A bill to be entitled

An act relating to environmental regulation; amending s. 120.569, F.S.; providing that a nonapplicant who petitions to challenge an agency's issuance of a license, permit, or conceptual approval in certain circumstances has the burden of ultimate persuasion and the burden of going forward with evidence; amending s. 125.022, F.S.; prohibiting a county from requiring an applicant to obtain a permit or approval from another state or federal agency as a condition of processing a development permit under certain conditions; authorizing a county to attach certain disclaimers to the issuance of a development permit; creating s. 161.032, F.S.; requiring that the Department of Environmental Protection review an application for certain permits under the Beach and Shore Preservation Act and request additional information within a specified time; requiring that the department proceed to process the application if the applicant believes that a request for additional information is not authorized by law or rule; extending the period for an applicant to timely submit additional information, notwithstanding certain provisions of the Administrative Procedure Act; authorizing the department to issue such permits in advance of the issuance of certain permits as provided for in the Endangered Species Act under certain conditions; amending s. 161.041, F.S.; specifying that s. 403.0874, F.S., authorizing expedited permitting, applies to provisions governing coastal construction; prohibiting the Department

of Environmental Protection from requiring certain sediment quality specifications or turbidity standards as a permit condition; providing legislative intent with respect to permitting for beach renourishment projects; directing the department to amend specified rules relating to permitting for such projects; amending s. 163.3180, F.S.; providing an exemption to the level-of-service standards adopted under the Strategic Intermodal System for certain inland multimodal facilities; specifying project criteria; amending s. 166.033, F.S.; prohibiting a municipality from requiring an applicant to obtain a permit or approval from another state or federal agency as a condition of processing a development permit under certain conditions; authorizing a county to attach certain disclaimers to the issuance of a development permit; amending s. 218.075, F.S.; providing for the reduction or waiver of permit processing fees relating to projects that serve a public purpose for certain entities created by special act, local ordinance, or interlocal agreement; amending s. 258.397, F.S.; providing an exemption from a showing of extreme hardship relating to the sale, transfer, or lease of sovereignty submerged lands in the Biscayne Bay Aquatic Preserve for certain municipal applicants; providing for additional dredging and filling activities in the preserve; amending s. 373.026, F.S.; requiring the Department of Environmental Protection to expand its use of Internet-based self-certification services for exemptions and permits issued by the

department and water management districts; amending s. 373.413, F.S.; specifying that s. 403.0874, F.S., authorizing expedited permitting, applies to provisions governing surface water management and storage; amending s. 373.4135, F.S.; conforming a cross-reference; amending s. 373.4136, F.S.; clarifying the use of the uniform mitigation assessment method for mitigation credits for the establishment and operation of mitigation banks; amending s. 373.4137, F.S.; revising legislative findings with respect to the options for mitigation relating to transportation projects; revising certain requirements for determining the habitat impacts of transportation projects; requiring water management districts to purchase credits from public or private mitigation banks under certain conditions; providing for the release of certain mitigation funds held for the benefit of a water management district if a project is excluded from a mitigation plan; requiring water management districts to use private mitigation banks in developing plans for complying with mitigation requirements; providing an exception; revising the procedure for excluding a project from a mitigation plan; amending s. 373.414, F.S.; revising provisions for the uniform mitigation assessment method rule for wetlands and other surface waters; providing requirements for the interpretation and application of the uniform mitigation assessment method rule; providing an exception; defining the terms "preservation mitigation" and "without preservation" for

the purposes of certain assessments pursuant to the rule; providing for reassessment of mitigation banks under certain conditions; amending s. 373.4141, F.S.; providing a limitation for the request of additional information from an applicant by the department; providing that failure of an applicant to respond to such a request within a specified time period constitutes withdrawal of the application; reducing the time within which a permit must be approved, denied, or subject to notice of proposed agency action; prohibiting a state agency or an agency of the state from requiring additional permits or approval from a local, state, or federal agency without explicit authority; amending s. 373.4144, F.S.; providing legislative intent with respect to the coordination of regulatory duties among specified state and federal agencies; requiring that the department report annually to the Legislature on efforts to expand the state programmatic general permit or regional general permits; providing for a voluntary state programmatic general permit for certain dredge and fill activities; amending s. 373.41492, F.S.; authorizing the use of proceeds from the water treatment plant upgrade fee to pay for specified mitigation projects; requiring proceeds from the water treatment plant upgrade fee to be transferred by the Department of Revenue to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund for a specified period of time; providing, after that period, for the proceeds of the

water treatment plant upgrade fee to return to being transferred by the Department of Revenue to a trust fund established by Miami-Dade County for specified purposes; conforming a term; amending s. 373.441, F.S.; requiring that certain counties or municipalities apply by a specified date to the department or water management district for authority to require certain permits; providing that following such delegation, the department or district may not regulate activities that are subject to the delegation; clarifying the authority of local governments to adopt pollution control programs under certain conditions; amending s. 376.3071, F.S.; exempting program deductibles, copayments, and certain assessment report requirements from expenditures under the low-scored site initiative; amending s. 376.30715, F.S.; providing that the transfer of a contaminated site from an owner to a child of the owner or corporate entity does not disqualify the site from the innocent victim petroleum storage system restoration financial assistance program; authorizing certain applicants to reapply for financial assistance; creating s. 378.413, F.S.; providing legislative intent with respect to preemption of environmental regulation for construction aggregate materials mining; limiting the authority of counties to adopt to specified ordinances and rules; providing an exemption; amending s. 380.06, F.S.; exempting a proposed solid mineral mine or a proposed addition or expansion of an existing solid mineral mine from provisions governing

developments of regional impact; providing certain exceptions; clarifying the applicability of local government regulations with respect to such mining activities; requiring solid mineral mines that meet specified criteria to enter into binding agreements with the Department of Transportation to mitigate impacts to Strategic Intermodal System facilities; amending s. 380.0657, F.S.; authorizing expedited permitting for certain inland multimodal facilities that individually or collectively will create a minimum number of jobs; amending s. 403.061, F.S.; requiring the Department of Environmental Protection to establish reasonable zones of mixing for discharges into specified waters; providing that exceedance of certain groundwater standards does not create liability for site cleanup; providing that exceedance of soil cleanup target levels is not a basis for enforcement or cleanup; amending s. 403.087, F.S.; revising conditions under which the department is authorized to revoke environmental resource permits; creating s. 403.0874, F.S.; providing a short title; providing legislative findings and intent with respect to the consideration of the compliance history of a permit applicant; providing for applicability; specifying the period of compliance history to be considered is issuing or renewing a permit; providing criteria to be considered by the Department of Environmental Protection; authorizing expedited review of permit issuance, renewal, modification, and transfer; providing for a reduced number

of inspections; providing for extended permit duration; authorizing the department to make additional incentives available under certain circumstances; providing for automatic permit renewal and reduced or waived fees under certain circumstances; authorizing the department to adopt additional incentives by rule; providing that such rules are binding on a water management district or local government that has been delegated certain regulatory duties; limiting applicability; amending s. 403.1838, F.S.; revising the definition of the term "financially disadvantaged small community" for the purposes of the Small Community Sewer Construction Assistance Act; amending s. 403.7045, F.S.; providing conditions under which sludge from an industrial waste treatment works is not solid waste; amending s. 403.707, F.S.; exempting the disposal of solid waste monitored by certain groundwater monitoring plans from specific authorization; extending the duration of all permits issued to solid waste management facilities that meet specified criteria; providing an exception; providing for prorated permit fees; providing applicability; amending s. 403.814, F.S.; providing for issuance of general permits for the construction, alteration, and maintenance of certain surface water management systems without the action of the department or a water management district; specifying conditions for the general permits; amending s. 403.853, F.S.; providing for the Department of Health, or a local county health department designated by the department, to

perform sanitary surveys for a transient noncommunity water system using groundwater as a source of supply and serving religious institutions or businesses; amending s. 403.973, F.S.; authorizing expedited permitting for certain commercial or industrial development projects that individually or collectively will create a minimum number of jobs; providing for a project-specific memorandum of agreement to apply to a project subject to expedited permitting; clarifying the authority of the Department of Environmental Protection to enter final orders for the issuance of certain licenses; revising criteria for the review of certain sites; amending s. 526.203, F.S.; authorizing the sale of unblended fuels for certain uses; revising the deadline for completion of the installation of fuel tank upgrades to secondary containment systems for specified properties; providing an effective date.

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

Section 1. Paragraph (p) is added to subsection (2) of section 120.569, Florida Statutes, to read:

120.569 Decisions which affect substantial interests.—

(2)

(p) For any proceeding arising under chapter 373, chapter 378, or chapter 403, if a nonapplicant petitions as a third party to challenge an agency's issuance of a license, permit, or conceptual approval, the order of presentation in the proceeding shall be for the permit applicant to present a prima facie case

demonstrating entitlement to the license, permit, or conceptual approval, followed by the agency. This demonstration may be made by entering into evidence the application and relevant material submitted to the agency in support of the application, and the agency's staff report or notice of intent to approve the permit, license, or conceptual approval. Subsequent to the presentation of the applicant's prima facie case and any direct evidence submitted by the agency, the petitioner initiating the action challenging the issuance of the license, permit, or conceptual approval has the burden of ultimate persuasion and has the burden of going forward to prove the case in opposition to the license, permit, or conceptual approval through the presentation of competent and substantial evidence. The permit applicant and agency may on rebuttal present any evidence relevant to demonstrating that the application meets the conditions for issuance. Notwithstanding subsection (1), this paragraph applies to proceedings under s. 120.574.

Section 2. 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. A county may not require as a condition of processing a development permit that an applicant obtain a permit or approval from any other state or federal

agency unless the agency has issued a notice of intent to deny the federal or state permit before the county action on the local development permit. Issuance of a development permit by a county does not in any way create any rights on the part of the 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 if the applicant fails to fulfill its legal obligations to obtain requisite approvals or fulfill the obligations imposed by another state or a federal agency. A county may attach such a disclaimer to the issuance of a development permit, and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a county from providing information to an applicant regarding what other state or federal permits may apply.

Section 3. Section 161.032, Florida Statutes, is created to read:

161.032 Application review; request for 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 submission of any additional information the department is permitted by law to require. If the applicant believes that a 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 such additional information 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 that the request for such additional information by the department is not authorized by law or rule, the department, at the applicant's request, shall proceed to process the permit application.

(2) Notwithstanding s. 120.60, an applicant for a permit under this part has 90 days after the date of a timely request for additional information to submit such information. If an applicant requires more than 90 days in order to respond to a request for additional information, the applicant must 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.

(3) Notwithstanding any other provision of law, the department is authorized to issue permits pursuant to this part in advance of the issuance of any incidental take authorization as provided for in the Endangered Species Act and its implementing regulations if the permits and authorizations include a condition requiring that authorized activities shall not begin until such incidental take authorization is issued.

Section 4. Subsections (5), (6), and (7) are added to

section 161.041, Florida Statutes, to read:

161.041 Permits required.—

(5) The provisions of s. 403.0874, relating to the incentive-based permitting program, apply to all permits issued under this chapter.

(6) The department may not require as a permit condition sediment quality specifications or turbidity standards more stringent than those provided for in this chapter, chapter 373, or the Florida Administrative Code. The department may not issue guidelines that are enforceable as standards without going through the rulemaking process pursuant to chapter 120.

(7) As an incentive for permit applicants, it is the Legislature's intent to simplify the permitting for periodic maintenance of beach renourishment projects previously permitted and restored under the joint coastal permit process pursuant to this section or part IV of chapter 373. The department shall amend chapters 62B-41 and 62B-49 of the Florida Administrative Code to streamline the permitting process, as necessary, for periodic maintenance projects.

Section 5. Subsection (10) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(10)(a) Except in transportation concurrency exception areas, with regard to roadway facilities on the Strategic Intermodal System designated in accordance with s. 339.63, local governments shall adopt the level-of-service standard established by the Department of Transportation by rule. However, if the Office of Tourism, Trade, and Economic

Development concurs in writing with the local government that the proposed development is for a qualified job creation project under s. 288.0656 or s. 403.973, the affected local government, after consulting with the Department of Transportation, may provide for a waiver of transportation concurrency for the project. For all other roads on the State Highway System, local governments shall establish an adequate level-of-service standard that need not be consistent with any level-of-service standard established by the Department of Transportation. In establishing adequate level-of-service standards for any arterial roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments shall consider compatibility with the roadway facility's adopted level-of-service standards in adjacent jurisdictions. Each local government within a county shall use a professionally accepted methodology for measuring impacts on transportation facilities for the purposes of implementing its concurrency management system. Counties are encouraged to coordinate with adjacent counties, and local governments within a county are encouraged to coordinate, for the purpose of using common methodologies for measuring impacts on transportation facilities for the purpose of implementing their concurrency management systems.

(b) There shall be a limited exemption from the Strategic Intermodal System adopted level-of-service standards for new or redevelopment projects consistent with the local comprehensive plan as inland multimodal facilities receiving or sending cargo for distribution and providing cargo storage, consolidation, repackaging, and transfer of goods, and which may, if developed

as proposed, include other intermodal terminals, related transportation facilities, warehousing and distribution facilities, and associated office space, light industrial, manufacturing, and assembly uses. The limited exemption applies if the project meets all of the following criteria:

1. The project will not cause the adopted level-of-service standards for the Strategic Intermodal System facilities to be exceeded by more than 150 percent within the first 5 years of the project's development.

2. The project, upon completion, would result in the creation of at least 50 full-time jobs.

3. The project is compatible with existing and planned adjacent land uses.

4. The project is consistent with local and regional economic development goals or plans.

5. The project is proximate to regionally significant road and rail transportation facilities.

6. The project is proximate to a community having an unemployment rate, as of the date of the development order application, which is 10 percent or more above the statewide reported average.

7. The local government has a plan, developed in consultation with the Department of Transportation, for mitigating any impacts to the strategic intermodal system.

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. A municipality may not require as a condition of processing a development permit that an applicant obtain a permit or approval from any other state or federal agency unless the agency has issued a notice of intent to deny the federal or state permit before the municipal action on the local development permit. Issuance of a development permit by a municipality does not in any way create any right 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 if the applicant fails to fulfill its legal obligations to obtain requisite approvals or fulfill the obligations imposed by another state or federal agency. A municipality may attach such a disclaimer to the issuance of development permits and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a municipality from providing information to an applicant regarding what other state or federal permits may apply.

Section 7. Section 218.075, Florida Statutes, is amended to read:

218.075 Reduction or waiver of permit processing fees.—Notwithstanding any other provision of law, the Department of Environmental Protection and the water management districts

shall reduce or waive permit processing fees for counties with a population of 50,000 or less on April 1, 1994, until such counties exceed a population of 75,000 and municipalities with a population of 25,000 or less, or for an entity created by special act, local ordinance, or interlocal agreement of such counties or municipalities, or for any county or municipality not included within a metropolitan statistical area. Fee reductions or waivers shall be approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship due to one of the following factors:

(1) Per capita taxable value is less than the statewide average for the current fiscal year;

(2) Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;

(3) Any condition specified in s. 218.503(1) which results in the county or municipality being in a state of financial emergency;

(4) Ad valorem operating millage rate for the current fiscal year is greater than 8 mills; or

(5) A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The permit applicant must be the governing body of a county or

municipality or a third party under contract with a county or municipality or an entity created by special act, local ordinance, or interlocal agreement and the project for which the fee reduction or waiver is sought must serve a public purpose. If a permit processing fee is reduced, the total fee shall not exceed $100.

Section 8. Paragraphs (a) and (b) of subsection (3) of section 258.397, Florida Statutes, are amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the Internal Improvement Trust Fund is authorized and directed to maintain the aquatic preserve hereby created pursuant and subject to the following provisions:

(a) No further sale, transfer, or lease of sovereignty submerged lands in the preserve shall be approved or consummated by the board of trustees, except upon a showing of extreme hardship on the part of the applicant and a determination by the board of trustees that such sale, transfer, or lease is in the public interest. A municipal applicant proposing a project under paragraph (b) is exempt from showing extreme hardship.

(b) No further dredging or filling of submerged lands of the preserve shall be approved or tolerated by the board of trustees except:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects or for such minimum dredging and spoiling as may be constituted as a public necessity or for preservation of the bay according to the expressed intent of this section.

2. Such other alteration of physical conditions, including the placement of riprap, as may be necessary to enhance the quality and utility of the preserve.

3. Such minimum dredging and filling as may be authorized for the creation and maintenance of marinas, piers, and docks and their attendant navigation channels and access roads. Such projects may only be authorized upon a specific finding by the board of trustees that there is assurance that the project will be constructed and operated in a manner that will not adversely affect the water quality and utility of the preserve. This subparagraph shall not authorize the connection of upland canals to the waters of the preserve.

4. Such dredging as is necessary for the purpose of eliminating conditions hazardous to the public health or for the purpose of eliminating stagnant waters, islands, and spoil banks, the dredging of which would enhance the aesthetic and environmental quality and utility of the preserve and be clearly in the public interest as determined by the board of trustees.

5. Such dredging and filling as is necessary for the creation of public waterfront promenades.

Any dredging or filling under this subsection or improvements under subsection (5) shall be approved only after public notice as provided by s. 253.115.

Section 9. 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 the water management districts, if such expansion is economically feasible. 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 appropriate activities currently requiring individual review which could be expedited through the use of applicable professional certification.

Section 10. Subsection (6) is added to section 373.413, Florida Statutes, to read:

373.413 Permits for construction or alteration.—

(6) The provisions of s. 403.0874, relating to the incentive-based permitting program, apply to permits issued under this section.

Section 11. Paragraph (c) of subsection (6) of section 373.4135, Florida Statutes, is amended to read:

373.4135 Mitigation banks and offsite regional

mitigation.—

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

(c) At a minimum, the memorandum of agreement must address the following for each project authorized:

1. A description of the work that will be conducted on the site and a timeline for completion of such work.

2. A timeline for obtaining any required environmental resource permit.

3. The environmental success criteria that the project must achieve.

4. The monitoring and long-term management requirements that must be undertaken for the project.

5. An assessment of the project in accordance with s.

373.4136(4) ~~(a) - (i)~~, until the adoption of the uniform wetland mitigation assessment method pursuant to s. 373.414(18).

6. A designation of the entity responsible for the successful completion of the mitigation work.

7. A definition of the geographic area where the project may be used as mitigation established using the criteria of s. 373.4136(6).

8. Full cost accounting of the project, including annual review and adjustment.

9. Provision and a timetable for the acquisition of any lands necessary for the project.

10. Provision for preservation of the site.

11. Provision for application of all moneys received solely to the project for which they were collected.

12. Provision for termination of the agreement and cessation of use of the project as mitigation if any material contingency of the agreement has failed to occur.

Section 12. Subsection (4) of section 373.4136, Florida Statutes, is amended to read:

373.4136 Establishment and operation of mitigation banks.—

(4) MITIGATION CREDITS.—After evaluating the information submitted by the applicant for a mitigation bank permit and assessing the proposed mitigation bank pursuant to the criteria in this section, the department or water management district shall award a number of mitigation credits to a proposed mitigation bank or phase of such mitigation bank. An entity establishing and operating a mitigation bank may apply to modify the mitigation bank permit to seek the award of additional

mitigation credits if the mitigation bank results in an additional increase in ecological value over the value contemplated at the time of the original permit issuance, or the most recent modification thereto involving the number of credits awarded. The number of credits awarded shall be based on the degree of improvement in ecological value expected to result from the establishment and operation of the mitigation bank as determined using the uniform mitigation assessment method adopted pursuant to s. 373.414(18). ~~a functional assessment methodology. In determining the degree of improvement in ecological value, each of the following factors, at a minimum, shall be evaluated:~~

~~(a) The extent to which target hydrologic regimes can be achieved and maintained.~~

~~(b) The extent to which management activities promote natural ecological conditions, such as natural fire patterns.~~

~~(c) The proximity of the mitigation bank to areas with regionally significant ecological resources or habitats, such as national or state parks, Outstanding National Resource Waters and associated watersheds, Outstanding Florida Waters and associated watersheds, and lands acquired through governmental or nonprofit land acquisition programs for environmental conservation; and the extent to which the mitigation bank establishes corridors for fish, wildlife, or listed species to those resources or habitats.~~

~~(d) The quality and quantity of wetland or upland restoration, enhancement, preservation, or creation.~~

~~(e) The ecological and hydrological relationship between~~

~~wetlands and uplands in the mitigation bank.~~

~~(f) The extent to which the mitigation bank provides habitat for fish and wildlife, especially habitat for species listed as threatened, endangered, or of special concern, or provides habitats that are unique for that mitigation service area.~~

~~(g) The extent to which the lands that are to be preserved are already protected by existing state, local, or federal regulations or land use restrictions.~~

~~(h) The extent to which lands to be preserved would be adversely affected if they were not preserved.~~

~~(i) Any special designation or classification of the affected waters and lands.~~

Section 13. Subsections (1) and (2), paragraph (c) of subsection (3), and subsection (4) of section 373.4137, Florida Statutes, are amended to read:

373.4137 Mitigation requirements for specified transportation projects.—

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by the water management districts, <u>through</u> ~~including~~ the use of <u>private</u> mitigation banks

if available or, if a private mitigation bank is not available, through any other mitigation options that satisfy state and federal requirements ~~established pursuant to this part~~.

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 shall be developed as follows:

(a) By July 1 of each year, the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 which chooses to participate in this program shall submit to the water management districts a list ~~copy~~ of its projects in the adopted work program and an environmental impact inventory of habitats addressed in the rules adopted pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted by its plan of construction for transportation projects in the next 3 years of the tentative work program. The Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 may also include in its environmental impact inventory the habitat impacts of any future transportation project. The Department of Transportation and each transportation authority established pursuant to chapter 348 or chapter 349 may fund any mitigation activities for future projects using current year funds.

(b) The environmental impact inventory shall include a description of these habitat impacts, including their location, acreage, and type; state water quality classification of impacted wetlands and other surface waters; any other state or

regional designations for these habitats; and a list ~~survey~~ of threatened species, endangered species, and species of special concern affected by the proposed project.

(3)

(c) Except for current mitigation projects in the monitoring and maintenance phase and except as allowed by paragraph (d), the water management districts may request a transfer of funds from an escrow account no sooner than 30 days prior to the date the funds are needed to pay for activities associated with development or implementation of the approved mitigation plan described in subsection (4) for the current fiscal year, including, but not limited to, design, engineering, production, and staff support. Actual conceptual plan preparation costs incurred before plan approval may be submitted to the Department of Transportation or the appropriate transportation authority each year with the plan. The conceptual plan preparation costs of each water management district will be paid from mitigation funds associated with the environmental impact inventory for the current year. The amount transferred to the escrow accounts each year by the Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 shall correspond to a cost per acre of $75,000 multiplied by the projected acres of impact identified in the environmental impact inventory described in subsection (2). However, the $75,000 cost per acre does not constitute an admission against interest by the state or its subdivisions nor is the cost admissible as evidence of full compensation for any property acquired by

eminent domain or through inverse condemnation. Each July 1, the cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. Each quarter, the projected acreage of impact shall be reconciled with the acreage of impact of projects as permitted, including permit modifications, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer of funds shall be adjusted accordingly to reflect the acreage of impacts as permitted. The Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 are authorized to transfer such funds from the escrow accounts to the water management districts to carry out the mitigation programs. Environmental mitigation funds that are identified or maintained in an escrow account for the benefit of a water management district may be released if the associated transportation project is excluded in whole or part from the mitigation plan. For a mitigation project that is in the maintenance and monitoring phase, the water management district may request and receive a one-time payment based on the project's expected future maintenance and monitoring costs. Upon disbursement of the final maintenance and monitoring payment, the department or the participating transportation authorities' obligation will be satisfied, the water management district will have continuing responsibility for the mitigation project, and the escrow account for the project established by the Department

of Transportation or the participating transportation authority may be closed. Any interest earned on these disbursed funds shall remain with the water management district and must be used as authorized under this section.

(4) Prior to March 1 of each year, each water management district, in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, the Department of Transportation, participating transportation authorities established pursuant to chapter 348 or chapter 349, and other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks, shall develop a plan for the primary purpose of complying with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. In developing such plans, private mitigation banks shall be used if available or, if a private mitigation bank is not available, the districts shall use ~~utilize~~ sound ecosystem management practices to address significant water resource needs and shall focus on activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) projects and lands identified for potential acquisition for preservation, restoration or enhancement, and the control of invasive and exotic plants in wetlands and other surface waters, to the extent that such activities comply with the mitigation requirements adopted under this part and 33 U.S.C. s. 1344. In determining the activities to be included in such plans, the districts shall ~~also consider the~~ purchase ~~of~~ credits from public or private mitigation banks permitted under

s. 373.4136 and associated federal authorization and shall include such purchase as a part of the mitigation plan when such purchase would offset the impact of the transportation project~~, provide equal benefits to the water resources than other mitigation options being considered, and provide the most cost-effective mitigation option~~. The mitigation plan shall be submitted to the water management district governing board, or its designee, for review and approval. At least 14 days prior to approval, the water management district shall provide a copy of the draft mitigation plan to any person who has requested a copy.

(a) For each transportation project with a funding request for the next fiscal year, the mitigation plan must include a brief explanation of why a mitigation bank was or was not chosen as a mitigation option, including an estimation of identifiable costs of the mitigation bank and nonbank options to the extent practicable.

(b) Specific projects may be excluded from the mitigation plan, in whole or in part, and shall not be subject to this section upon the election ~~agreement~~ of the Department of Transportation, ~~or~~ a transportation authority if applicable, or ~~and~~ the appropriate water management district ~~that the inclusion of such projects would hamper the efficiency or timeliness of the mitigation planning and permitting process~~. ~~The water management district may choose to exclude a project in whole or in part if the district is unable to identify mitigation that would offset impacts of the project.~~

Section 14. Subsection (18) of section 373.414, Florida

Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(18) The department, in coordination with ~~and~~ each water management district responsible for implementation of the environmental resource permitting program, shall develop a uniform mitigation assessment method for wetlands and other surface waters. ~~The department shall adopt the uniform mitigation assessment method by rule no later than July 31, 2002.~~ The rule shall provide an exclusive, uniform, and consistent process for determining the amount of mitigation required to offset impacts to wetlands and other surface waters, and, once effective, shall supersede all rules, ordinances, and variance procedures from ordinances that determine the amount of mitigation needed to offset such impacts. Except when evaluating mitigation bank applications, which must meet the criteria of s. 373.4136(1), the rule shall be applied only after determining that the mitigation is appropriate to offset the values and functions of wetlands and surface waters to be adversely impacted by the proposed activity. Once the department adopts the uniform mitigation assessment method by rule, the uniform mitigation assessment method shall be binding on the department, the water management districts, local governments, and any other governmental agencies and shall be the sole means to determine the amount of mitigation needed to offset adverse impacts to wetlands and other surface waters and to award and deduct mitigation bank credits. A water management district and any other governmental agency subject to chapter 120 may apply the

uniform mitigation assessment method without the need to adopt it pursuant to s. 120.54. It shall be a goal of the department and water management districts that the uniform mitigation assessment method developed be practicable for use within the timeframes provided in the permitting process and result in a consistent process for determining mitigation requirements. It shall be recognized that any such method shall require the application of reasonable scientific judgment. The uniform mitigation assessment method must determine the value of functions provided by wetlands and other surface waters considering the current conditions of these areas, utilization by fish and wildlife, location, uniqueness, and hydrologic connection~~, and, when applied to mitigation banks, the factors listed in s. 373.4136(4)~~. The uniform mitigation assessment method shall also account for the expected time-lag associated with offsetting impacts and the degree of risk associated with the proposed mitigation. The uniform mitigation assessment method shall account for different ecological communities in different areas of the state. In developing the uniform mitigation assessment method, the department and water management districts shall consult with approved local programs under s. 403.182 which have an established mitigation program for wetlands or other surface waters. The department and water management districts shall consider the recommendations submitted by such approved local programs, including any recommendations relating to the adoption by the department and water management districts of any uniform mitigation methodology that has been adopted and used by an approved local program in

its established mitigation program for wetlands or other surface waters. Environmental resource permitting rules may establish categories of permits or thresholds for minor impacts under which the use of the uniform mitigation assessment method will not be required. The application of the uniform mitigation assessment method is not subject to s. 70.001. In the event the rule establishing the uniform mitigation assessment method is deemed to be invalid, the applicable rules related to establishing needed mitigation in existence prior to the adoption of the uniform mitigation assessment method, including those adopted by a county which is an approved local program under s. 403.182, and the method described in paragraph (b) for existing mitigation banks, shall be authorized for use by the department, water management districts, local governments, and other state agencies.

(a) In developing the uniform mitigation assessment method, the department shall seek input from the United States Army Corps of Engineers in order to promote consistency in the mitigation assessment methods used by the state and federal permitting programs.

(b) An entity which has received a mitigation bank permit prior to the adoption of the uniform mitigation assessment method shall have impact sites assessed, for the purpose of deducting bank credits, using the credit assessment method, including any functional assessment methodology, which was in place when the bank was permitted; unless the entity elects to have its credits redetermined, and thereafter have its credits deducted, using the uniform mitigation assessment method.

(c) The department shall ensure statewide coordination and consistency in the interpretation and application of the uniform mitigation assessment method rule by providing programmatic training and guidance to staff of the department, water management districts, and local governments. To ensure that the uniform mitigation assessment method rule is interpreted and applied uniformly, the department's interpretation, guidance, and approach to applying the uniform mitigation assessment method rule shall govern.

(d) Applicants shall submit the information needed to perform the assessment required under the uniform mitigation assessment method rule and may submit the qualitative characterization and quantitative assessment for each assessment area specified by the rule. The reviewing agency shall review that information and notify the applicant of any inadequacy in the information or application of the assessment method.

(e) When conducting qualitative characterization of artificial wetlands and other surface waters, such as borrow pits, ditches, and canals, under the uniform mitigation assessment method rule, the native community type to which it is most analogous in function shall be used as a reference. For wetlands or other surface waters that have been altered from their native community type, the historic community type at that location shall be used as a reference, unless the alteration has been of such a degree and extent that a different native community type is now present and self-sustaining.

(f) When conducting qualitative characterization of upland mitigation assessment areas, the characterization shall include

functions that the upland assessment area provides to the fish and wildlife of the associated wetland or other surface waters. These functions shall be considered and accounted for when scoring the upland assessment area for preservation, enhancement, or restoration.

(g) The term "preservation mitigation," as used in the uniform mitigation assessment method, means the protection of important wetland, other surface water, or upland ecosystems predominantly in their existing condition and absent restoration, creation, or enhancement from adverse impacts by placing a conservation easement or other comparable land use restriction over the property or by donation of fee simple interest in the property. Preservation may include a management plan for perpetual protection of the area. The preservation adjustment factor set forth in rule 62-345.500(3), Florida Administrative Code, shall only apply to preservation mitigation.

(h) When assessing a preservation mitigation assessment area under the uniform mitigation assessment method, the following apply:

1. The term "without preservation" means the reasonably anticipated loss of functions and values provided by the assessment area, assuming the area is not preserved.

2. Each of the considerations of the preservation adjustment factor specified in rule 62-345.500(3)(a), Florida Administrative Code, shall be equally weighted and scored on a scale from 0, no value, to 0.2, optimal value. In addition, the minimum preservation adjustment factor shall be 0.2.

(i) The location and landscape support scores, pursuant to rule 62-345.500, Florida Administrative Code, may change in the "with mitigation" or "with impact" condition in both upland and wetland assessment areas, regardless of the initial community structure or water environment scores.

(j) When a mitigation plan for creation, restoration, or enhancement includes a preservation mechanism, such as a conservation easement, the "with mitigation" assessment of that creation, restoration, or enhancement shall consider, and the scores shall reflect, the benefits of that preservation mechanism, and the benefits of that preservation mechanism may not be scored separately.

(k) Any entity holding a mitigation bank permit that was evaluated under the uniform mitigation assessment method before the effective date of paragraphs (c)-(j) may submit a permit modification request to the relevant permitting agency to have such mitigation bank reassessed pursuant to the provisions set forth in this section, and the relevant permitting agency shall reassess such mitigation bank, if such request is filed with that agency no later than September 30, 2011.

Section 15. Section 373.4141, Florida Statutes, is amended to read:

373.4141 Permits; processing.—

(1) Within 30 days after receipt of an application for a permit under this part, the department or the water management district shall review the application and shall request submittal of all additional information the department or the water management district is permitted by law 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 or water management district 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 or water management district for such additional information is not authorized by law or rule, the department or water management district, at the applicant's request, shall proceed to process the permit application. The department or water management district may request additional information no more than twice unless the applicant waives this limitation in writing. If the applicant does not provide a written response to the second request for additional information within 90 days or another time period mutually agreed upon between the applicant and the department or water management district, the application shall be considered withdrawn.

(2) A permit shall be approved, ~~or~~ denied, or subject to a notice of proposed agency action within 60 ~~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.

(3) Processing of applications for permits for affordable housing projects shall be expedited to a greater degree than other projects.

(4) A state agency or an agency of the state may not

require as a condition of approval for a permit or as an item to complete a pending permit application that an applicant obtain a permit or approval from any other local, state, or federal agency without explicit statutory authority to require such permit or approval.

Section 16. Section 373.4144, Florida Statutes, is amended to read:

373.4144 Federal environmental permitting.—

(1) It is the intent of the Legislature to:

(a) Facilitate coordination and a more efficient process of implementing regulatory duties and functions between the Department of Environmental Protection, the water management districts, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Environmental Protection Agency, the Fish and Wildlife Conservation Commission, and other relevant federal and state agencies.

(b) Authorize the Department of Environmental Protection to obtain issuance by the United States Army Corps of Engineers, pursuant to state and federal law and as set forth in this section, of an expanded state programmatic general permit, or a series of regional general permits, for categories of activities in waters of the United States governed by the Clean Water Act and in navigable waters under the Rivers and Harbors Act of 1899 which are similar in nature, which will cause only minimal adverse environmental effects when performed separately, and which will have only minimal cumulative adverse effects on the environment.

(c) Use the mechanism of such a state general permit or such regional general permits to eliminate overlapping federal regulations and state rules that seek to protect the same resource and to avoid duplication of permitting between the United States Army Corps of Engineers and the department for minor work located in waters of the United States, including navigable waters, thus eliminating, in appropriate cases, the need for a separate individual approval from the United States Army Corps of Engineers while ensuring the most stringent protection of wetland resources.

(d) Direct the department not to seek issuance of or take any action pursuant to any such permit or permits unless such conditions are at least as protective of the environment and natural resources as existing state law under this part and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899. ~~The department is directed to develop, on or before October 1, 2005, a mechanism or plan to consolidate, to the maximum extent practicable, the federal and state wetland permitting programs. It is the intent of the Legislature that all dredge and fill activities impacting 10 acres or less of wetlands or waters, including navigable waters, be processed by the state as part of the environmental resource permitting program implemented by the department and the water management districts. The resulting mechanism or plan shall analyze and propose the development of an expanded state programmatic general permit program in conjunction with the United States Army Corps of Engineers pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq.,~~

~~and s. 10 of the Rivers and Harbors Act of 1899. Alternatively, or in combination with an expanded state programmatic general permit, the mechanism or plan may propose the creation of a series of regional general permits issued by the United States Army Corps of Engineers pursuant to the referenced statutes. All of the regional general permits must be administered by the department or the water management districts or their designees.~~

(2) In order to effectuate efficient wetland permitting and avoid duplication, the department and water management districts are authorized to implement a voluntary state programmatic general permit for all dredge and fill activities impacting 3 acres or less of wetlands or other surface waters, including navigable waters, subject to agreement with the United States Army Corps of Engineers, if the general permit is at least as protective of the environment and natural resources as existing state law under this part and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899. ~~The department is directed to file with the Speaker of the House of Representatives and the President of the Senate a report proposing any required federal and state statutory changes that would be necessary to accomplish the directives listed in this section and to coordinate with the Florida Congressional Delegation on any necessary changes to federal law to implement the directives.~~

(3) Nothing in this section shall be construed to preclude the department from pursuing a series of regional general permits for construction activities in wetlands or surface waters or complete assumption of federal permitting programs

regulating the discharge of dredged or fill material pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899, so long as the assumption encompasses all dredge and fill activities in, on, or over jurisdictional wetlands or waters, including navigable waters, within the state.

Section 17. Subsections (2) and (3), paragraph (a) of subsection (4), and paragraph (a) of subsection (6) of section 373.41492, Florida Statutes, are amended to read:

373.41492 Miami-Dade County Lake Belt Mitigation Plan; mitigation for mining activities within the Miami-Dade County Lake Belt.—

(2) To provide for the mitigation of wetland resources lost to mining activities within the Miami-Dade County Lake Belt Plan, effective October 1, 1999, a mitigation fee is imposed on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand from within the Miami-Dade County Lake Belt Area and the east one-half of sections 24 and 25 and all of sections 35 and 36, Township 53 South, Range 39 East. The mitigation fee is imposed for each ton of limerock and sand sold from within the properties where the fee applies in raw, processed, or manufactured form, including, but not limited to, sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. The mitigation fee imposed by this subsection for each ton of limerock and sand sold shall be 12 cents per ton beginning January 1, 2007; 18 cents per ton beginning January 1, 2008; 24 cents per ton beginning January 1, 2009; and 45 cents

per ton beginning close of business December 31, 2011. To pay for seepage mitigation projects, including hydrological structures, as authorized in an environmental resource permit issued by the department for mining activities within the Miami-Dade County Lake Belt Area, and to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County, a water treatment plant upgrade fee is imposed within the same Lake Belt Area subject to the mitigation fee and upon the same kind of mined limerock and sand subject to the mitigation fee. The water treatment plant upgrade fee imposed by this subsection for each ton of limerock and sand sold shall be 15 cents per ton beginning on January 1, 2007, and the collection of this fee shall cease once the total amount of proceeds collected for this fee reaches the amount of the actual moneys necessary to design and construct the water treatment plant upgrade, as determined in an open, public solicitation process. Any limerock or sand that is used within the mine from which the limerock or sand is extracted is exempt from the fees. The amount of the mitigation fee and the water treatment plant upgrade fee imposed under this section must be stated separately on the invoice provided to the purchaser of the limerock or sand product from the limerock or sand miner, or its subsidiary or affiliate, for which the fee or fees apply. The limerock or sand miner, or its subsidiary or affiliate, who sells the limerock or sand product shall collect the mitigation fee and the water treatment plant upgrade fee and forward the proceeds of the fees to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs. As

used in this section, the term "proceeds of the fee" means all funds collected and received by the Department of Revenue under this section, including interest and penalties on delinquent fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues collected under this section and may equal only those administrative costs reasonably attributable to the fees.

(3) The mitigation fee and the water treatment plant upgrade fee imposed by this section must be reported to the Department of Revenue. Payment of the mitigation and the water treatment plant upgrade fees must be accompanied by a form prescribed by the Department of Revenue. The proceeds of the mitigation fee, less administrative costs, must be transferred by the Department of Revenue to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund. Beginning January 1, 2012, and ending December 31, 2017, or upon issuance of water quality certification by the department for mining activities within Phase II of the Miami-Dade County Lake Belt Plan, whichever occurs later, the proceeds of the water treatment plant upgrade fee, less administrative costs, must be transferred by the Department of Revenue to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund. Beginning January 1, 2018, the proceeds of the water treatment plant upgrade fee, less administrative costs, must be transferred by the Department of Revenue to a trust fund established by Miami-Dade County, for the sole purpose authorized by paragraph (6)(a). ~~As used in this section, the term "proceeds of the fee" means all funds~~

~~collected and received by the Department of Revenue under this section, including interest and penalties on delinquent fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues collected under this section and may equal only those administrative costs reasonably attributable to the fees.~~

(4)(a) The Department of Revenue shall administer, collect, and enforce the mitigation and water treatment plant upgrade fees authorized under this section in accordance with the procedures used to administer, collect, and enforce the general sales tax imposed under chapter 212. The provisions of chapter 212 with respect to the authority of the Department of Revenue to audit and make assessments, the keeping of books and records, and the interest and penalties imposed on delinquent fees apply to this section. The fees may not be included in computing estimated taxes under s. 212.11, and the dealer's credit for collecting taxes or fees provided for in s. 212.12 does not apply to the fees imposed by this section.

(6)(a) The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee and adopted under s. 373.4149. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credit from a permitted mitigation bank, and any

structural modifications to the existing drainage system to enhance the hydrology of the Miami-Dade County Lake Belt Area. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program, the Internal Improvement Trust Fund, the South Florida Water Management District, and Miami-Dade County, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149 for mitigation due to rock mining. The proceeds of the water treatment plant upgrade fee that are deposited into the Lake Belt Mitigation Trust Fund shall be used solely to pay for seepage mitigation projects, including groundwater or surface water management structures, as authorized in an environmental resource permit issued by the department for mining activities within the Miami-Dade County Lake Belt Area. The proceeds of the water treatment plant upgrade fee that are transferred to a trust fund established by Miami-Dade County shall be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County. As used in this section, the terms "upgrade a water treatment plant" or "water treatment plant upgrade" means those works necessary to treat or filter a surface water source or supply or both.

Section 18. Present subsections (3), (4), and (5) of section 373.441, Florida Statutes, are renumbered as subsections (7), (8), and (9), respectively, and new subsections (3), (4), (5), and (6) are added to that section, to read:

373.441 Role of counties, municipalities, and local

pollution control programs in permit processing; delegation.—

(3) A county having a population of 200,000 or more or a municipality having a population of 100,000 or more that implements a local pollution control program regulating all or a portion of the wetlands or surface waters throughout its geographic boundary must apply for delegation of state environmental resource permitting authority on or before June 1, 2012. A county or municipality that fails to receive delegation of all or a portion of state environmental resource permitting authority within 1 year after submitting its application for delegation or by June 1, 2013, at the latest, may not require permits that in part or in full are substantially similar to the requirements needed to obtain an environmental resource permit. A county or municipality that has received delegation before June 1, 2012, does not need to reapply.

(4) The department is responsible for all delegations of state environmental resource permitting authority to local governments. The department must grant or deny an application for delegation submitted by a county or municipality that meets the criteria in subsection (3) within 1 year after the receipt of the application. If an application for delegation is denied, any available legal challenge to such denial shall toll the 1-year preemption deadline until resolution of the legal challenge. Upon delegation to a qualified local government, the department and water management district may not regulate the activities subject to the delegation within that jurisdiction unless regulation is required pursuant to the terms of the delegation agreement.

(5) This section does not prohibit or limit a local government that meets the criteria in subsection (3) from regulating wetlands or surface waters after June 1, 2012, if the local government receives delegation of all or a portion of state environmental resource permitting authority within 1 year after submitting its application for delegation.

(6) Notwithstanding subsections (3), (4), and (5), this section does not apply to environmental resource permitting or reclamation applications for solid mineral mining and does not prohibit the application of local government regulations to any new solid mineral mine or any proposed addition to, change to, or expansion of an existing solid mineral mine.

Section 19. Paragraph (b) of subsection (11) of section 376.3071, Florida Statutes, is amended to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—

(11)

(b) Low-scored site initiative.—Notwithstanding s. 376.30711, any site with a priority ranking score of 10 points or less may voluntarily participate in the low-scored site initiative, whether or not the site is eligible for state restoration funding.

1. To participate in the low-scored site initiative, the responsible party or property owner must affirmatively demonstrate that the following conditions are met:

a. Upon reassessment pursuant to department rule, the site retains a priority ranking score of 10 points or less.

b. No excessively contaminated soil, as defined by

department rule, exists onsite as a result of a release of petroleum products.

c. A minimum of 6 months of groundwater monitoring indicates that the plume is shrinking or stable.

d. The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment.

e. The area of groundwater containing the petroleum products' chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated.

f. Soils onsite that are subject to human exposure found between land surface and 2 feet below land surface meet the soil cleanup target levels established by department rule or human exposure is limited by appropriate institutional or engineering controls.

2. Upon affirmative demonstration of the conditions under subparagraph 1., the department shall issue a determination of "No Further Action." Such determination acknowledges that minimal contamination exists onsite and that such contamination is not a threat to human health or the environment. If no contamination is detected, the department may issue a site rehabilitation completion order.

3. Sites that are eligible for state restoration funding may receive payment of preapproved costs for the low-scored site initiative as follows:

a. A responsible party or property owner may submit an assessment plan designed to affirmatively demonstrate that the

site meets the conditions under subparagraph 1. Notwithstanding the priority ranking score of the site, the department may preapprove the cost of the assessment pursuant to s. 376.30711, including 6 months of groundwater monitoring, not to exceed $30,000 for each site. The department may not pay the costs associated with the establishment of institutional or engineering controls.

b. The assessment work shall be completed no later than 6 months after the department issues its approval.

c. No more than $10 million for the low-scored site initiative shall be encumbered from the Inland Protection Trust Fund in any fiscal year. Funds shall be made available on a first-come, first-served basis and shall be limited to 10 sites in each fiscal year for each responsible party or property owner.

d. Program deductibles, copayments, and the limited contamination assessment report requirements under paragraph (13)(c) do not apply to expenditures under this paragraph.

Section 20. Section 376.30715, Florida Statutes, is amended to read:

376.30715 Innocent victim petroleum storage system restoration.—A contaminated site acquired by the current owner prior to July 1, 1990, which has ceased operating as a petroleum storage or retail business prior to January 1, 1985, is eligible for financial assistance pursuant to s. 376.305(6), notwithstanding s. 376.305(6)(a). For purposes of this section, the term "acquired" means the acquisition of title to the property; however, a subsequent transfer of the property to a

spouse or child of the owner, a surviving spouse or child of the owner in trust or free of trust, ~~or~~ a revocable trust created for the benefit of the settlor, or a corporate entity created by the owner to hold title to the site does not disqualify the site from financial assistance pursuant to s. 376.305(6) and applicants previously denied coverage may reapply. Eligible sites shall be ranked in accordance with s. 376.3071(5).

Section 21. Section 378.413, Florida Statutes, is created to read:

378.413 Regulatory preemption for construction aggregate materials mining.-Except as otherwise provided in this section, it is the intent of the Legislature for all mines for construction aggregate materials, as defined under s. 337.0261(1), for which an environmental resource permit application was filed pursuant to part IV of chapter 373, since January 1, 2008, that the regulation, permitting, and enforcement of all matters relating to stormwater, drainage, wetlands, surface or ground water flows or levels, surface or ground water quality, or surface or ground water management, reclamation, consumptive uses of water, and imperiled, endangered, or threatened species under, but not limited to, s. 9, Art. IV of the State Constitution, this chapter, chapters 373 and 379, and parts II and IV of chapter 403 or any equivalent federal law or regulation, are preempted to the state, and a county may not enact any ordinance or local rule, or attempt to regulate or enforce by any means, any matter relating to these subjects. This section does not apply to construction aggregate materials mines in the Miami-Dade County Lake Belt Area as

described in s. 373.4149(3).

Section 22. Paragraph (u) is added to subsection (24) of section 380.06, Florida Statutes, to read:

380.06 Developments of regional impact.—

(24) STATUTORY EXEMPTIONS.—

(u) Any proposed solid mineral mine and any proposed addition to, expansion of, or change to an existing solid mineral mine is exempt from the provisions of this section. Proposed changes to any previously approved solid mineral mine development-of-regional-impact development orders having vested rights is not subject to further review or approval as a development of regional impact or notice of proposed change review or approval pursuant to subsection (19), except for those applications pending as of July 1, 2011, which shall be governed by s. 380.115(2). Notwithstanding the foregoing, however, pursuant to s. 380.115(1), previously approved solid mineral mine development-of-regional-impact development orders shall continue to enjoy vested rights and continue to be effective unless rescinded by the developer. All local government regulations of proposed solid mineral mines apply to any new solid mineral mine or to any proposed addition to, expansion of, or change to an existing solid mineral mine. Notwithstanding this exemption, a new solid mineral mine that contributes more than 5 percent of the maximum service volume to a Strategic Intermodal System facility operating below its designated level of service must enter into a binding agreement with the Department of Transportation to mitigate its impacts to the Strategic Intermodal System facility.

If a use is exempt from review as a development of regional impact under paragraphs (a)-(s), but will be part of a larger project that is subject to review as a development of regional impact, the impact of the exempt use must be included in the review of the larger project, unless such exempt use involves a development of regional impact that includes a landowner, tenant, or user that has entered into a funding agreement with the Office of Tourism, Trade, and Economic Development under the Innovation Incentive Program and the agreement contemplates a state award of at least $50 million.

Section 23. Subsection (1) of section 380.0657, Florida Statutes, is amended to read:

380.0657 Expedited permitting process for economic development projects.—

(1) The Department of Environmental Protection and, as appropriate, the water management districts created under chapter 373 shall adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106, or any inland multimodal facility, receiving or sending cargo to or from Florida ports, with the exception of those projects requiring approval by the Board of Trustees of the Internal Improvement Trust Fund.

Section 24. Subsection (11) of section 403.061, Florida Statutes, is amended 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:

(11) Establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and also standards for the abatement of excessive and unnecessary noise. The department is authorized to establish reasonable zones of mixing for discharges into waters. For existing installations as defined by rule 62-520.200(10), Florida Administrative Code, effective July 12, 2009, zones of discharge to groundwater are authorized to a facility's or owner's property boundary and extending to the base of a specifically designated aquifer or aquifers. Exceedance of primary and secondary groundwater standards that occur within a zone of discharge does not create liability pursuant to this chapter or chapter 376 for site cleanup, and the exceedance of soil cleanup target levels is not a basis for enforcement or site cleanup.

(a) When a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam electric generating plant discharge of pollutants that is existing or licensed under this chapter on July 1, 1984, may nevertheless be granted a mixing zone, provided that:

1. The standard would not be met in the water body in the absence of the discharge;

2. The discharge is in compliance with all applicable technology-based effluent limitations;

3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of

the mixing zone; and

4. The discharge otherwise complies with the mixing zone provisions specified in department rules.

(b) No mixing zone for point source discharges shall be permitted in Outstanding Florida Waters except for:

1. Sources that have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;

2. Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act;

3. Discharges of water necessary for water management purposes which have been approved by the governing board of a water management district and, if required by law, by the secretary; and

4. The discharge of demineralization concentrate which has been determined permittable under s. 403.0882 and which meets the specific provisions of s. 403.0882(4)(a) and (b), if the proposed discharge is clearly in the public interest.

(c) The department, by rule, shall establish water quality criteria for wetlands which criteria give appropriate recognition to the water quality of such wetlands in their natural state.

Nothing in this act shall be construed to invalidate any existing department rule relating to mixing zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).

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 25. Subsection (7) of section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

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

(a) ~~Has~~ Submitted false or inaccurate information in the ~~his or her~~ application for such permit;

(b) ~~Has~~ Violated law, department orders, rules, ~~or regulations,~~ or ~~permit~~ conditions;

(c) ~~Has~~ Failed to submit operational reports or other information required by department rule which directly relate to such permit and has refused to correct or cure such violations when requested to do so ~~or regulation~~; or

(d) ~~Has~~ Refused lawful inspection under s. 403.091 at the facility authorized by such permit.

Section 26. Section 403.0874, Florida Statutes, is created to read:

403.0874 Incentive-based permitting program.—

(1) SHORT TITLE.—This section may be cited as the "Florida Incentive-based Permitting Act."

(2) FINDINGS AND INTENT.—The Legislature finds and declares that the department should consider compliance history when deciding whether to issue, renew, amend, or modify a permit by evaluating an applicant's site-specific and program-specific relevant aggregate compliance history. Persons having a history of complying with applicable permits or state environmental laws and rules are eligible for permitting benefits, including, but not limited to, expedited permit application reviews, longer-duration permit periods, decreased announced compliance inspections, and other similar regulatory and compliance incentives to encourage and reward such persons for their environmental performance.

(3) APPLICABILITY.—

(a) This section applies to all persons and regulated activities that are subject to the permitting requirements of chapter 161, chapter 373, or this chapter, and all other applicable state or federal laws that govern activities for the purpose of protecting the environment or the public health from pollution or contamination.

(b) Notwithstanding paragraph (a), this section does not apply to certain permit actions or environmental permitting laws such as:

1. Environmental permitting or authorization laws that regulate activities for the purpose of zoning, growth management, or land use; or

2. Any federal law or program delegated or assumed by the state to the extent that implementation of this section, or any part of this section, would jeopardize the ability of the state

to retain such delegation or assumption.

(c) As used in this section, the term "regulated activity" means any activity, including, but not limited to, the construction or operation of a facility, installation, system, or project, for which a permit, certification, or authorization is required under chapter 161, chapter 373, or this chapter.

(4) COMPLIANCE HISTORY.—The compliance history period shall be the 10 years before the date any permit or renewal application is received by the department. Any person is entitled to the incentives under subsection (5) if:

(a)1. The applicant has conducted the regulated activity at the same site for which the permit or renewal is sought for at least 8 of the 10 years before the date the permit application is received by the department; or

2. The applicant has conducted the same regulated activity at a different site within the state for at least 8 of the 10 years before the date the permit or renewal application is received by the department; and

(b) In the 10 years before the date the permit or renewal application is received by the department or water management district, the applicant has not been subject to a final administrative order or civil judgment or criminal conviction whereby an administrative law judge or civil or criminal court found the applicant violated the applicable law or rule and has not been the subject of an administrative settlement or consent order, whether formal or informal, that established a violation of an applicable law or rule; and

(c) The applicant can demonstrate during a 10-year

compliance history period the implementation of activities or practices that resulted in:

1. Reductions in actual or permitted discharges or emissions;

2. Reductions in the impacts of regulated activities on public lands or natural resources; and

3. Implementation of voluntary environmental performance programs, such as environmental management systems.

(5) COMPLIANCE INCENTIVES.—An applicant shall request all applicable incentives at the time of application submittal. Unless otherwise prohibited by state or federal law, rule, or regulation, and if the applicant meets all other applicable criteria for the issuance of a permit or authorization, an applicant is entitled to the following incentives:

(a) Expedited reviews on permit actions, including, but not limited to, initial permit issuance, renewal, modification, and transfer, if applicable. Expedited review means, at a minimum, that the initial request for additional information regarding a permit application shall be issued no later than 30 days after the application is filed, and final agency action shall be taken no later than 60 days after the application is deemed complete;

(b) Priority review of the permit application;

(c) Reduction in the number of routine compliance inspections;

(d) No more than two requests for additional information under s. 120.60; and

(e) Longer permit period durations.

(6) RULEMAKING.—The department may adopt additional incentives by rule. Such incentives shall be based on, and proportional to, actions taken by the applicant to reduce the applicant's impacts on human health and the environment beyond those actions required by law. The department's rules adopted under this section are binding on the water management districts and any local government that has been delegated or assumed a regulatory program to which this section applies.

(7) SAVINGS PROVISION.—This section does not affect an applicant's responsibility to provide reasonable assurance of compliance with applicable statutes and rules as a condition precedent to issuance of a permit and does not limit factors the department, a water management district, or a delegated program may consider in evaluating a permit application under existing law.

Section 27. Subsection (2) of section 403.1838, Florida Statutes, is amended to read:

403.1838 Small Community Sewer Construction Assistance Act.—

(2) The department shall use funds specifically appropriated to award grants under this section to assist financially disadvantaged small communities with their needs for adequate sewer facilities. For purposes of this section, the term "financially disadvantaged small community" means a municipality that has ~~with~~ a population of 10,000 ~~7,500~~ or fewer ~~less~~, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce.

Section 28. Paragraph (f) of subsection (1) of section 403.7045, Florida Statutes, is amended to read:

403.7045 Application of act and integration with other acts.—

(1) The following wastes or activities shall not be regulated pursuant to this act:

(f) Industrial byproducts, if:

1. A majority of the industrial byproducts are demonstrated to be sold, used, or reused within 1 year.

2. The industrial byproducts are not discharged, deposited, injected, dumped, spilled, leaked, or placed upon any land or water so that such industrial byproducts, or any constituent thereof, may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment such that a threat of contamination in excess of applicable department standards and criteria or a significant threat to public health is caused.

3. The industrial byproducts are not hazardous wastes as defined under s. 403.703 and rules adopted under this section.

Sludge from an industrial waste treatment works that meets the exemption requirements of this paragraph is not solid waste as defined in s. 403.703(32).

Section 29. Subsections (2) and (3) of section 403.707, Florida Statutes, are amended to read:

403.707 Permits.—

(2) Except as provided in s. 403.722(6), a permit under this section is not required for the following~~, if the activity~~

~~does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations, or orders~~:

(a) Disposal by persons of solid waste resulting from their own activities on their own property, if such waste is ordinary household waste from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter that normally result from land development operations. Disposal of materials that could create a public nuisance or adversely affect the environment or public health, such as white goods; automotive materials, such as batteries and tires; petroleum products; pesticides; solvents; or hazardous substances, is not covered under this exemption.

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

(c) Disposal by persons of solid waste resulting from their own activities on their property, if the environmental effects of such disposal on groundwater and surface waters are:

1. Addressed or authorized by a site certification order issued under part II or a permit issued by the department under this chapter or rules adopted pursuant to this chapter; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by

the department. If a facility has a permit authorizing disposal activity, new areas where solid waste is being disposed of that are monitored by an existing or modified groundwater monitoring plan are not required to be specifically authorized in a permit or other certification.

(d) Disposal by persons of solid waste resulting from their own activities on their own property, if such disposal occurred prior to October 1, 1988.

(e) Disposal of solid waste resulting from normal farming operations as defined by department rule. Polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled, which are used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, may be disposed of by open burning if a public nuisance or any condition adversely affecting the environment or the public health is not created by the open burning and state or federal ambient air quality standards are not violated.

(f) The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from obtaining any other required permits, and does not affect a person's responsibility to dispose of clean debris appropriately if it is not to be used as fill material.

(g) Compost operations that produce less than 50 cubic yards of compost per year when the compost produced is used on the property where the compost operation is located.

(3)(a) All applicable provisions of ss. 403.087 and 403.088, relating to permits, apply to the control of solid

waste management facilities.

(b) Any permit issued to a solid waste management facility that is designed with a leachate control system that meets department requirements shall be issued for a term of 20 years unless the applicant requests a lesser permit term. Existing permit fees for qualifying solid waste management facilities shall be prorated to the permit term authorized by this section. This provision applies to all qualifying solid waste management facilities that apply for an operating or construction permit or renew an existing operating or construction permit on or after July 1, 2012.

Section 30. Subsection (12) is added to section 403.814, Florida Statutes, to read:

403.814 General permits; delegation.—

(12) A general permit shall be granted for the construction, alteration, and maintenance of a surface water management system serving a total project area of up to 10 acres. The construction of such a system may proceed without any agency action by the department or water management district if:

(a) The total project area is less than 10 acres;

(b) The total project area involves less than 2 acres of impervious surface;

(c) No activities will impact wetlands or other surface waters;

(d) No activities are conducted in, on, or over wetlands or other surface waters;

(e) Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent,

and will not use pumps in any manner;

(f) The project is not part of a larger common plan, development, or sale.

(g) The project does not:

1. Cause adverse water quantity or flooding impacts to receiving water and adjacent lands;

2. Cause adverse impacts to existing surface water storage and conveyance capabilities;

3. Cause a violation of state water quality standards; and

4. Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to s. 373.042 or a work of the district established pursuant to s. 373.086; and

(h) The surface water management system design plans must be signed and sealed by a Florida registered professional who shall attest that the system will perform and function as proposed and has been designed in accordance with appropriate, generally accepted performance standards and scientific principles.

Section 31. Subsection (6) of section 403.853, Florida Statutes, is amended to read:

403.853 Drinking water standards.—

(6) Upon the request of the owner or operator of a transient noncommunity water system using groundwater as a source of supply and serving religious institutions or businesses, other than restaurants or other public food service establishments or religious institutions with school or day care services~~, and using groundwater as a source of supply~~, the

department, or a local county health department designated by the department, shall perform a sanitary survey of the facility. Upon receipt of satisfactory survey results according to department criteria, the department shall reduce the requirements of such owner or operator from monitoring and reporting on a quarterly basis to performing these functions on an annual basis. Any revised monitoring and reporting schedule approved by the department under this subsection shall apply until such time as a violation of applicable state or federal primary drinking water standards is determined by the system owner or operator, by the department, or by an agency designated by the department, after a random or routine sanitary survey. Certified operators are not required for transient noncommunity water systems of the type and size covered by this subsection. Any reports required of such system shall be limited to the minimum as required by federal law. When not contrary to the provisions of federal law, the department may, upon request and by rule, waive additional provisions of state drinking water regulations for such systems.

Section 32. Paragraph (a) of subsection (3) and subsections (4), (5), (10), (11), (14), (15), and (18) of section 403.973, Florida Statutes, are amended to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)(a) The secretary 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 jobs or a commercial or industrial development project that will be occupied by businesses that would individually or collectively create at least 50 jobs; or

2. Businesses creating at least 25 jobs if the project is located in an enterprise zone, or in a county having a population of fewer than 75,000 or in a county having a population of fewer than 125,000 which is contiguous to a county having a population of fewer than 75,000, as determined by the most recent decennial census, residing in incorporated and unincorporated areas of the county.

(4) The regional teams shall be established through the execution of a project-specific memoranda of agreement developed and executed by the applicant and the secretary, with input solicited from ~~the office and~~ the respective heads of 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 shall, in cooperation with local governments and participating state agencies, create a standard form memorandum of agreement.

The standard form of the memorandum of agreement shall be used only if the local government participates in the expedited review process. In the absence of local government participation, only the project-specific memorandum of agreement executed pursuant to subsection (4) applies. 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.

(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 members of the regional permit action team ~~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 for~~ 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 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 secretary'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.

(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 other than the Department of Environmental Protection is challenged, the agency of the state shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. In those proceedings where the actions of more than one agency of the state are challenged, the Governor shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the

uniform rules of procedure pursuant to s. 120.54. For ~~This paragraph does not apply to~~ the issuance of department licenses required under any federally delegated or approved permit program~~. In such instances~~, the department, and not the Governor, shall enter the final order. 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) Projects identified in paragraph (3)(f) or 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 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 office, working with the agencies providing cooperative assistance and input regarding the memoranda of agreement, shall review sites proposed for the location of facilities that the office has certified to be eligible for the Innovation Incentive Program under s. 288.1089. Within 20 days after the request for the review by the 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.

(18) The 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 fewer than 75,000 residents, or counties having fewer than 125,000 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.

Section 33. Subsection (5) is added to section 526.203, Florida Statutes, to read:

526.203 Renewable fuel standard.—

(5) SALE OF UNBLENDED FUELS.—This section does not prohibit the sale of unblended fuels for the uses exempted under subsection (3).

Section 34. The installation of fuel tank upgrades to secondary containment systems shall be completed by the deadlines specified in rule 62-761.510, Florida Administrative Code, Table UST. However, notwithstanding any agreements to the

contrary, any fuel service station that changed ownership interest through a bona fide sale of the property between January 1, 2009, and December 31, 2009, is not required to complete the upgrades described in rule 62-761.510, Florida Administrative Code, Table UST, until December 31, 2012.

Section 35. This act shall take effect July 1, 2011.