can prove that his or her nonuse was due to extreme hardship caused by factors beyond the user's control. For a permit having a duration determined under s. 373.236(7), the governing board or the department has revocation authority only if the nonuse of the water supply allowed by the permit is for a period of 4 years or more.

Section 16. Subsection (12) is added to section 373.406, Florida Statutes, to read:

373.406 Exemptions.—The following exemptions shall apply:

(12)(a) Construction of public use facilities on county-

owned natural lands. Such facilities may include a parking lot, including an access road, not to exceed a total size of 0.7 acres that is located entirely in uplands; at-grade access trails located entirely in uplands; pile-supported boardwalks having a maximum width of 6 feet, with exceptions for ADA compliance; and pile-supported observation platforms each of which shall not exceed 120 square feet in size.

(b) No fill shall be placed in, on, or over wetlands or other surface waters except pilings for boardwalks and observation platforms, all of which structures located in, on, or over wetlands and other surface waters shall be sited, constructed, and elevated to minimize adverse impacts to native vegetation and shall be limited to an over-water surface area not to exceed 0.5 acres. All stormwater flow from roads, parking areas, and trails shall sheet flow into uplands, and the use of pervious pavement is encouraged.

Section 17. Section 373.4061, Florida Statutes, is created to read:

373.4061 Noticed general permit to counties for environmental restoration activities.—

(1) A general permit is hereby granted to counties to construct, operate, alter, maintain, or remove systems for the purposes of environmental restoration or water quality improvements, subject to the limitations and conditions of this section.

(2) The following restoration activities are authorized by this general permit:

(a) Backfilling of existing agricultural or drainage ditches for the sole purpose of restoring a more natural

hydroperiod to publicly owned lands, provided that adjacent properties are not adversely affected;

(b) Placement of riprap within 15 feet waterward of the mean or ordinary high-water line for the purpose of preventing or abating erosion of a predominantly natural shoreline, provided that mangrove, seagrass, coral, sponge, and other protected marine communities are not adversely affected;

(c) Placement of riprap within 10 feet waterward of an existing seawall or bulkhead and backfilling of the area between the riprap and seawall or bulkhead with clean fill for the sole purpose of planting mangroves and *Spartina sp.*, provided that seagrass, coral, sponge, and other protected marine communities are not adversely affected;

(d) Scrape down of spoil islands to an intertidal elevation or a lower elevation at which light penetration is expected to allow for seagrass recruitment;

(e) Backfilling of existing dredge holes that are at least 5 feet deeper than surrounding natural grades to an intertidal elevation if doing so provides a regional net environmental benefit or, at a minimum, to an elevation at which light penetration is expected to allow for seagrass recruitment, with no more than minimum displacement of highly organic sediments; and

(f) Placement of rock riprap or clean concrete in existing dredge holes that are at least 5 feet deeper than surrounding natural grades, provided that placed rock or concrete does not protrude above surrounding natural grades.

(3) In order to qualify for this general permit, the activity must comply with the following:

(a) The project must be included in a management plan that has been the subject of at least one public workshop;

(b) The county commission must conduct at least one public hearing within 1 year before project initiation;

(c) No activity under this part may be considered as mitigation for any other project;

(d) Activities in tidal waters are limited to those waterbodies given priority restoration status pursuant to s. 373.453(1)(c); and

(e) Prior to submittal of a notice to use this general permit, the county shall conduct at least one preapplication meeting with appropriate district or department staff to discuss project designs, implementation details, resource concerns, and conditions for meeting applicable state water quality standards.

(4) This general permit shall be subject to the following specific conditions:

(a) A project under this general permit shall not significantly impede navigation or unreasonably infringe upon the riparian rights of others. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court’s decision;

(b) All erodible surfaces, including intertidal slopes shall be revegetated with appropriate native plantings within 72 hours after completion of construction;

(c) Riprap material shall be clean limestone, granite, or other native rock 1 foot to 3 feet in diameter;

(d) Fill material used to backfill dredge holes or seawall planter areas shall be local, native material legally removed

from nearby submerged lands or shall be material brought to the site, either of which shall comply with the standard of not more than 10 percent of the material passing through a #200 standard sieve and containing no more than 10 percent organic content, and is free of contaminants that will cause violations of state water quality standards;

(e) Turbidity shall be monitored and controlled at all times such that turbidity immediately outside the project area complies with rules 62-302 and 62-4.242, Florida Administrative Code;

(f) Equipment, barges, and staging areas shall not be stored or operated over seagrass, coral, sponge, or other protected marine communities;

(g) Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of rule 18-21.005, Florida Administrative Code within 1 year after a structure is damaged in a discrete event such as a storm, flood, accident, or fire;

(h) All work under this general permit shall be conducted in conformance with the general conditions of rule 62-341.215, Florida Administrative Code;

(i) Construction, use, or operation of the structure or activity shall not adversely affect any species that is endangered, threatened or of special concern, as listed in rules 68A-27.003, 68A-27.004, and 68A-27.005, Florida Administrative Code; and

(j) The activity may not adversely impact vessels or structures of archaeological or historical value relating to the history, government, and culture of the state which are defined as historic properties in s. 267.021(3).

(5) The district or department, as applicable, shall provide written notification as to whether the proposed activity qualifies for the general permit within 30 days after receipt of written notice of a county's intent to use the general permit. If the district or department notifies the county that the system does not qualify for a noticed general permit due to an error or omission in the original notice to the district or the department, the county shall have 30 days from the date of the notification to amend the notice to use the general permit and submit such additional information to correct such error or omission.

(6) This general permit constitutes a letter of consent by the Board of Trustees of the Internal Improvement Trust Fund under chapters 253 and 258, where applicable, and chapters 18-18, 18-20, and 18-21, Florida Administrative Code, where applicable, for the county to enter upon and use state-owned submerged lands to the extent necessary to complete the activities. No activities conducted under this general permit shall divest the State of Florida from the continued ownership of lands that were state-owned, sovereign submerged lands prior to any use, construction, or implementation of this general permit.

Section 18. Subsection (29) of section 403.061, Florida Statutes, is amended, present subsection (40) of that section is redesignated as subsection (43), and new subsections (40), (41),

and (42) are added to that section, to read:

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

(29) Adopt by rule special criteria to protect Class II shellfish harvesting waters. Rules previously adopted by the department in rule 17-4.28(8)(a), Florida Administrative Code, are hereby ratified and determined to be a valid exercise of delegated legislative authority and shall remain in effect unless amended ~~by the Environmental Regulation Commission~~. Such rules may include special criteria for approval of docking facilities that have 10 or fewer slips if construction and operation of such facilities will not result in the closure of shellfish waters.

(40) Maintain a list of projects or activities, including mitigation banks, which applicants may consider when developing proposals to meet the mitigation or public-interest requirements of chapter 253, chapter 373, or this chapter. The contents of such a list are not a rule as defined in chapter 120, and listing a specific project or activity does not imply approval by the department for such project or activity. Each county government is encouraged to develop an inventory of projects or activities for inclusion on the list by obtaining input from local stakeholder groups in the public, private, and nonprofit sectors, including local governments, port authorities, marine contractors, other representatives of the marine construction industry, environmental or conservation organizations, and other interested parties. Counties may establish dedicated funds for

depositing public-interest donations into a reserve for future public-interest projects, including improvements to on-water law enforcement activities.

(41) Develop a project management plan to implement an e-permitting program that allows for timely submittal and exchange of permit application and compliance information and that yields positive benefits in support of the department's mission, permit applicants, permitholders, and the public. The plan shall include an implementation timetable, estimated costs, and transaction fees. The department shall submit the plan to the President of the Senate, the Speaker of the House of Representatives, and the Legislative Committee on Intergovernmental Relations by January 15, 2010.

(42) Expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the department. Notwithstanding any other provision of law, a local government is prohibited from specifying the method or form of documentation that a project meets the provisions for authorization under chapter 161, chapter 253, chapter 373, or this chapter. This shall include Internet-based programs of the department or water management district which provide for self-certification.

(43) ~~(40)~~ Serve as the state's single point of contact for performing the responsibilities described in Presidential Executive Order 12372, including administration and operation of the Florida State Clearinghouse. The Florida State Clearinghouse shall be responsible for coordinating interagency reviews of the following: federal activities and actions subject to the federal consistency requirements of s. 307 of the Coastal Zone

Management Act; documents prepared pursuant to the National Environmental Policy Act, 42 U.S.C. ss. 4321 et seq., and the Outer Continental Shelf Lands Act, 43 U.S.C. ss. 1331 et seq.; applications for federal funding pursuant to s. 216.212; and other notices and information regarding federal activities in the state, as appropriate. The Florida State Clearinghouse shall ensure that state agency comments and recommendations on the environmental, social, and economic impact of proposed federal actions are communicated to federal agencies, applicants, local governments, and interested parties.

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

Section 19. Subsections (1) and (2) of section 403.813, Florida Statutes, are amended to read:

403.813 Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, ~~nothing in~~ this subsection does not relieve ~~relieves~~ an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other

requirements of county and municipal governments:

(a) The installation of overhead transmission lines, with support structures which are not constructed in waters of the state and which do not create a navigational hazard.

(b) The installation and repair of mooring pilings and dolphins associated with private docking facilities or piers and the installation of private docks, piers and recreational docking facilities, or piers and recreational docking facilities of local governmental entities when the local governmental entity's activities will not take place in any manatee habitat, any of which docks:

1. Has 500 square feet or less of over-water surface area for a dock which is located in an area designated as Outstanding Florida Waters or 1,000 square feet or less of over-water surface area for a dock which is located in an area which is not designated as Outstanding Florida Waters;

2. Is constructed on or held in place by pilings or is a floating dock which is constructed so as not to involve filling or dredging other than that necessary to install the pilings;

3. Shall not substantially impede the flow of water or create a navigational hazard;

4. Is used for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia; and

5. Is the sole dock constructed pursuant to this exemption as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot.

Nothing in this paragraph shall prohibit the department from taking appropriate enforcement action pursuant to this chapter to abate or prohibit any activity otherwise exempt from permitting pursuant to this paragraph if the department can demonstrate that the exempted activity has caused water pollution in violation of this chapter.

(c) The installation and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists or the installation of boat ramps open to the public in any waters of the state where navigational access to the proposed ramp exists and where the construction of the proposed ramp will be less than 30 feet wide and will involve the removal of less than 25 cubic yards of material from the waters of the state, and the maintenance to design specifications of such ramps; however, the material to be removed shall be placed upon a self-contained upland site so as to prevent the escape of the spoil material into the waters of the state.

(d) The replacement or repair of existing docks and piers, except that no fill material is to be used and provided that the replacement or repaired dock or pier is in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired. This does not preclude the use of different construction materials or minor deviations to allow upgrades to current structural and design standards.

(2) The provisions of subsection (1) ~~(2)~~ are superseded by general permits established pursuant to ss. 373.118 and 403.814 which include the same activities. Until such time as general

permits are established, or if ~~should~~ general permits are ~~be~~ suspended or repealed, the exemptions under subsection (1) ~~(2)~~ shall remain or shall be reestablished in full force and effect.

Section 20. Subsection (12) is added to section 403.814, Florida Statutes, to read:

403.814 General permits; delegation.—

(12) The department shall expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the department and water management districts. In addition, the department shall identify and develop general permits for activities currently requiring individual review which could be expedited through the use of professional certifications. The department shall submit a report on progress of these efforts to the President of the Senate and the Speaker of the House of Representatives by January 15, 2010.

Section 21. Section 403.973, Florida Statutes, is amended to read:

403.973 Expedited permitting; comprehensive plan amendments.—

(1) It is the intent of the Legislature to encourage and facilitate the location and expansion of those types of economic development projects which offer job creation and high wages, strengthen and diversify the state’s economy, and have been thoughtfully planned to take into consideration the protection of the state’s environment. It is also the intent of the Legislature to provide for an expedited permitting and comprehensive plan amendment process for such projects.

(2) As used in this section, the term:

(a) "Duly noticed" means publication in a newspaper of general circulation in the municipality or county with jurisdiction. The notice shall appear on at least 2 separate days, one of which shall be at least 7 days before the meeting. The notice shall state the date, time, and place of the meeting scheduled to discuss or enact the memorandum of agreement, and the places within the municipality or county where such proposed memorandum of agreement may be inspected by the public. The notice must be one-eighth of a page in size and must be published in a portion of the paper other than the legal notices section. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the memorandum of agreement.

(b) "Jobs" means permanent, full-time equivalent positions not including construction jobs.

~~(c) "Office" means the Office of Tourism, Trade, and Economic Development.~~

(c)~~(d)~~ "Permit applications" means state permits and licenses, and at the option of a participating local government, local development permits or orders.

(d) "Secretary" means the Secretary of Environmental Protection, or his or her designee.

(3)(a) The secretary ~~Governor, through the office,~~ shall direct the creation of regional permit action teams, for the purpose of expediting review of permit applications and local comprehensive plan amendments submitted by:

1. Businesses creating at least 50 ~~100~~ jobs, or

2. Businesses creating at least 25 ~~50~~ jobs if the project is located in an enterprise zone, or in a county having a

population of less than 75,000 or in a county having a population of less than 100,000 which is contiguous to a county having a population of less than 75,000, as determined by the most recent decennial census, residing in incorporated and unincorporated areas of the county, or

(b) On a case-by-case basis and at the request of a county or municipal government, the secretary ~~office~~ may certify as eligible for expedited review a project not meeting the minimum job creation thresholds but creating a minimum of 10 jobs. The recommendation from the governing body of the county or municipality in which the project may be located is required in order for the secretary ~~office~~ to certify that any project is eligible for expedited review under this paragraph. When considering projects that do not meet the minimum job creation thresholds but that are recommended by the governing body in which the project may be located, the secretary ~~office~~ shall consider economic impact factors that include, but are not limited to:

1. The proposed wage and skill levels relative to those existing in the area in which the project may be located;

2. The project's potential to diversify and strengthen the area's economy;

3. The amount of capital investment; and

4. The number of jobs that will be made available for persons served by the welfare transition program.

(c) At the request of a county or municipal government, the secretary ~~office~~ or a Quick Permitting County may certify projects located in counties where the ratio of new jobs per participant in the welfare transition program, as determined by

Workforce Florida, Inc., is less than one or otherwise critical, as eligible for the expedited permitting process. Such projects must meet the numerical job creation criteria of this subsection, but the jobs created by the project do not have to be high-wage jobs that diversify the state's economy.

(d) Projects located in a designated brownfield area are eligible for the expedited permitting process.

(e) Projects that are part of the state-of-the-art biomedical research institution and campus to be established in this state by the grantee under s. 288.955 are eligible for the expedited permitting process, if the projects are designated as part of the institution or campus by the board of county commissioners of the county in which the institution and campus are established.

(f) Projects resulting in the cultivation of biofuel feedstock on lands 1,000 acres or larger or the construction of a biofuel or biodiesel processing facility or renewable energy generating facility as defined in s. 366.91(2)(d) are eligible for the expedited permitting process.

(4) The regional teams shall be established through the execution of memoranda of agreement developed by the applicant and ~~between~~ the secretary, with input solicited from ~~office and~~ the respective heads of ~~the Department of Environmental Protection,~~ the Department of Community Affairs, the Department of Transportation and its district offices, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, appropriate regional planning councils, appropriate water management districts, and voluntarily participating municipalities and counties. The memoranda of

agreement should also accommodate participation in this expedited process by other local governments and federal agencies as circumstances warrant.

(5) In order to facilitate local government's option to participate in this expedited review process, the secretary ~~office~~ shall, in cooperation with local governments and participating state agencies, create a standard form memorandum of agreement. A local government shall hold a duly noticed public workshop to review and explain to the public the expedited permitting process and the terms and conditions of the standard form memorandum of agreement.

(6) The local government shall hold a duly noticed public hearing to execute a memorandum of agreement for each qualified project. Notwithstanding any other provision of law, and at the option of the local government, the workshop provided for in subsection (5) may be conducted on the same date as the public hearing held under this subsection. The memorandum of agreement that a local government signs shall include a provision identifying necessary local government procedures and time limits that will be modified to allow for the local government decision on the project within 90 days. The memorandum of agreement applies to projects, on a case-by-case basis, that qualify for special review and approval as specified in this section. The memorandum of agreement must make it clear that this expedited permitting and review process does not modify, qualify, or otherwise alter existing local government nonprocedural standards for permit applications, unless expressly authorized by law.

(7) At the option of the participating local government,

appeals of local government approvals ~~its final approval~~ for a project shall ~~may~~ be pursuant to the summary hearing provisions of s. 120.574, pursuant to subsection (14), and be consolidated with the challenge of applicable state agency actions, if any ~~or pursuant to other appellate processes available to the local government~~. ~~The local government's decision to enter into a summary hearing must be made as provided in s. 120.574 or in the memorandum of agreement.~~

(8) Each memorandum of agreement shall include a process for final agency action on permit applications and local comprehensive plan amendment approvals within 90 days after receipt of a completed application, unless the applicant agrees to a longer time period or the secretary ~~office~~ determines that unforeseen or uncontrollable circumstances preclude final agency action within the 90-day timeframe. Permit applications governed by federally delegated or approved permitting programs whose requirements would prohibit or be inconsistent with the 90-day timeframe are exempt from this provision, but must be processed by the agency with federally delegated or approved program responsibility as expeditiously as possible.

(9) The secretary ~~office~~ shall inform the Legislature by October 1 of each year to ~~which agencies have not entered into or implemented an agreement and~~ identify any barriers to achieving success of the program.

(10) The memoranda of agreement may provide for the waiver or modification of procedural rules prescribing forms, fees, procedures, or time limits for the review or processing of permit applications under the jurisdiction of those agencies that are party to the memoranda of agreement. Notwithstanding

any other provision of law to the contrary, a memorandum of agreement must to the extent feasible provide for proceedings and hearings otherwise held separately by the parties to the memorandum of agreement to be combined into one proceeding or held jointly and at one location. Such waivers or modifications shall not be available for permit applications governed by federally delegated or approved permitting programs, the requirements of which would prohibit, or be inconsistent with, such a waiver or modification.

(11) The standard form memoranda of agreement shall include guidelines to be used in working with state, regional, and local permitting authorities. Guidelines may include, but are not limited to, the following:

(a) A central contact point for filing permit applications and local comprehensive plan amendments and for obtaining information on permit and local comprehensive plan amendment requirements;

(b) Identification of the individual or individuals within each respective agency who will be responsible for processing the expedited permit application or local comprehensive plan amendment for that agency;

(c) A mandatory preapplication review process to reduce permitting conflicts by providing guidance to applicants regarding the permits needed from each agency and governmental entity, site planning and development, site suitability and limitations, facility design, and steps the applicant can take to ensure expeditious permit application and local comprehensive plan amendment review. As a part of this process, the first interagency meeting to discuss a project shall be held within 14

days after the secretary's ~~office's~~ determination that the project is eligible for expedited review. Subsequent interagency meetings may be scheduled to accommodate the needs of participating local governments that are unable to meet public notice requirements for executing a memorandum of agreement within this timeframe. This accommodation may not exceed 45 days from the office's determination that the project is eligible for expedited review;

(d) The preparation of a single coordinated project description form and checklist and an agreement by state and regional agencies to reduce the burden on an applicant to provide duplicate information to multiple agencies;

(e) Establishment of a process for the adoption and review of any comprehensive plan amendment needed by any certified project within 90 days after the submission of an application for a comprehensive plan amendment. However, the memorandum of agreement may not prevent affected persons as defined in s. 163.3184 from appealing or participating in this expedited plan amendment process and any review or appeals of decisions made under this paragraph; and

(f) Additional incentives for an applicant who proposes a project that provides a net ecosystem benefit.

(12) The applicant, the regional permit action team, and participating local governments may agree to incorporate into a single document the permits, licenses, and approvals that are obtained through the expedited permit process. This consolidated permit is subject to the summary hearing provisions set forth in subsection (14).

(13) Notwithstanding any other provisions of law:

(a) Local comprehensive plan amendments for projects qualified under this section are exempt from the twice-a-year limits provision in s. 163.3187; and

(b) Projects qualified under this section are not subject to interstate highway level-of-service standards adopted by the Department of Transportation for concurrency purposes. The memorandum of agreement specified in subsection (5) must include a process by which the applicant will be assessed a fair share of the cost of mitigating the project's significant traffic impacts, as defined in chapter 380 and related rules. The agreement must also specify whether the significant traffic impacts on the interstate system will be mitigated through the implementation of a project or payment of funds to the Department of Transportation. Where funds are paid, the Department of Transportation must include in the 5-year work program transportation projects or project phases, in an amount equal to the funds received, to mitigate the traffic impacts associated with the proposed project.

(14)(a) Challenges to state agency action in the expedited permitting process for projects processed under this section are subject to the summary hearing provisions of s. 120.574, except that the administrative law judge's decision, as provided in s. 120.574(2)(f), shall be in the form of a recommended order and shall not constitute the final action of the state agency. In those proceedings where the action of only one agency of the state is challenged, the agency of the state shall issue the final order within 45 ~~10~~ working days after ~~of~~ receipt of the administrative law judge's recommended order. The recommended order shall inform the parties of the right to file exceptions

to the recommended order and to file responses thereto in accordance with the Uniform Rules of Procedure. In those proceedings where the actions of more than one agency of the state are challenged, the Governor shall issue the final order, except for the issuance of department licenses required under any federally delegated or approved permit program for which the department shall enter the final order, within 45 ~~10~~ working days after ~~of~~ receipt of the administrative law judge's recommended order. The recommended order shall inform the parties of the right to file exceptions to the recommended order and to file responses thereto in accordance with the Uniform Rules of Procedure. The participating agencies of the state may opt at the preliminary hearing conference to allow the administrative law judge's decision to constitute the final agency action. If a participating local government agrees to participate in the summary hearing provisions of s. 120.574 for purposes of review of local government comprehensive plan amendments, s. 163.3184(9) and (10) apply.

(b) Challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s. 288.955 or projects identified in paragraph (3)(f) are subject to the same requirements as challenges brought under paragraph (a), except that, notwithstanding s. 120.574, summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

(15) The secretary ~~office~~, working with the agencies providing cooperative assistance and input to ~~participating in~~

the memoranda of agreement, shall review sites proposed for the location of facilities eligible for the Innovation Incentive Program under s. 288.1089. Within 20 days after the request for the review by the secretary ~~office~~, the agencies shall provide to the office a statement as to each site's necessary permits under local, state, and federal law and an identification of significant permitting issues, which if unresolved, may result in the denial of an agency permit or approval or any significant delay caused by the permitting process.

(16) This expedited permitting process shall not modify, qualify, or otherwise alter existing agency nonprocedural standards for permit applications or local comprehensive plan amendments, unless expressly authorized by law. If it is determined that the applicant is not eligible to use this process, the applicant may apply for permitting of the project through the normal permitting processes.

(17) The secretary ~~office~~ shall be responsible for certifying a business as eligible for undergoing expedited review under this section. Enterprise Florida, Inc., a county or municipal government, or the Rural Economic Development Initiative may recommend to the secretary ~~Office of Tourism, Trade, and Economic Development~~ that a project meeting the minimum job creation threshold undergo expedited review.

(18) The secretary ~~office~~, working with the Rural Economic Development Initiative and the agencies participating in the memoranda of agreement, shall provide technical assistance in preparing permit applications and local comprehensive plan amendments for counties having a population of less than 75,000 residents, or counties having fewer than 100,000 residents which

are contiguous to counties having fewer than 75,000 residents. Additional assistance may include, but not be limited to, guidance in land development regulations and permitting processes, working cooperatively with state, regional, and local entities to identify areas within these counties which may be suitable or adaptable for preclearance review of specified types of land uses and other activities requiring permits.

(19) The following projects are ineligible for review under this part:

(a) A project funded and operated by a local government, as defined in s. 377.709, and located within that government's jurisdiction.

(b) A project, the primary purpose of which is to:

1. Effect the final disposal of solid waste, biomedical waste, or hazardous waste in this state.

2. Produce electrical power, unless the production of electricity is incidental and not the primary function of the project <u>or the electrical power is derived from a renewable fuel source as defined by s. 366.91(2)(d)</u>.

3. Extract natural resources.

4. Produce oil.

5. Construct, maintain, or operate an oil, petroleum, natural gas, or sewage pipeline.

Section 22. Paragraph (e) of subsection (3) of section 258.42, Florida Statutes, is amended to read:

258.42 Maintenance of preserves.—The Board of Trustees of the Internal Improvement Trust Fund shall maintain such aquatic preserves subject to the following provisions:

(3)(e) There shall be no erection of structures within the

preserve, except:

1. Private residential docks may be approved for reasonable ingress or egress of riparian owners. Slips located at private residential single-family docks that contain boat lifts or davits that do not float in the water when loaded may be roofed, but may not be, in whole or in part, enclosed with walls, provided that the roof shall not overhang more than 1 foot beyond the footprint of the boat lift. Such roofs may not be considered to be part of the square footage calculations of the terminal platform.

2. Private residential multislip docks may be approved if located within a reasonable distance of a publicly maintained navigation channel, or a natural channel of adequate depth and width to allow operation of the watercraft for which the docking facility is designed without the craft having an adverse impact on marine resources. The distance shall be determined in accordance with criteria established by the trustees by rule, based on a consideration of the depth of the water, nature and condition of bottom, and presence of manatees.

3. Commercial docking facilities shown to be consistent with the use or management criteria of the preserve may be approved if the facilities are located within a reasonable distance of a publicly maintained navigation channel, or a natural channel of adequate depth and width to allow operation of the watercraft for which the docking facility is designed without the craft having an adverse impact on marine resources. The distance shall be determined in accordance with criteria established by the trustees by rule, based on a consideration of the depth of the water, nature and condition of bottom, and

presence of manatees.

4. Structures for shore protection, including restoration of seawalls at their previous location or upland of or within 18 inches waterward of their previous location, approved navigational aids, or public utility crossings authorized under paragraph (a) may be approved.

No structure under this paragraph or chapter 253 shall be prohibited solely because the local government fails to adopt a marina plan or other policies dealing with the siting of such structures in its local comprehensive plan.

Section 23. Effective July 1, 2009, part IV of chapter 369, Florida Statutes, consisting of sections 369.401, 369.402, 369.403, 369.404, 369.405, 369.406, 369.407, and 369.408, is created to read:

369.401 Short title.—This part may be cited as the "Florida Springs Protection Act."

369.402 Legislative findings and intent.—

(1) Florida's springs are a precious and fragile natural resource that must be protected. Springs provide recreational opportunities for swimmers, canoeists, wildlife watchers, cave divers, and others. Because of the recreational opportunities and accompanying tourism, many of the state's springs greatly benefit state and local economies. In addition, springs provide critical habitat for plants and animals, including many endangered or threatened species, and serve as indicators of groundwater and surface water quality.

(2) In general, Florida's springs, whether found in urban or rural settings, or on public or private lands, are threatened

by actual, or potential, flow reductions and declining water quality. Many of Florida's springs show signs of ecological imbalance, increased nutrient loading, and lowered water flow. Groundwater sources of spring discharges are recharged by seepage from the surface and through direct conduits such as sinkholes and can be adversely affected by polluted runoff from urban and agricultural lands and discharges resulting from poor wastewater management practices.

(3) Springs and groundwater can be restored through good stewardship, including effective planning strategies, best-management practices, and appropriate regulatory programs that preserve and protect the springs and their springsheds.

369.403 Definitions.—As used in this part, the term:

(1) "Cooperating entities" means the Department of Environmental Protection, the Department of Health, the Department of Agriculture and Consumer Services, the Department of Community Affairs, the Department of Transportation, and each water management district and those county and municipal governments having jurisdiction in the areas of the springs identified in s. 369.404.

(2) "Department" means the Department of Environmental Protection.

(3) "Estimated sewage flow" means the quantity of domestic and commercial wastewater in gallons per day which is expected to be produced by an establishment or single-family residence as determined by rule of the Department of Health.

(4) "First magnitude spring" means a spring that has a median discharge of greater than or equal to 100 cubic feet per second for the period of record, as determined by the

department.

(5) "Karst" means landforms, generally formed by the dissolution of soluble rocks such as limestone or dolostone, forming direct connections to the groundwater such as springs, sinkholes, sinking streams, closed depressions, subterranean drainage, and caves.

(6) "Onsite sewage treatment and disposal system" or "septic system" means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.

(7) "Second magnitude spring" means a spring that has a median discharge of 10 to 100 cubic feet per second for the period of record, as determined by the department.

(8) "Spring" means a point where ground water is discharged onto the earth's surface, including under any surface water of the state, including seeps. The term includes a spring run.

(9) "Springshed" means those areas within the groundwater and surface water basins which contribute to the discharge of a spring.

(10) "Usable property" means the area of the property expressed in acres exclusive of all paved areas and prepared road beds within public or private rights-of-way or easements and exclusive of surface water bodies.

369.404 Designation of spring protection zones.—

(1) All counties or municipalities in which there are located first or second magnitude springs are hereby designated as spring protection zones.

(2) By July 1, 2010, the department is directed to propose for adoption rules to implement the requirements of this section.

(a) Such rules at a minimum shall create a priority list of first and second magnitude springs designating them as high, medium, or low priority based on the following measurements of nitrate concentration in the water column at the point that the spring discharges onto the earth's surface as an average annual concentration:

1. High – nitrate greater than or equal to 1.0 milligrams per liter as determined using existing water quality data;

2. Medium – nitrate greater than or equal to 0.5 milligrams per liter and less than 1.0 milligrams per liter as determined using existing water quality data; and

3. Low – all first or second magnitude springs not categorized as either High or Medium.

(b) Based on the priority determination of the department for first and second magnitude springs, the corresponding deadlines apply to the requirements of s. 369.405 to spring protection zones as designated in this section.

1. For high-priority springs, the deadline for compliance

shall be no later than July 1, 2016;

2. For medium-priority springs, the deadline for compliance shall be no later than July 1, 2019; and

3. For low-priority springs, the deadline for compliance shall be no later than July 1, 2024.

(3) By July 1, 2010, the department is directed to propose for adoption rules that provide the minimum scientific methodologies, data, or tools that shall be used by a county or municipal government to support the request for an exemption as provided for in subsection (4).

(4) A county or municipal government, upon application to the department, may seek to have specific geographic areas exempted from the requirements of sections 369.405, 369.406, and 369.407 by demonstrating that activities within such areas will not impact the springshed in a manner that leads to new or continued degradation.

(5) Pursuant to subsection (4), the department may approve or deny an application for an exemption, or may modify the boundaries of the specific geographic areas for which an exemption is sought. The ruling of the department on the applicant’s request shall constitute a final agency action subject to review pursuant to ss. 120.569 and 120.57.

(6) By July 1, 2010, the department must conduct a study and report its findings of nitrate concentrations within spring protection zones designated pursuant to s. 369.404.

369.405 Requirements for spring protection zones.—The requirements of this section are subject to the timelines established in s. 369.404.

(1) Domestic wastewater discharge and wastewater residual

application must comply with the requirements of this subsection.

(a) All existing wastewater discharges from facilities having permitted capacities greater than or equal to 100,000 gallons per day must achieve annual average total nitrogen concentrations less than or equal to 3 milligrams per liter, as nitrogen.

(b) All existing wastewater discharges from facilities having permitted capacities less than 100,000 gallons per day but greater than 10,000 gallons per day must achieve annual average concentrations less than or equal to 10 milligrams per liter, as nitrogen.

(2) Onsite sewage treatment and disposal systems in areas permitted to or that contain septic systems in densities greater than or equal to 640 systems per square mile must connect to a central wastewater treatment facility or other centralized collection and treatment system. For the purposes of this subsection, density must be calculated using the largest number of systems possible within a square mile.

(3) Agricultural operations must implement applicable best-management practices, including nutrient management, adopted by the Department of Agriculture and Consumer Services to reduce nitrogen impacts to ground water. By December 31, 2009, the Department of Agriculture and Consumer Services, in cooperation with the other cooperating entities and stakeholders, must develop and propose for adoption by rule equine and cow and calf best-management practices pursuant to this paragraph. Implementation must be in accordance with s. 403.067(7)(b).

(4) Stormwater systems must comply with the requirements of

this section. The department is directed to propose for adoption rules to implement the requirements of this subsection by July 1, 2010.

(a) Local governments, in cooperation with the water management districts, must develop and implement a remediation plan for all existing drainage wells containing strategies to reduce nitrogen loading to ground water to the maximum extent practicable. The department shall review and approve the remediation plan prior to implementation. All new drainage wells must comply with the department's underground injection control rules.

(b) Local governments must develop and implement a remediation plan for all stormwater management systems constructed prior to 1982 which have not been modified to provide stormwater treatment containing strategies to reduce nitrogen loading to ground water to the maximum extent practicable.

(c) Local governments, in cooperation with the water management districts, must develop and implement a remediation plan to reduce nitrogen loading to ground water including reducing existing direct discharges of stormwater into groundwater through karst features to the maximum extent practicable. The department shall review and approve the remediation plan prior to implementation.

(d) The Department of Transportation must identify any untreated stormwater discharges into ground water through natural subterranean drainages like sinkholes and develop and implement a remediation plan to reduce nitrogen loading to ground water including reducing existing such groundwater

discharges to the maximum extent practicable. The department shall review and approve the remediation plan prior to implementation.

(5) This subsection does not limit the department's authority to require additional treatment or other actions pursuant to chapter 403, as necessary, to meet surface and groundwater quality standards.

369.406 Additional requirements for all spring protection zones.

(1) All newly constructed or expanded domestic wastewater facilities operational after July 1, 2012, must meet the advanced wastewater treatment requirements of s. 403.086(4).

(2) For all development not permitted as of July 1, 2009, which has septic system densities greater than or equal to 640 systems per square mile, connection to a central wastewater treatment facility or other centralized collection and treatment system is required. For the purposes of this subsection, density must be calculated using the largest number of systems possible within a square mile.

(3) New septic systems required as a result of the mandatory inspection program provided for in s. 381.0065(3) and installed after July 1, 2009, must be designed to meet a target annual average groundwater concentration of no more than 3 milligrams per liter total nitrogen at the owner's property line. Compliance with these requirements does not require groundwater monitoring. The Department of Health shall develop and adopt by rule design standards for achieving this target annual average groundwater concentration. At a minimum, this standard must take into consideration the relationship between

the treatment level achieved by the septic system and the area of usable property available for rainwater dilution.

(4) Prior to adoption of the design standards by the Department of Health, compliance with the requirements in subsection (3) is presumed if one the following conditions are met:

(a) The lot associated with the establishment or single-family home is served by a septic system meeting the baseline system standards set forth in rules of the Department of Health, and the ratio of estimated sewage flow in gallons per day to acres of usable property is 100 to 1 or less.

(b) The lot associated with the establishment or single-family home is served by a septic system meeting at least the advanced secondary treatment standards for nitrogen as set forth in rules of the Department of Health, combined with a drip irrigation system, a shallow low pressure dosed or a time-dosed drainfield system.

(c) The lot associated with the establishment or single-family home is scheduled to connect to a central wastewater treatment facility within 6 months after the application for permit.

(5) Subsection (4) does not supersede the jurisdictional flow limits established in s. 381.0065(3)(b).

(6) Land application of septage is prohibited and subject to a $250 fine for a first offense and $500 fine for a second or subsequent offense pursuant to the authority granted to the Department of Health in s. 381.0065(3)(h).

(7) Any septic system, when requiring repair, modification, or reapproval, must meet a 24-inch separation from the wet

season water table and the surface water setback requirements in s. 381.0065(4). All treatment receptacles must be within one size of the requirements in rules of the Department of Health and must be tested for watertightness by a state-licensed septic tank contractor or plumber.

(8) Each owner of a publicly owned or investor-owned sewerage system must notify all owners of septic systems, excluding approved graywater systems, of the availability of central sewerage facilities for purposes of connection pursuant to s. 381.00655(1) within 60 days after receipt of notification from the Department of Health that collection facilities for the central sewerage system have been cleared for use.

(a) Notwithstanding s. 381.00655(2)(b), a publicly owned or investor-owned sewerage system may not waive the requirement for mandatory onsite sewage disposal connection to an available publicly owned or investor-owned sewerage system, except as provided in paragraph (b).

(b) With the approval of the Department of Health, a publicly owned or investor-owned sewerage system may waive the requirement for mandatory onsite sewage disposal connection for a sewage treatment system that meets or exceeds standards established for septic systems if it determines that such connection is not required in the public interest due to water quality or public health considerations.

(9) In hardship cases the Department of Health may grant variances to the provisions of this section and any rules adopted under this section in accordance with s. 381.0065(4)(h).

(10) After July 1, 2010, land application of Class A, Class B, or Class AA wastewater residuals, as defined by department

rule, is prohibited. This prohibition does not apply to Class AA residuals that are marketed and distributed as fertilizer products in accordance with department rule.

(11) Animal feeding operations must implement the requirements of rules adopted by the department to reduce nitrogen impacts to ground water. By December 31, 2009, the department, in cooperation with the other cooperating entities and stakeholders, must develop and propose for adoption, revised rules for animal feeding operations which address requirements for lined wastewater storage ponds and the development and implementation of nutrient management plans, including the land spreading of animal waste not treated and packaged as fertilizer.

(12) All county and municipal governments must, at a minimum, adopt the department's model ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes located in the Florida-Friendly Landscape Guidance Models for Ordinances, Covenants and Restrictions (2009) by December 31, 2010.

(13) The department and the water management districts shall adopt design criteria for stormwater treatment systems located within spring protection zones to minimize the movement of nitrogen into the ground water and to prevent the formation of sinkholes within stormwater systems.

(14) This subsection does not limit the department's authority to require additional treatment or other actions pursuant to chapter 403, as necessary, to meet surface and groundwater quality standards.

369.407 Florida Springs Onsite Sewage Treatment and Disposal System Compliance Grant Program.—

(1) The Florida Springs Onsite Sewage Treatment and Disposal System Compliance Grant Program is established in the department and shall be administered by it. The purpose of the program is to provide grants to low-income property owners in spring protection zones using septic systems to assist the property owners in complying with rules for these systems developed by the department, or the water management districts, or to connect to a central wastewater treatment facility or other centralized collection and treatment system pursuant to s. 369.405(2) or s. 381.00655(1). The grant program is effective upon final adoption of the department rules and may be applied to costs incurred on or after such date.

(2) Any property owner in a spring protection zone having an income less than or equal to 200 percent of the federal poverty level who is required by rule of the department or the water management districts to alter, repair, or modify any existing septic system to a nitrate-reducing system pursuant to s. 369.406(3), or to assist property owners with connecting to available publicly owned or investor-owned sewerage system pursuant to s. 381.00655(1), may apply to the department for a grant to assist the owner with the costs of compliance or connection.

(3) The amount of the grant is limited to the cost differential between the replacement of a comparable existing septic system and that of an upgraded nitrate-reducing treatment system pursuant to s. 369.406(3), or the actual costs incurred from connection to a central wastewater treatment facility or other centralized collection and treatment system pursuant to s. 385.00655(1), but may not exceed $5,000 per property.

(4) The grant must be in the form of a rebate to the property owner for costs incurred in complying with the requirements for septic systems pursuant to s. 369.406(3), or incurred from connection to a central wastewater treatment facility or other centralized collection and treatment system pursuant to s. 381.00655(1). The property owner must provide documentation of those costs in the grant application to the department.

(5) The department shall adopt rules providing forms, procedures, and requirements for applying for and disbursing grants, including bid requirements, and for documenting compliance or connection costs incurred.

(6) The department, in coordination with the water management districts, shall continue to evaluate, by any means it deems appropriate, the level of nitrate deposited in Florida springs by septic systems.

369.408 Rules.—

(1) The department, the Department of Health, and the Department of Agriculture and Consumer Services may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the provisions of this part, as applicable.

(2)(a) The Department of Agriculture and Consumer Services shall be the lead agency coordinating the reduction of agricultural nonpoint sources of pollution for springs protection. The Department of Agriculture and Consumer Services and the department pursuant to s. 403.067(7)(c)4., shall study and if necessary, in cooperation with the other cooperating entities, applicable county and municipal governments, and stakeholders, initiate rulemaking to implement new or revised

best-management practices for improving and protecting springs. As needed to implement the new or revised practices, the Department of Agriculture and Consumer Services, shall revise its best-management practices rules to require implementation of the modified practice within a reasonable time period as specified in the rule.

(b) The Department of Agriculture and Consumer Services, the department, and the Institute of Food an Agricultural Sciences at the University of Florida shall cooperate in the conduct of necessary research and demonstration projects to develop improved or additional nutrient management tools, including the use of controlled release fertilizer, which can be used by agricultural producers as part of an agricultural best-management practices program. The development of such tools shall reflect a balance between water quality improvements and agricultural productivity and, where applicable, shall be incorporated into revised best-management practices adopted by rule of the Department of Agriculture and Consumer Services.

(3) The department shall, as a part of the rules developed for this part, include provisions that allow for the variance of the compliance deadlines provided for in s. 369.404(2)(b). Such variance shall, at a minimum, be based on the financial ability of the responsible county or municipality to meet the requirements of this part.

Section 24. Effective July 1, 2009, paragraph (l) is added to subsection (6) of section 163.3177, Florida Statutes, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(l) In counties or municipalities, or portions thereof, designated as spring protection zones pursuant to s. 369.404, during the first comprehensive plan evaluation and appraisal report conducted after July 1, 2009, a spring protection measure that ensures the protection of and, where necessary, restoration of water quality in springs shall be added to the appropriate comprehensive plan element. The measure must address minimizing human impacts on springs from development through protecting karst features, as defined in s. 369.403, during and after the development process, ensuring that future development follows low-impact design principles, ensuring that landscaping and fertilizer use are consistent with the Florida Friendly Landscaping program, ensuring adequate open space, and providing for proper management of stormwater and wastewater to minimize their effects on the water quality of springs. The spring protection measure must be based on low-impact design, landscaping, and fertilizer best-management and use practices and principles developed by the Department of Environmental Protection and contained in the Florida Friendly Landscape Guidance Models for Ordinances, Covenants, and Restrictions. The Department of Environmental Protection and the state land planning agency shall make information concerning such best-management and use practices and principles prominently available on their websites. In addition, all landscape design and irrigation systems must meet the standards established pursuant to s. 373.228(4). Failure to adopt a spring protection

measure shall result in a prohibition on any plan amendments until the measure is adopted.

Section 25. Effective July 1, 2009, subsection (7) of section 403.1835, Florida Statutes, is amended to read:

403.1835 Water pollution control financial assistance.—

(7) Eligible projects must be given priority according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. The relative costs of achieving environmental and public health benefits must be taken into consideration during the department's assignment of project priorities. The department shall adopt a priority system by rule. In developing the priority system, the department shall give priority to projects that:

(a) Eliminate public health hazards;

(b) Enable compliance with laws requiring the elimination of discharges to specific water bodies, including the requirements of s. 403.086(9) regarding domestic wastewater ocean outfalls;

(c) Assist in the implementation of total maximum daily loads and basin management action plans adopted under s. 403.067;

(d) Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;

(e) Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;

(f) Promote reclaimed water reuse;

(g) Eliminate environmental damage caused by failing onsite sewage treatment and disposal systems, with priority given to systems located within an area designated as an area of critical state concern under s. 380.05 or located in a spring protection zone designated pursuant to s. 369.404 ~~or those that are causing environmental damage~~; or

(h) Reduce pollutants to and otherwise promote the restoration of state ~~Florida's~~ surface and ground waters.

Section 26. Effective July 1, 2009, all state agencies and water management districts shall asses nitrogen loading from all publically owned buildings and facilities owned or managed by each respective agency or district located within a spring protection zone using a consistent methodology, evaluate existing management activities, and develop and begin implementing management plans to reduce adverse impacts to the springs no later than December 31, 2011.

Section 27. Effective July 1, 2009, present paragraphs (d) through (n) of subsection (3) of section 381.0065, Florida Statutes, are redesignated as paragraphs (e) through (o), respectively, and a new paragraph (d) is added to that subsection, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The department shall:

(d) Develop and implement a mandatory statewide onsite sewage treatment and disposal system inspection program.

1. The program shall:

a. Be phased in over a 10-year cycle and provide that every system is inspected on a 5-year recurring cycle.

b. Initially target those systems inspected under other departmental criteria.

c. Provide for the exemption of those systems in areas where the density of systems is fewer than 1 per 3 acres unless the property abuts a water body or water segment that is listed as impaired pursuant to s. 403.067, or is within a county designated as a spring protection zone pursuant to s. 369.404.

2. The department, local government, or state-licensed septic tank contractor or plumber shall charge an additional fee of up to $20 for each system inspected. Upon completion of the inspection, the entity conducting the inspection must submit an application for approval to the department and provide a copy to the owner. The department must approve the system for continued use or notify the owner of the requirement for a repair or modification permit.

3. Revenues from the fee must be deposited in the appropriate department trust fund, and a minimum of 50 percent of the revenues shall be dedicated to the grant program created pursuant to s. 369.407.

Section 28. Effective July 1, 2009, paragraph (m) is added to subsection (9) of section 259.105, Florida Statutes, to read:

259.105 The Florida Forever Act.—

(9) The Acquisition and Restoration Council shall recommend rules for adoption by the board of trustees to competitively evaluate, select, and rank projects eligible for Florida Forever funds pursuant to paragraph (3)(b) and for additions to the Conservation and Recreation Lands list pursuant to ss. 259.032

and 259.101(4). In developing these proposed rules, the Acquisition and Restoration Council shall give weight to the following criteria:

(m) Any part of the project area falls within a springs protection zone as defined by ss. 369.401-369.407.

Section 29. Effective July 1, 2009, section 403.9335, Florida Statutes, is created to read:

403.9335 Protection of urban and residential environments and water.—

(1) The Legislature finds that the implementation of the department's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes located in the Florida-Friendly Landscape Guidance Models for Ordinances, Covenants, and Restrictions (2009) manual, which was developed consistent with the recommendations of the Florida Consumer Fertilizer Task Force, in concert with the provisions of the Labeling Requirements for Urban Turf Fertilizers found in chapter 5E-1 Florida Administrative Code, will assist in protecting the quality of Florida's surface water and ground water resources. The Legislature further finds that local circumstances, including the varying types and conditions of water bodies, site-specific soils and geology, and urban or rural densities and characteristics, necessitates that additional or more stringent fertilizer-management practices may be needed at the local government level.

(2) All county and municipal governments are encouraged to adopt and enforce the provisions in the department's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes as a mechanism for better protecting local surface

water and ground water quality.

(3) Each county and municipal government located within the watershed of a water body or water segment that is listed by the department as impaired by nutrients pursuant to s. 403.067, or designated as a spring protection zone pursuant to 369.404, shall adopt, at a minimum, the provisions of the department's Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. A county or municipal government may adopt additional or more stringent provisions than the model ordinance if the following criteria are met:

(a) The county or municipal government has demonstrated, as part of a comprehensive program to address nonpoint sources of nutrient pollution which is science-based, economically and technically feasible, that additional or more stringent provisions to the model ordinance are necessary to adequately address urban fertilizer contributions to nonpoint source nutrient loading to a water body.

(b) The county or municipal government documents consideration of all relevant scientific information, including input from the department, the Department of Agriculture and Consumer Services and the University of Florida Institute of Food and Agricultural Sciences, if provided, on the need for additional or more stringent provisions to address fertilizer use as a contributor to water quality degradation. All documentation shall be made part of the public record prior to adoption of the additional or more stringent criteria.

(4) Any county or municipal government that has adopted its own fertilizer use ordinance before January 1, 2009, is exempt from the provisions of this section. Ordinances adopted or

amended after January 1, 2009, shall adopt the provisions in the most recent version of the model fertilizer ordinance and shall be subject to the criteria described in subsections (1) and (2).

(5) Nothing herein shall be construed to regulate the use of fertilizer on farm operations as defined in s. 823.14 or on lands classified as agricultural lands pursuant to s. 193.461.

Section 30. Effective July 1, 2009, section 403.9337, Florida Statutes, is created to read:

403.9337 Urban turf fertilizers.—

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

(a) "No-phosphate fertilizer" or "no-phosphorus fertilizer" means fertilizer that contains less than 0.5 percent phosphate by weight.

(b) "Urban turf" means noncropland planted, mowed, and managed grasses, including, but not limited to, residential lawns; turf on commercial property; filter strips; and turf on property owned by federal, state, or local governments and other public lands, including roadways, roadsides, parks, campsites, recreation areas, school grounds, and other public grounds. The term does not include pastures, hay production and grazing land, turf grown on sod farms, or any other form of agricultural production; golf courses or sports turf fields; or garden fruits, flowers, or vegetables.

(c) "Soil test" means a test performed on soil planted or sodded, or that will be planted or sodded, by a laboratory approved by the Department of Agriculture and Consumer Services and performed within the last 2 years to indicate if the level of available phosphorus in the soil is sufficient to support healthy turf growth.

(d) "Tissue test" means a test performed on plant tissue growing in the soil planted or sodded, or that will be planted or sodded, by a laboratory approved by the Department of Agriculture and Consumer Services and performed within the last 2 years to indicate if the level of available phosphorus in the soil is sufficient to support healthy turf.

(2) Other than no-phosphate and no-phosphorus fertilizers, fertilizer containing phosphorus may not be applied to urban turf anywhere in this state on or after July 1, 2011, unless a soil or tissue test that is conducted pursuant to a method approved by the Department of Agriculture and Consumer Services indicates:

(a) For turf that is being initially established by seed or sod, the level of available phosphorus is insufficient to establish new turf growth and a root system. However, during the first year, a one-time application only of up to 1 pound of phosphate per 1,000 square feet of area may be applied.

(b) For established turf, the level of available phosphorus is insufficient to support healthy turf growth. However, no more than 0.25 pound of phosphate per 1,000 square feet of area per each application may be applied, not to exceed 0.5 pound of phosphate per 1,000 square feet of area per year.

Section 31. Effective July 1, 2010, all of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Bureau of Onsite Sewage Programs in the Department of Health, as authorized and governed by ss. 20.43, 20.435, 153.73, 153.54, 163.3180, 180.03, 381.006,

381.0061, 381.0064-381.0068, and 489.551-558, Florida Statutes, are transferred by a type II transfer, pursuant to s. 20.06(2), Florida Statutes, to the Department of Environmental Protection. In addition, all existing powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts associated with county health departments' onsite sewage programs are transferred to the Department of Environmental Protection.

Section 32. Effective July 1, 2009, subsection (6) of section 369.317, Florida Statutes, is amended to read:

369.317 Wekiva Parkway.—

(6) The Orlando-Orange County Expressway Authority is hereby granted the authority to act as a third-party acquisition agent, pursuant to s. 259.041 on behalf of the Board of Trustees or chapter 373 on behalf of the governing board of the St. Johns River Water Management District, for the acquisition of all necessary lands, property and all interests in property identified herein, including fee simple or less-than-fee simple interests. The lands subject to this authority are identified in paragraph 10.a., State of Florida, Office of the Governor, Executive Order 03-112 of July 1, 2003, and in Recommendation 16 of the Wekiva Basin Area Task Force created by Executive Order 2002-259, such lands otherwise known as Neighborhood Lakes, a 1,587+/- acre parcel located in Orange and Lake Counties within Sections 27, 28, 33, and 34 of Township 19 South, Range 28 East, and Sections 3, 4, 5, and 9 of Township 20 South, Range 28 East; Seminole Woods/Swamp, a 5,353+/- acre parcel located in Lake

County within Section 37, Township 19 South, Range 28 East; New Garden Coal; a 1,605+/- acre parcel in Lake County within Sections 23, 25, 26, 35, and 36, Township 19 South, Range 28 East; Pine Plantation, a 617+/- acre tract consisting of eight individual parcels within the Apopka City limits. The Department of Transportation, the Department of Environmental Protection, the St. Johns River Water Management District, and other land acquisition entities shall participate and cooperate in providing information and support to the third-party acquisition agent. The land acquisition process authorized by this paragraph shall begin no later than December 31, 2004. Acquisition of the properties identified as Neighborhood Lakes, Pine Plantation, and New Garden Coal, or approval as a mitigation bank shall be concluded no later than December 31, 2010. Department of Transportation and Orlando-Orange County Expressway Authority funds expended to purchase an interest in those lands identified in this subsection shall be eligible as environmental mitigation for road construction related impacts in the Wekiva Study Area. If any of the lands identified in this subsection are used as environmental mitigation for road construction related impacts incurred by the Department of Transportation or Orlando-Orange County Expressway Authority, or for other impacts incurred by other entities, within the Wekiva Study Area or within the Wekiva parkway alignment corridor, and if the mitigation offsets these impacts, the St. Johns River Water Management District and the Department of Environmental Protection shall consider the activity regulated under part IV of chapter 373 to meet the cumulative impact requirements of s. 373.414(8)(a).

Section 33. Effective July 1, 2009, section 373.185,

Florida Statutes, is amended to read:

373.185 Local Florida-friendly landscaping ~~Xeriscape~~ ordinances.—

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

(a) "Local government" means any county or municipality of the state.

(b) ~~"Xeriscape" or~~ "Florida-friendly landscaping ~~landscape~~" means quality landscapes that conserve water, ~~and~~ protect the environment, ~~and~~ are adaptable to local conditions, and ~~which~~ are drought tolerant. The principles of such landscaping ~~Xeriscape~~ include planting the right plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protection. Additional components include practices such as landscape planning and design, ~~appropriate choice of plants,~~ soil analysis, ~~which may include~~ the appropriate use of solid waste compost, minimizing the use of ~~efficient~~ irrigation, ~~practical use of turf, appropriate use of mulches,~~ and proper maintenance.

(2) Each water management district shall design and implement an incentive program to encourage all local governments within its district to adopt new ordinances or amend existing ordinances to require Florida-friendly ~~Xeriscape~~ landscaping for development permitted after the effective date of the new ordinance or amendment. ~~Each district shall adopt rules governing the implementation of its incentive program and governing the review and approval of local government Xeriscape ordinances or amendments which are intended to qualify a local~~

~~government for the incentive program.~~ Each district shall assist the local governments within its jurisdiction by providing a model Florida-friendly landscaping ordinance ~~Xeriscape code~~ and other technical assistance. Each district may develop its own model or use a model contained in the "Florida-Friendly Landscape Guidance Models for Ordinances, Covenants, and Restrictions" manual developed by the department. To qualify for a district's incentive program, a local government ~~Xeriscape~~ ordinance or amendment~~, in order to qualify the local government for a district's incentive program,~~ must include, at a minimum:

(a) Landscape design, installation, and maintenance standards that result in water conservation and water quality protection or restoration. Such standards must ~~shall~~ address the use of plant groupings, soil analysis including the promotion of the use of solid waste compost, efficient irrigation systems, and other water-conserving practices.

(b) Identification of prohibited invasive exotic plant species consistent with s. 581.091.

(c) Identification of controlled plant species, accompanied by the conditions under which such plants may be used.

(d) A provision specifying the maximum percentage of irrigated turf and ~~the maximum percentage of~~ impervious surfaces allowed in a Florida-friendly landscaped ~~xeriscaped~~ area and addressing the practical selection and installation of turf.

(e) Specific standards for land clearing and requirements for the preservation of existing native vegetation.

(f) A monitoring program for ordinance implementation and compliance.

(3) Each water management district shall also ~~The districts~~

~~also shall~~ work with the department, local governments, county extension agents or offices, nursery and landscape industry groups, and other interested stakeholders to promote, through educational programs, ~~and~~ publications, and other district activities authorized under this chapter, the use of Florida-friendly landscaping ~~Xeriscape~~ practices, including the use of solid waste compost, in ~~existing~~ residential and commercial development. In conducting these activities, each district shall use the materials developed by the department, the Institute of Food and Agricultural Sciences at the University of Florida, and the Center for Landscape Conservation and Ecology Florida-Friendly Landscaping program, including, but not limited to, the Florida Yards and Neighborhoods Program for homeowners, the Florida Yards and Neighborhoods Builder Developer Program for developers, and the Green Industries Best Management Practices Program for landscaping professionals. Each district may develop supplemental materials as appropriate to address the physical and natural characteristics of the district. The districts shall coordinate with the department and the Institute of Food and Agricultural Sciences at the University of Florida if revisions to the educational materials are needed. ~~This section may not be construed to limit the authority of the districts to require Xeriscape ordinances or practices as a condition of any consumptive use permit.~~

(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential

to state's efforts in water conservation and water quality protection and restoration.

(b) ~~(3)~~ A deed restriction, ~~or~~ covenant ~~entered after October 1, 2001~~, or local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or her land or create any requirement or limitation in conflict with any provision of part II of this chapter or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of this chapter.

(4) This section does not limit the authority of the department or the water management districts to require Florida-friendly landscaping ordinances or practices as a condition of any permit issued under this chapter.

Section 34. Effective July 1, 2009, section 373.187, Florida Statutes, is created to read:

373.187 Water management district implementation of Florida-friendly landscaping.—Each water management district shall use Florida-friendly landscaping, as defined in s. 373.185, on public property associated with buildings and facilities owned by the district and constructed after June 30, 2009. Each district shall also develop a 5-year program for phasing in the use of Florida-friendly landscaping on public property associated with buildings or facilities owned by the district and constructed before July 1, 2009.

Section 35. Effective July 1, 2009, section 373.228, Florida Statutes, is amended to read:

373.228 Landscape irrigation design.—

(1) The Legislature finds that multiple areas throughout

the state have been identified by water management districts as water resource caution areas, which indicates that in the near future water demand in those areas will exceed the current available water supply and that conservation is one of the mechanisms by which future water demand will be met.

(2) The Legislature finds that landscape irrigation comprises a significant portion of water use and that ~~the~~ current typical landscape irrigation systems ~~system~~ and Florida-friendly landscaping ~~xeriscape~~ designs offer significant potential water conservation benefits.

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

(4) The water management districts shall work with the Florida Nursery, ~~Nurserymen and~~ Growers and Landscape Association, the Florida Native Plant Society, the Florida Chapter of the American Society of Landscape Architects, the Florida Irrigation Society, the Department of Agriculture and Consumer Services, the Institute of Food and Agricultural Sciences, the Department of Environmental Protection, the Department of Transportation, the Florida League of Cities, the Florida Association of Counties, and the Florida Association of Community Developers to develop landscape irrigation and Florida-friendly landscaping ~~xeriscape~~ design standards for new construction which incorporate a landscape irrigation system and develop scientifically based model guidelines for urban, commercial, and residential landscape irrigation, including drip irrigation, for plants, trees, sod, and other landscaping. The

~~landscape and irrigation design~~ standards shall be based on the irrigation code defined in the Florida Building Code, Plumbing Volume, Appendix F. Local governments shall use the standards and guidelines when developing landscape irrigation and Florida-friendly landscaping ~~xeriscape~~ ordinances. By January 1, 2011, the agencies and entities specified in this subsection shall review the standards and guidelines to determine whether new research findings require a change or modification of the standards and guidelines.

(5) In evaluating water use applications from public water suppliers, water management districts shall consider whether the applicable local government has adopted ordinances for landscaping and irrigation systems consistent with the Florida-friendly landscaping provisions of s. 373.185.

Section 36. Effective July 1, 2009, subsection (3) of section 373.323, Florida Statutes, is amended to read:

373.323 Licensure of water well contractors; application, qualifications, and examinations; equipment identification.—

(3) An applicant who meets the following requirements is ~~shall be~~ entitled to take the water well contractor licensure examination ~~to practice water well contracting~~:

(a) Is at least 18 years of age.

(b) Has at least 2 years of experience in constructing, repairing, or abandoning water wells. Satisfactory proof of such experience is demonstrated by providing:

1. Evidence of the length of time the applicant has been engaged in the business of the construction, repair, or abandonment of water wells as a major activity, as attested to by a letter from three of the following persons:

a. A water well contractor.

b. A water well driller.

c. A water well parts and equipment vendor.

d. A water well inspector employed by a governmental agency.

2. A list of at least 10 water wells that the applicant has constructed, repaired, or abandoned within the preceding 5 years. Of these wells, at least seven must have been constructed, as defined in s. 373.303(2), by the applicant. The list must also include:

a. The name and address of the owner or owners of each well.

b. The location, primary use, and approximate depth and diameter of each well.

c. The approximate date the construction, repair, or abandonment of each well was completed.

(c) Has completed the application form and remitted a nonrefundable application fee.

Section 37. Effective July 1, 2009, subsection (8) of section 373.333, Florida Statutes, is amended to read:

373.333 Disciplinary guidelines; adoption and enforcement; license suspension or revocation.—

(8) The water management district may impose through an order an administrative fine not to exceed $5,000 per occurrence against an unlicensed person if ~~when~~ it determines that the unlicensed person has engaged in the practice of water well contracting~~,~~ for which a license is required.

Section 38. Effective July 1, 2009, section 125.568, Florida Statutes, is amended to read:

125.568 Conservation of water; Florida-friendly landscaping ~~Xeriscape~~.—

(1)(a) The Legislature finds that Florida-friendly landscaping ~~Xeriscape~~ contributes to the conservation, protection, and restoration of water. In an effort to meet the water needs of this state in a manner that will supply adequate and dependable supplies of water where needed, it is the intent of the Legislature that Florida-friendly landscaping ~~Xeriscape~~ be an essential part of water conservation and water quality protection and restoration planning.

(b) As used in this section, ~~"Xeriscape" or~~ "Florida-friendly landscaping" has the same meaning as in s. 373.185 ~~landscape" means quality landscapes that conserve water and protect the environment and are adaptable to local conditions and which are drought tolerant. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, practical use of turf, efficient irrigation, appropriate use of mulches, and proper maintenance.~~

(2) The board of county commissioners of each county shall consider enacting ordinances, consistent with s. 373.185, requiring the use of Florida-friendly landscaping ~~Xeriscape~~ as a water conservation or water quality protection or restoration measure. If the board determines that such landscaping ~~Xeriscape~~ would be of significant benefit as a water conservation or water quality protection or restoration measure, especially for waters designated as impaired pursuant to s. 403.067, relative to the cost to implement Florida-friendly ~~Xeriscape~~ landscaping in its area of jurisdiction, the board shall enact a Florida-friendly

landscaping ~~Xeriscape~~ ordinance. Further, the board of county commissioners shall consider promoting Florida-friendly landscaping ~~Xeriscape~~ as a water conservation or water quality protection or restoration measure by: using such landscaping ~~Xeriscape~~ in any~~, around, or near facilities, parks, and other common~~ areas under its jurisdiction which are landscaped after the effective date of this act; providing public education on Florida-friendly landscaping ~~Xeriscape~~, its uses in increasing ~~as a~~ water conservation and water quality protection or restoration ~~tool~~, and its long-term cost-effectiveness; and offering incentives to local residents and businesses to implement Florida-friendly ~~Xeriscape~~ landscaping.

(3)(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.

(b) A deed restriction, ~~or~~ covenant ~~entered after October 1, 2001~~, or local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or her land or create any requirement or limitation in conflict with any provision of part II of chapter 373 or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373.

Section 39. Effective July 1, 2009, section 166.048, Florida Statutes, is amended to read:

166.048 Conservation of water; Florida-friendly landscaping ~~Xeriscape~~.—

(1)(a) The Legislature finds that Florida-friendly landscaping ~~Xeriscape~~ contributes to the conservation, protection, and restoration of water. In an effort to meet the water needs of this state in a manner that will supply adequate and dependable supplies of water where needed, it is the intent of the Legislature that Florida-friendly landscaping ~~Xeriscape~~ be an essential part of water conservation and water quality protection and restoration planning.

(b) As used in this section, ~~"Xeriscape" or~~ "Florida-friendly landscaping" has the same meaning as in s. 373.185 ~~landscape" means quality landscapes that conserve water and protect the environment and are adaptable to local conditions and which are drought tolerant~~. ~~The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, practical use of turf, efficient irrigation, appropriate use of mulches, and proper maintenance.~~

(2) The governing body of each municipality shall consider enacting ordinances, consistent with s. 373.185, requiring the use of Florida-friendly landscaping ~~Xeriscape~~ as a water conservation or water quality protection or restoration measure. If the governing body determines that such landscaping ~~Xeriscape~~ would be of significant benefit as a water conservation or water quality protection or restoration measure, especially for waters designated as impaired pursuant to s. 403.067, relative to the cost to implement Florida-friendly ~~Xeriscape~~ landscaping in its area of jurisdiction in the municipality, the governing body

~~board~~ shall enact a Florida-friendly landscaping ~~Xeriscape~~ ordinance. Further, the governing body shall consider promoting Florida-friendly landscaping ~~Xeriscape~~ as a water conservation or water quality protection or restoration measure by: using such landscaping ~~Xeriscape~~ in any~~, around, or near facilities, parks, and other common~~ areas under its jurisdiction which are landscaped after the effective date of this act; providing public education on Florida-friendly landscaping ~~Xeriscape~~, its uses in increasing ~~as a~~ water conservation and water quality protection or restoration ~~tool~~, and its long-term cost-effectiveness; and offering incentives to local residents and businesses to implement Florida-friendly ~~Xeriscape~~ landscaping.

(3)(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.

(b) A deed restriction, ~~or~~ covenant ~~entered after October 1, 2001~~, or local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or her land or create any requirement or limitation in conflict with any provision of part II of chapter 373 or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373.

Section 40. Effective July 1, 2009, section 255.259, Florida Statutes, is amended to read:

255.259 Florida-friendly ~~Xeriscape~~ landscaping on public property.—

(1) The Legislature finds that water conservation and water quality protection and restoration are ~~is~~ increasingly critical to the continuance of an adequate water supply and healthy surface and ground waters ~~for the citizens of this state~~. The Legislature further finds that "Florida-friendly landscaping ~~Xeriscape~~," as defined in s. 373.185, can contribute significantly to water ~~the~~ conservation and ~~of~~ water quality protection and restoration. Finally, the Legislature finds that state government has the responsibility to promote Florida-friendly landscaping ~~Xeriscape~~ as a water conservation and water quality protection and restoration measure by using such landscaping ~~Xeriscape~~ on public property associated with publicly owned buildings or facilities.

(2) As used in this section, "publicly owned buildings or facilities" means ~~those~~ construction projects under the purview of the Department of Management Services. The term ~~It~~ does not include environmentally endangered land or roads and highway construction under the purview of the Department of Transportation.

(3) The Department of Management Services, in consultation with the Department of Environmental Protection, shall adopt rules and guidelines for the required use of Florida-friendly landscaping ~~Xeriscape~~ on public property associated with publicly owned buildings or facilities constructed after June 30, 2009 ~~1992~~. The Department of Management Services ~~also~~ shall also develop a 5-year program for phasing in the use of Florida-friendly landscaping ~~Xeriscape~~ on public property associated

with publicly owned buildings or facilities constructed before July 1, 2009 ~~1992~~. In accomplishing these tasks, the Department of Management Services shall take into account the standards provided in ~~guidelines set out in~~ s. 373.185~~(2)(a)-(f)~~. The Department of Transportation shall implement Florida-friendly ~~Xeriscape~~ landscaping pursuant to s. 335.167.

(4)(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.

(b) A deed restriction, ~~or~~ covenant ~~entered after October 1, 2001~~, or local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or her land or create any requirement or limitation in conflict with any provision of part II of chapter 373 or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373.

Section 41. Effective July 1, 2009, section 335.167, Florida Statutes, is amended to read:

335.167 State highway construction and maintenance; ~~Xeriscape or~~ Florida-friendly landscaping.—

(1) The department shall use and require the use of Florida-friendly landscaping ~~Xeriscape~~ practices, as defined in s. 373.185~~(1)~~, in the construction and maintenance of all new state highways, wayside parks, access roads, welcome stations,

and other state highway rights-of-way constructed upon or acquired after June 30, 2009 ~~1992~~. The department shall develop a 5-year program for phasing in the use of Florida-friendly landscaping ~~Xeriscape~~, including the use of solid waste compost, in state highway rights-of-way constructed upon or acquired before July 1, 2009 ~~1992~~. In accomplishing these tasks, the department shall employ the standards ~~guidelines~~ set out in s. 373.185~~(2)(a)-(f)~~.

(2)(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.

(b) A deed restriction, ~~or~~ covenant ~~entered after October 1, 2001~~, or local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~ on his or her land or create any requirement or limitation in conflict with any provision of part II of chapter 373 or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373.

Section 42. Effective July 1, 2009, paragraph (a) of subsection (3) of section 380.061, Florida Statutes, is amended to read:

380.061 The Florida Quality Developments program.—

(3)(a) To be eligible for designation under this program, the developer shall comply with each of the following

requirements if ~~which is~~ applicable to the site of a qualified development:

1. Donate or enter ~~Have donated or entered~~ into a binding commitment to donate the fee or a lesser interest sufficient to protect, in perpetuity, the natural attributes of the types of land listed below. In lieu of this ~~the above~~ requirement, the developer may enter into a binding commitment that ~~which~~ runs with the land to set aside such areas on the property, in perpetuity, as open space to be retained in a natural condition or as otherwise permitted under this subparagraph. Under the requirements of this subparagraph, the developer may reserve the right to use such areas for ~~the purpose of~~ passive recreation that is consistent with the purposes for which the land was preserved.

a. Those wetlands and water bodies throughout the state which ~~as~~ would be delineated if the provisions of s. 373.4145(1)(b) were applied. The developer may use such areas for the purpose of site access, provided other routes of access are unavailable or impracticable; may use such areas for the purpose of stormwater or domestic sewage management and other necessary utilities if ~~to the extent that~~ such uses are permitted pursuant to chapter 403; or may redesign or alter wetlands and water bodies within the jurisdiction of the Department of Environmental Protection which have been artificially created~~,~~ if the redesign or alteration is done so as to produce a more naturally functioning system.

b. Active beach or primary and, where appropriate, secondary dunes, to maintain the integrity of the dune system and adequate public accessways to the beach. However, the

developer may retain the right to construct and maintain elevated walkways over the dunes to provide access to the beach.

c. Known archaeological sites determined to be of significance by the Division of Historical Resources of the Department of State.

d. Areas known to be important to animal species designated as endangered or threatened ~~animal species~~ by the United States Fish and Wildlife Service or by the Fish and Wildlife Conservation Commission, for reproduction, feeding, or nesting; for traveling between such areas used for reproduction, feeding, or nesting; or for escape from predation.

e. Areas known to contain plant species designated as endangered ~~plant species~~ by the Department of Agriculture and Consumer Services.

2. Produce, or dispose of, no substances designated as hazardous or toxic substances by the United States Environmental Protection Agency, ~~or by~~ the Department of Environmental Protection, or the Department of Agriculture and Consumer Services. This subparagraph does ~~is~~ not ~~intended to~~ apply to the production of these substances in nonsignificant amounts as would occur through household use or incidental use by businesses.

3. Participate in a downtown reuse or redevelopment program to improve and rehabilitate a declining downtown area.

4. Incorporate no dredge and fill activities in, and no stormwater discharge into, waters designated as Class II, aquatic preserves, or Outstanding Florida Waters, except as ~~activities in those waters are~~ permitted pursuant to s. 403.813(2), and the developer demonstrates that those activities

meet the standards under Class II waters, Outstanding Florida Waters, or aquatic preserves, as applicable.

5. Include open space, recreation areas, Florida-friendly landscaping ~~Xeriscape~~ as defined in s. 373.185, and energy conservation and minimize impermeable surfaces as appropriate to the location and type of project.

6. Provide for construction and maintenance of all onsite infrastructure necessary to support the project and enter into a binding commitment with local government to provide an appropriate fair-share contribution toward the offsite impacts that ~~which~~ the development will impose on publicly funded facilities and services, except offsite transportation, and condition or phase the commencement of development to ensure that public facilities and services, except offsite transportation, are ~~will be~~ available concurrent with the impacts of the development. For the purposes of offsite transportation impacts, the developer shall comply, at a minimum, with the standards of the state land planning agency's development-of-regional-impact transportation rule, the approved strategic regional policy plan, any applicable regional planning council transportation rule, and the approved local government comprehensive plan and land development regulations adopted pursuant to part II of chapter 163.

7. Design and construct the development in a manner that is consistent with the adopted state plan, the applicable strategic regional policy plan, and the applicable adopted local government comprehensive plan.

Section 43. Effective July 1, 2009, subsection (3) of section 388.291, Florida Statutes, is amended to read:

388.291 Source reduction measures; supervision by department.—

(3) Property owners in a developed residential area shall ~~are required to~~ maintain their property in ~~such~~ a manner that does ~~so as~~ not ~~to~~ create or maintain any standing freshwater condition capable of breeding mosquitoes or other arthropods in significant numbers so as to constitute a public health, welfare, or nuisance problem. ~~Nothing in~~ This subsection does not authorize ~~shall permit~~ the alteration of permitted stormwater management systems or prohibit maintained fish ponds, Florida-friendly landscaping ~~xeriscaping~~, or other maintained systems of landscaping or vegetation. If such a condition is found to exist, the local arthropod control agency shall serve notice on the property owner to treat, remove, or abate the condition. Such notice is ~~shall serve as~~ prima facie evidence of maintaining a nuisance, and upon failure of the property owner to treat, remove, or abate the condition, the local arthropod control agency or any affected citizen may proceed pursuant to s. 60.05 to enjoin the nuisance and may recover costs and attorney's fees if they prevail in the action.

Section 44. Effective July 1, 2009, subsection (6) of section 481.303, Florida Statutes, is amended to read:

481.303 Definitions.—As used in this chapter:

(6) "Landscape architecture" means professional services, including, but not limited to, the following:

(a) Consultation, investigation, research, planning, design, preparation of drawings, specifications, contract documents and reports, responsible construction supervision, or landscape management in connection with the planning and

development of land and incidental water areas, including the use of Florida-friendly landscaping ~~Xeriscape~~ as defined in s. 373.185, where, and to the extent that, the dominant purpose of such services or creative works is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and plantings, or naturalistic and aesthetic values;

(b) The determination of settings, grounds, and approaches for and the siting of buildings and structures, outdoor areas, or other improvements;

(c) The setting of grades, shaping and contouring of land and water forms, determination of drainage, and provision for storm drainage and irrigation systems where such systems are necessary to the purposes outlined herein; and

(d) The design of such tangible objects and features as are necessary to the purpose outlined herein.

Section 45. Effective July 1, 2009, subsection (4) of section 720.3075, Florida Statutes, is amended to read:

720.3075 Prohibited clauses in association documents.—

(4)(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.

(b) Homeowners' association documents, including declarations of covenants, articles of incorporation, or bylaws, ~~entered after October 1, 2001,~~ may not prohibit or be enforced

so as to prohibit any property owner from implementing ~~Xeriscape or~~ Florida-friendly landscaping ~~landscape~~, as defined in s. 373.185~~(1)~~, on his or her land or create any requirement or limitation in conflict with any provision of part II of chapter 373 or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of chapter 373.

Section 46. (1) Effective July 1, 2009, a task force is established to develop legislative recommendations relating to stormwater management system design in the state. The task force shall:

(a) Review the Joint Professional Engineers and Landscape Architecture Committee Report conducted pursuant to s. 17, chapter 88-347, Laws of Florida, and determine the current validity of the report and the need to revise any of the conclusions or recommendations.

(b) Determine how a licensed and registered professional might demonstrate competency for stormwater management system design.

(c) Determine how the Board of Professional Engineers and the Board of Landscape Architecture might administer certification tests or continuing education requirements for stormwater management system design.

(d) Provide recommendations for grandfathering the rights of licensed professionals who currently practice stormwater management design in a manner that will allow them to continue to practice without meeting any new requirements the task force recommends be placed on licensed professionals in the future.

(2)(a) The Board of Landscape Architecture, the Board of

Professional Engineers, the Florida Engineering Society, the Florida Chapter of the American Society of Landscape Architects, the Secretary of Environmental Protection, and the Secretary of Transportation shall each appoint one member to the task force.

(b) Members of the task force may not be reimbursed for travel, per diem, or any other costs associated with serving on the task force.

(c) The task force shall meet a minimum of four times either in person or via teleconference; however, a minimum of two meetings shall be public hearings with testimony.

(d) The task force shall expire on November 1, 2009.

(3) The task force shall provide its findings and legislative recommendations to the President of the Senate and the Speaker of the House of Representatives by November 1, 2009.

Section 47. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law, and shall apply retroactively where expressly provided.