Tab 1	**SB 912** by **McClain;** Similar to H 01067 Battery Collection and Recovery					
448936	A	S	LRCS	EN, McClain	Delete L.98 - 622:	02/03 05:24 PM

Tab 4	**SB 1510** by **Massullo;** Identical to H 01417 Department of Environmental Protection					
732092	A	S	LRCS	EN, Massullo	Delete L.309 - 1728:	02/03 05:24 PM

Tab 5	**SPB 7034** by **EN;** Ratification of Rules of the Department of Environmental Protection					

Tab 3	**SB 1422** by **Garcia (CO-INTRODUCERS) Jones;** Identical to H 01319 Surface Waters					
316018	D	S	RCS	EN, Garcia	Delete everything after	02/03 05:24 PM

Tab 2	**SB 1196** by **Sharief;** Identical to H 01089 Waste Facilities					
370166	A	S	RCS	EN, Sharief	Delete L.32 - 155:	02/03 05:24 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

ENVIRONMENT AND NATURAL RESOURCES
Senator Rodriguez, Chair
Senator Mayfield, Vice Chair

MEETING DATE: Tuesday, February 3, 2026
TIME: 3:30—5:30 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Building

MEMBERS: Senator Rodriguez, Chair; Senator Mayfield, Vice Chair; Senators Arrington, Avila, DiCeglie, Harrell, Polsky, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 912** McClain (Similar H 1067)	Battery Collection and Recovery; Creating the "Safe Battery Collection and Recovery Act"; requiring a producer or retailer to fulfill certain requirements, beginning on a specified date, before selling, offering for sale, or distributing for sale in this state any covered battery or battery-containing product; requiring a BSO operating in this state to submit a battery stewardship plan to the Department of Environmental Protection annually for review and approval; requiring a BSO implementing an approved battery stewardship plan to satisfy certain requirements; requiring a BSO to submit a report to the department annually beginning on a specified date, etc. EN 02/03/2026 Fav/CS AEG FP	Fav/CS Yeas 6 Nays 0
2	**SB 1196** Sharief (Identical H 1089)	Waste Facilities; Prohibiting a local government or the Department of Environmental Protection, respectively, from issuing a construction permit for certain solid waste disposal and waste-to-energy facilities under certain circumstances, etc. EN 02/03/2026 Fav/CS CA RC	Fav/CS Yeas 5 Nays 1
3	**SB 1422** Garcia (Identical H 1319)	Surface Waters; Requiring the Department of Environmental Protection to incorporate habitat equivalency analysis in the uniform mitigation assessment method; requiring that permits for dredging and filling include certain requirements; requiring permitted entities to bear the full cost and responsibility for any damage or destruction caused by dredging, filling, or related activities, etc. EN 02/03/2026 Fav/CS AEG RC	Fav/CS Yeas 8 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 1510** Massullo (Identical H 1417)	Department of Environmental Protection; Deleting provisions creating the Environmental Regulation Commission; requiring that residential properties of a specified size located in a certain area connect to a central sewer system or upgrade to a specified type of nutrient-reducing wastewater treatment system; providing that remediation plans for certain properties may not prohibit or require certain actions relating to onsite sewage treatment and disposal systems; providing for a type 2 transfer of powers and functions of the Florida Communities Trust from the department to the Acquisition and Restoration Council; revising legislative findings and intent for the Florida Communities Trust, etc. EN 02/03/2026 Fav/CS AEG FP	Fav/CS Yeas 7 Nays 0
	Consideration of proposed bill:		
5	**SPB 7034**	Ratification of Rules of the Department of Environmental Protection; Ratifying a specified rule relating to the Lower Santa Fe and Ichetucknee Rivers and Priority Springs minimum flows and recovery strategy for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding the specified thresholds for likely adverse impact or increase in regulatory costs, etc.	Submitted and Reported Favorably as Committee Bill Yeas 6 Nays 1

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
	Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.		
	Atlantic States Marine Fisheries Commission		
6	Jennings, Gary (Windermere)	09/04/2028	Recommend Confirm Yeas 6 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL:	CS/SB 912
INTRODUCER:	Environment and Natural Resources and Senator McClain
SUBJECT:	Battery Collection and Recovery
DATE:	February 3, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	**Fav/CS**
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 912 creates the Safe Battery Collection and Recovery Act.

The bill repeals s. 403.7192, F.S., which governs batteries and consumer, manufacturer, and seller requirements.

By January 1, 2028, the bill requires a producer of covered batteries or battery-containing products to join a battery stewardship organization (BSO). Producers must verify to the Florida Department of Environmental Protection (DEP) that the covered batteries they sell or distribute are clearly labelled to identify the producer. Retailers may serve as a collection site and may participate in a battery stewardship plan.

The bill authorizes a BSO to bring civil actions against producers and other BSOs for violating the Safe Battery Collection and Recovery Act.

The bill requires a BSO to submit a battery stewardship plan to DEP for review and approval. It also requires a BSO to promote the implementation of the plan. It prohibits a producer, retailer, or BSO from charging a point-of-sale fee to consumers to cover the costs of implementing the plan. The bill lists the required components of the plan.

The bill provides that a producer, retailer, or BSO is not liable for any claim of a violation of antitrust laws or laws relating to fraudulent, deceptive, or unfair methods of competition or trade practices arising from conduct that complies with a battery stewardship plan.

Beginning January 1, 2029, the bill requires a producer to verify to DEP that any covered battery or battery contained in a product is properly labeled.

The bill requires a BSO to:
- Notify DEP after a producer, processor, or transporter begins or ceases participating in the BSO and after the addition or removal of a processor or transporter under the plan;
- Pay the costs of implementing a battery stewardship plan;
- Reimburse local governments for costs incurred by a local government facility or solid waste facility that collects over 200 pounds annually and is designated as a collection site;
- Collect charges from participating producers to cover the costs of implementing a battery stewardship plan;
- Provide for the collection of all covered batteries throughout the state;
- Equip collection sites with suitable collection containers;
- Ensure proper collection of medium format batteries and damaged and defective batteries;
- Provide permanent collection sites for portable batteries and medium format batteries;
- Submit an annual report to DEP beginning on June 1, 2029; and
- Hire a third-party to complete a one-time audit of any battery stewardship plan.

A BSO is not required to provide for the collection of batteries contained within a product at the time of delivery to a collection site if the battery or product is under a safety recall. A BSO may seek reimbursement from the producer of a recalled battery or product for specified costs.

The bill authorizes a person or recycler to offer or perform fee-based household battery collection services or mail-back services for covered batteries if the person or recycler meets certain requirements.

Beginning January 1, 2028, the bill requires disposal of certain covered batteries at collection sites or events, unless the battery is regulated as hazardous waste. A person may not knowingly cause or allow:
- A covered battery to mix with recyclable materials, municipal waste, or waste intended for incineration, except in specified circumstances; and
- The disposal of a covered battery in a landfill.

The bill authorizes civil penalties for violating the act. It is a third degree felony to knowingly provide a false material statement to DEP related to a battery stewardship plan.

II. Present Situation:

Batteries

Billions of single-use[1] and rechargeable batteries are bought, used, and disposed of in the U.S. every year.[2] The increasing use of small, portable electronics, power tools, and "smart" products like appliances and automobiles has created an increase in the demand for batteries.[3]

Rechargeable batteries can often be found in cellphones, cordless power tools and vacuums, portable chargers, drones, and medical devices. Lithium-ion batteries are being used in many consumer electronics, electric vehicles, and stationary energy storage.[4] Rechargeable batteries, which include lithium-ion, nickel cadmium, nickel metal hydride, and small sealed lead acid, are in high demand because they can store high amounts of energy in a smaller battery.[5]

Mid-sized rechargeable lithium-ion batteries are considered medium-format batteries.[6] These medium-format batteries are commonly found in electric, cordless lawnmowers and snowblowers, e-bikes, mobility scooters, marine motors, and portable generators.[7]

Battery Regulations

Manufacturing, Distribution, and Sales

Florida law prohibits the sale of certain types of batteries unless they conform to specified standards. For example, Florida law prohibits the sale of alkaline-manganese or zinc-carbon batteries that contain any intentionally introduced mercury and more than 0.0004 percent mercury by weight.[8] For alkaline-manganese button batteries, the mercury limitation is 25 milligrams. State law also prevents the sale of consumer button dry cell batteries that contain a mercuric oxide electrode or products that contain this type of battery. The Florida Department of Environmental Protection (DEP) may provide an exemption if there is no battery that is a reasonable substitution and that also meets the mercury limitations.[9]

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[1] Single-use batteries include alkaline and zinc-carbon batteries, button-cell or coin batteries, and lithium batteries. U.S. Environmental Protection Agency (EPA), *Used Household Batteries*, https://www.epa.gov/recycle/used-household-batteries (last visited Jan. 29, 2026).
[2] Florida Department of Environmental Protection (DEP), *Battery Recycling and Disposal*, 1 (2016), *available at* https://floridadep.gov/sites/default/files/Battery%20Recycling%20and%20Disposal-web.pdf; EPA, *Used Household Batteries*.
[3] EPA, *Used Household Batteries*.
[4] EPA, *Lithium Battery Recycling Regulatory Status and Frequently Asked Questions*, 1 (May 24, 2023), *available at* https://rcrapublic.epa.gov/files/14957.pdf; The Battery Network, *Rechargeable Batteries*, https://batterynetwork.org/battery-basics/what-to-recycle/rechargeable-batteries/ (last visited Jan. 29, 2026).
[5] *Id*.
[6] The Battery Network, *Medium Format Batteries*, https://batterynetwork.org/battery-basics/what-to-recycle/medium-format-batteries/ (last visited Jan. 29, 2026).
[7] *Id*.
[8] Section 403.7192(2), F.S.
[9] *Id*.

Florida law prohibits a cell manufacturer[10] or marketer[11] from selling any consumer or non-consumer product that is powered by a rechargeable battery, unless the battery or product meets certain criteria.[12] A rechargeable battery is any small, nonvehicular, rechargeable nickel-cadmium or sealed lead-acid battery that weighs less than 25 pounds and is not used for memory backup.[13] The manufacturer or marketer must meet the following criteria:

- For consumer products, the battery can be easily removed by the consumer, or the battery is contained in a battery pack that is separate from the product and can be easily removed.
- For non-consumer products, the battery can be removed or is contained in a battery pack that is separate from the product.
- The product or the battery, or the packaging if the product is a consumer product, is labeled with a recycling symbol and includes the term "Cd" for nickel-cadmium batteries or "Pb" for small, sealed lead batteries to indicate the chemical composition of the battery.
- The instruction manual for the product or the packaging if the product is a consumer product clearly states that the sealed lead or nickel-cadmium battery must be recycled or disposed of properly.[14]

If a consumer or non-consumer product's design would result in significant danger to public health and safety if it were to be removable, DEP may authorize the sale of the product without compliance with that requirement.[15]

Labeling, Collection, and Disposal

Battery disposal must be managed correctly to reduce environmental, safety, and health risks.[16] While some batteries can be disposed of in household trash or municipal recycling, others can cause significant environmental contamination from heavy metals and other toxic substances.[17] Batteries may contain different chemical elements, including metals like mercury, lead,

[10] "Cell" is defined as a galvanic or voltaic device weighing 25 pounds or less that consists of an enclosed or sealed container containing a positive and negative electrode in which one or both electrodes consist primarily of cadmium or lead and which container includes a gel or liquid starved electrolyte. Section 403.7192(1)(a), F.S. A "cell manufacturer" is an entity that manufactures cells in the U.S. or imports into the U.S. cells or units for which no unit management program has been put into effect by the actual manufacturer of the cell or unit. Section 403.7192(1)(b), F.S. A "unit" is a cell, a rechargeable battery, or a rechargeable product with nonremovable rechargeable batteries. Section 403.7192(1)(e), F.S. A "unit management program" is a program or system for the collection, recycling, or disposal of units put in place by a marketer in accordance with law. Section 403.7192(1)(f), F.S.

[11] A "marketer" is any person who manufactures, sells, distributes, assembles, or affixes a brand name or private label or licenses the use of a brand name on a unit or rechargeable product. This does not include someone engaged in the retail sale of a unit or rechargeable product. Section 403.7192(1)(c), F.S.

[12] Section 403.7192(4)(a), F.S.

[13] Section 403.7192(1)(d), F.S. This definition includes a battery pack that contains a rechargeable battery. *Id*.

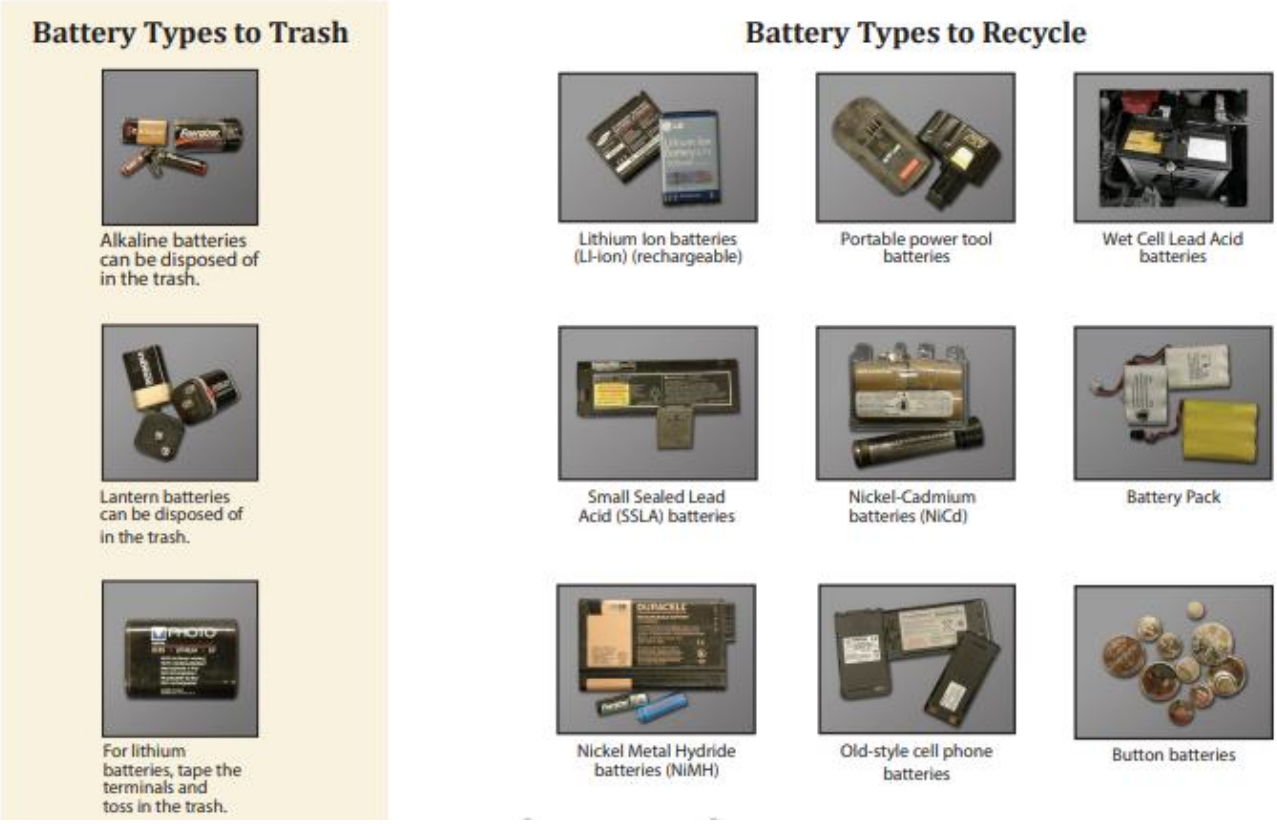
[14] Section 403.7192(4), F.S.

[15] Section 403.7192(5), F.S.

[16] EPA, *Used Household Batteries*.

[17] *Id*.; DEP, *Battery Recycling and Disposal* at 1.

cadmium, nickel, and silver, as well as critical minerals[18] like cobalt, lithium, and graphite.[19] Improperly disposed batteries, especially lithium-ion batteries, can be dangerous fire hazards.[20] Certain lithium-ion batteries on the market today are classified as hazardous waste by the U.S. Environmental Protection Agency (EPA) due to their ignitability and reactive properties.[21]



[18] The U.S. Geological Survey designates mineral commodities as "critical minerals" if the minerals have a significant role in national security, economy, renewable energy development, and infrastructure. USGS, *U.S. Geological Survey Releases 2022 List of Critical Minerals*, https://www.usgs.gov/news/national-news-release/us-geological-survey-releases-2022-list-critical-minerals (last visited Jan. 29, 2026). *See* Congressional Research Service, *Critical Mineral Resources: The U.S. Geological Survey (USGS) Role in Research and Analysis* (Feb. 21, 2025), *available at* https://crsreports.congress.gov/product/pdf/R/R48005.

[19] EPA, *Used Household Batteries*.

[20] EPA, *Lithium Battery Recycling Regulatory Status and Frequently Asked Questions* at 6; EPA, *Used Lithium-Ion Batteries*, https://www.epa.gov/recycle/used-lithium-ion-batteries#businesses (last visited March 5, 2025).

[21] EPA, *Lithium Battery Recycling Regulatory Status and Frequently Asked Questions* at 3. There is a wide variety of lithium-ion battery chemistries, which affects whether a given lithium-ion battery exhibits a hazardous waste characteristic that would place it under the purview of federal hazardous waste laws. If a lithium-ion battery has a hazardous waste characteristic, its disposal may be regulated under the federal Resource Conservation and Recovery Act (RCRA). RCRA regulates hazardous waste generators, however hazardous wastes discarded by households are generally exempt. Due to the dangers posed by lithium-ion batteries, the EPA recommends that all household lithium-ion batteries be dropped off at battery collection sites or household hazardous waste collection facilities. *Id*. at 6-7; 42 U.S.C. §6903; EPA, *Used Lithium-Ion Batteries*.

Many stores that sell batteries, phones, or electronics, as well as local hazardous waste facilities, will collect used batteries for recycling.[22] Additionally, recycling programs like the Battery Network provide education, collection, logistics, and compliance expertise.[23]

The federal Bipartisan Infrastructure Law of 2021 addressed battery recycling. It directed the EPA to develop best practices for the collection of small, medium, and large format batteries for recycling.[24] The best practices will:

- Be technically and economically feasible for state, Tribal, and local governments;
- Be environmentally sound and safe for waste management workers; and
- Optimize the value and use of material derived from recycling batteries.[25]

Also as a result of the Bipartisan Infrastructure Law of 2021, the EPA is working to compile a set of voluntary labeling guidelines for various battery chemistries and types, which will be finalized in 2026.[26] Currently, lead-acid, nickel cadmium, and lithium-ion batteries are subject to national labeling requirements.[27] Any button-cell and coin batteries and the products that contain them are also subject to warning labels for child safety.[28]

Florida law addresses the disposal of certain types of batteries, For example, it prohibits a person from knowingly placing a dry cell battery that uses a mercuric oxide electrode or a rechargeable battery (or a product containing either type of battery) in a mixed solid waste stream if the battery was purchased for use or used by a consumer or by a government, industrial, communications, or medical facility that is a conditionally exempt small quantity generator of hazardous waste.[29] Each government, industrial, commercial, communications, or medical facility must collect and segregate these types of batteries and send them back to a designated collection site.

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[22] DEP, *Battery Recycling and Disposal* at 1. Information about recycling batteries can be found through local household hazardous waste program websites, at the Battery Network, or Earth 911. DEP, *Household Hazardous Waste*, https://floridadep.gov/waste/permitting-compliance-assistance/content/household-hazardous-waste (last visited Jan. 29, 2026); The Battery Network, *Homepage*, https://batterynetwork.org/ (last visited Jan. 29, 2026); Earth911, *Recycling Search*, https://search.earth911.com/?utm_source=earth911-header (last visited Jan. 29, 2026). The graphic on this page can be found at: DEP, *Battery Recycling and Disposal* at 1.

[23] The Battery Network, https://batterynetwork.org/about-us/ (last visited Jan. 29. 2026).

[24] EPA, *Lithium Battery Recycling Regulatory Status and Frequently Asked Questions* at 8; EPA, *Battery Collection Best Practices and Battery Labeling Guidelines*, https://www.epa.gov/infrastructure/battery-collection-best-practices-and-battery-labeling-guidelines (last visited Jan. 29, 2026).

[25] EPA, *Battery Collection Best Practices and Battery Labeling Guidelines*.

[26] *Id*.; EPA, *Voluntary Battery Labeling Guidelines*, https://www.epa.gov/electronics-batteries-management/voluntary-battery-labeling-guidelines (last visited Jan. 29, 2026).

[27] EPA, *White Paper Summarizing Existing Battery Labeling Requirements and Standards*, 6 (Jan. 2025), *available at* https://www.epa.gov/system/files/documents/2025-01/battery-labeling-requirements-and-standards-white-paper.pdf. National labeling requirements have been codified by the Mercury-Containing and Rechargeable Battery Management Act of 1996, which resulted in a partnership between the EPA and the Rechargeable Battery Recycling Corporation (now Call2Recycle) to certify a label for rechargeable batteries, and Reese's Law of 2022, which provided safety labeling requirements. *Id*. at 6-7. In addition to national labeling standards, there are also voluntary battery labeling standards, including globally recognized industry standards from organizations like SAE International, Battery Council International, and the Automotive Recyclers Association. *Id*. at 11-14.

[28] *Id*. at 6.

[29] Section 403.7192(3), F.S. A conditionally exempt small quantity generator is defined as a generator that generates no more than 100 kg of hazardous waste in a month. 40 C.F.R. §261.5 (2017). This citation in statute is no longer up to date following federal rule amendments.

Florida law also provides specific requirements for manufacturers and distributors of mercuric oxide batteries and products containing those batteries, as well as marketers of rechargeable batteries and the products powered by such batteries.[30] These manufacturers and distributors must:

- Implement a unit management program through which discarded batteries or products powered by nonremovable batteries may be returned to designated collections sites. The management program must be accessible for consumers and local governments collecting batteries or products from consumers, for returning discarded batteries or products. Additionally, cell manufacturers must accept rechargeable batteries of the same general type, including differing brands; the acceptance rate need not exceed the annual rate at which their batteries are sold in Florida. Cell manufacturers have the sole responsibility for reclamation and disposal of the rechargeable batteries that are returned to them.
- Clearly inform each purchaser that these batteries and products powered by nonremovable batteries may not be disposed in the solid waste stream. Manufacturers and distributors must include information about the system available to purchasers for the proper collection, transportation, recycling, or disposal of these batteries.
- Accept waste batteries or products containing these batteries returned to their designated collection sites as allowed by federal, state, and local laws and regulations.
- Ensure that the type of electrode used in each battery is clearly identifiable.[31]

Florida law requires organizations representing manufacturers to give DEP a list of organization members for whom the association is conducting the unit management program.[32]

Antitrust Laws

There are three main federal antitrust laws: the Sherman Act (1890), the Federal Trade Commission Act (1914), and the Clayton Act (1914).[33] These laws protect competition for the benefit of consumers and ensure there are strong incentives for businesses to operate efficiently, keep prices down, and keep quality up.

The Sherman Act outlaws every contract, combination, or conspiracy in restraint of trade, as well as any monopolization, attempted monopolization, or conspiracy or combination to monopolize.[34] The Federal Trade Commission Act created the Federal Trade Commission and prohibits unfair methods of competition and unfair or deceptive acts or practices.[35] All violations of the Sherman Act also violate the Federal Trade Commission Act, which allows the Federal Trade Commission to bring cases under the Federal Trade Commission Act against the same types of activities that violate the Sherman Act.[36] The Clayton Act addresses specific practices

[30] Section 403.7192(6), F.S. Manufacturers and distributors of rechargeable batteries that are solely used for memory are exempt from these requirements. These requirements apply to manufacturers and distributors whose batteries and products are sold and distributed in Florida and subject to certain disposal requirements. S*ee* section 403.7192(3), F.S.
[31] Section 403.7192(6), F.S.
[32] Section 403.7192(7), F.S.
[33] Federal Trade Commission, *The Antitrust Laws*, https://www.ftc.gov/advice-guidance/competition-guidance/guide-antitrust-laws/antitrust-laws (last visited Jan. 29, 2026).
[34] *Id*
[35] *Id*.; 15 U.S.C. §§ 41-58.
[36] Federal Trade Commission, *The Antitrust Laws*.

that the Sherman Act does not clearly prohibit, such as mergers and interlocking directorates.[37] It also bans mergers and acquisitions where the effect may substantially lessen competition or create a monopoly.[38]

Florida Antitrust Laws

Florida law also provides protections against anticompetitive practices. The Florida Antitrust Act of 1980 intended to complement the body of federal law prohibiting restraints of trade or commerce in order to foster effective competition.[39] It outlaws every contract, combination, or conspiracy in restraint of trade or commerce in Florida[40] and any person from monopolizing or attempting or conspiring to monopolize any part of trade.[41]

Generally, a contract in restraint of trade or commerce in Florida is unlawful.[42] However, any activity or conduct exempt under Florida statutory or common law, or exempt from federal antitrust laws, is exempt under the Florida Antitrust Act.

The Florida Antitrust Act specifically does not prohibit non-competition restrictive covenants[43] contained in employment agreements that are reasonable in time, area, and line of business.[44] In any action concerning enforcement of a restrictive covenant, a court may not enforce a restrictive covenant unless it is set forth in a writing signed by the person against whom enforcement is sought, and the person seeking enforcement of a restrictive covenant must prove the existence of one or more legitimate business interests justifying the restrictive covenant.[45] The term "legitimate business interest" includes, but is not limited to:

- Trade secrets;[46]
- Valuable confidential business or professional information that does not otherwise qualify as trade secrets;
- Substantial relationships with specific prospective or existing customers, patients, or clients;
- Customer, patient, or client goodwill associated with:
  - An ongoing business or professional practice, by way of trade name, trademark, service mark, or "trade dress;"
  - A specific geographic location; or
  - A specific marketing or trade area; or
- Extraordinary or specialized training.[47]

[37] "Interlocking directorates" means the same person making business decisions for competing companies. *Id*.
[38] *Id*.
[39] Section 542.16, F.S.
[40] Section 542.18, F.S.
[41] Section 542.19, F.S.
[42] Section 542.18, F.S.
[43] Section 542.335, F.S. employs the term "restrictive covenants" and includes all contractual restrictions such as noncompetition/non-solicitation agreements, confidentiality agreements, exclusive dealing agreements, and all other contractual restraints of trade. *See Henao v. Prof'l Shoe Repair, Inc.,* 929 So.2d 723, 726 (Fla. 5th DCA 2006).
[44] Section 542.335(1), F.S.
[45] *Id*.
[46] Section 688.002(4), F.S., defines a "trade secret" as information, including a formula, pattern, compilation, program, device, method, technique, or process that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
[47] Section 542.335(1)(b), F.S.

Any restrictive covenant not supported by a legitimate business interest is unlawful and is void and unenforceable.[48] A person seeking enforcement of a restrictive covenant must prove that the contractually specified restraint is reasonably necessary to protect the legitimate business interest or interests justifying the restriction.[49]

III. Effect of Proposed Changes:

Section 1 creates s. 403.71871, F.S., which titles the sections created by this bill the "Safe Battery Collection and Recovery Act."

Section 2 creates s. 403.71872, F.S., to define terms used in the Safe Battery Collection and Recovery Act.

The bill defines a "Battery-containing product" as a product that contains or is packaged with a covered battery. The definition excludes computers, small-scale servers, computer monitors, printers, fax machines, scanners, televisions, digital video disc players and recorders, video cassette recorders, digital converter boxes, cable receivers, satellite receivers, portable digital music players, or video game consoles.

"Battery stewardship organization" (BSO) means a third-party entity designated by one or more producers to implement an approved battery stewardship plan, or a group of producers which directly implement an approved battery stewardship plan.

"Covered battery" means a portable battery or a medium format battery. The definition excludes the following:

- A battery contained in a medical device[50] that is not designed or marketed for sale or resale at retail locations for personal use;
- A battery that uses free-flowing liquid electrolyte or a product that contains such a battery;
- A battery designed to power a motor vehicle or off-highway vehicle,[51] part of a motor vehicle or off-highway vehicle, or a component part of a motor vehicle or off-highway vehicle assembled by or for a vehicle manufacturer or a franchised dealer, including replacement parts;
- A battery in a product not intended or designed to be easily removable from the product;
- A battery or battery-containing product recalled for safety reasons;
- A battery or battery-containing product that is offered for resale by a business that offers products for resale to other businesses or to consumers;

[48] *Id*.
[49] Section 542.335(1)(c), F.S.
[50] Specifically, a medical device as described in 21 U.S.C. §321(h), which defines "device" as an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is: recognized in the official National Formulary, or the U.S. Pharmacopeia, or any supplement to them; intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals; or intended to affect the structure or any function of the body of man or other animals, and which does not achieve its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent on being metabolized for the achievement of its primary intended purposes. The term does not include software functions.
[51] An off-highway vehicle is defined as any ATV, two-rider ATV, ROV, or OHM that is used off the roads or highways of this state and that is not registered and licensed for highway use. Section 261.03(5), F.S.

- Batteries or battery materials that are imported into Florida after collection and are sold to or managed by collectors, logistics companies, or recyclers for end-of-life management; and
- Lead-acid batteries or battery components that weigh 11 pounds or more.

"Medium format battery" means any of the following:
- A non-rechargeable battery that weighs between 4.4 and 25 pounds or
- A rechargeable battery that weighs more than 11 pounds or that has a rating of more than 300 watt-hours, or that weighs between 11 and 25 pounds or that has a rating between 300 and 2,000 watt-hours.

"Portable battery" means any of the following:
- A non-rechargeable battery that weighs 4.4 pounds or less or
- A rechargeable battery that weighs 11 pounds or less and has a rating or no more than 300 watt-hours.

"Producer" means a person responsible for compliance requirements for a covered battery or battery-containing product sold, offered for sale, or distributed in Florida and who is:
- For covered batteries:
  - The manufacturer of the battery if the battery is sold under a brand of the battery manufacturer;
  - The brand owner if the battery is sold under a retail brand or under a brand owned by a person other than the manufacturer;
  - If there is no person to whom the above criteria apply, the person who is the licensee of a brand or trademark under which the battery is used in a commercial enterprise, sold, offered for sale, or distributed in or into Florida, regardless of where the trademark is registered;
  - If there is no person to whom the above criteria apply, the importer of record for importing the battery into the U.S. for use in a commercial enterprise that sells, offers for sale, or distributes the battery in Florida; or
  - If there is no person to whom the above criteria apply or no person with a commercial presence in Florida, the person who first sells, offers for sale, or distributes the battery in or into this state.
- For covered battery-containing products:
  - The manufacturer of the product if the product is sold under the brand of the product manufacturer;
  - The brand owner if the product is sold under a retail brand or under a brand owned by a person other than the manufacturer;
  - If there is no person to whom the above criteria apply, the licensee of a brand or trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in or into Florida, regardless of where the trademark is registered;
  - If there is no person to whom the above criteria apply within the U.S., the importer of record for the product into the U.S. for use in a commercial enterprise that sells, offers for sale, or distributes the product in Florida; or
  - If there is no person to whom the above criteria apply with a commercial presence in Florida, the person who first sells, offers for sale, or distributes the product in or into this state.

The term "producer" does not include a person who only sells, offers for sale, distributes, or imports into Florida a battery-containing product if the only batteries used in the product are supplied by a producer that has joined a registered BSO as the producer for that covered battery. The producer must provide writer certification of that BSO membership to both the producer of the covered battery-containing product and the BSO of which the producer is a member.

"Rechargeable battery" means a battery that contains one or more voltaic or galvanic cells electrically connected to produce electric energy and that is designed to be recharged.

"Recovery" means collecting, accumulating, and transporting quantities of covered batteries or battery-containing products for the purpose of end-of-life management.

"Recycling" means the reprocessing, by means of a manufacturing process, of a used material into a product or a secondary raw material. This term does not include the following:
- Energy recovery or energy generation by means of combustion of the used material;
- Use of the used material as a fuel or as alternative daily cover;[52] or
- Landfill disposal of discarded covered materials.

"Retailer" means a person or an entity that sells or offers for sale a covered battery in Florida or offers or otherwise makes available covered batteries or battery-containing products to a customer, including other businesses, in Florida.

Section 3 creates s. 403.71873, F.S., to require a producer of covered batteries or battery-containing products, beginning January 1, 2028, to do all of the following before selling, offering for sale, or distributing for sale any covered battery or battery-containing product in Florida:
- Be a member of a BSO operating pursuant to an approved battery stewardship plan. This requirement does not apply to a retailer if the Florida Department of Environmental Protection's (DEP's) website lists, as of the date a battery or product is made available for retail sale, the producer or brand of the battery or product in the battery stewardship plan.
- Provide verification to DEP that the covered battery or the battery in the battery-containing product has labeling or is imprinted with text that identifies the producer of the battery with a clear mark or insignia.

Retailers of covered batteries or battery-containing products are not required to make retail locations available to serve as collection sites for a stewardship program operated by a BSO. Retailers that serve as a collection site may participate in a battery stewardship plan and comply with collection site requirements.

Beginning January 1, 2029, a producer of a covered battery or the battery in the battery-containing product must list all of the following information on such batteries:
- The chemistry of the battery.
- An indicator that the battery may not be disposed of in household waste and is not eligible for curbside recycling.

[52] Daily cover describes the material placed on the surface of a landfill at the end of each operating day to prevent hazards like fires and to manage odors.

This does not apply to batteries that can fit entirely in any orientation into a small parts cylinder.[53] In this case, the mark must be placed on the packaging of the battery or battery-containing product. DEP may amend by rule these battery-size requirements to maintain consistency with the labeling requirements or voluntary standards for batteries established in federal law.

The bill prohibits a producer, retailer, or BSO from charging a point-of-sale fee to consumers to cover the costs of implementing an approved battery stewardship plan.

Section 4 creates s. 403.71874, F.S., to require any BSO operating in Florida to submit a battery stewardship plan to DEP for review and approval. Battery stewardship plans must be submitted beginning January 1, 2027.

A battery stewardship plan must include all of the following:

- The name and contact information of each producer included in the plan.
- The brand of the covered battery or batteries that the BSO's producer sells or distributes in Florida.
- Performance goals and processes for achieving those goals. Performance goals must include, but are not limited to, an education and outreach strategy to enhance consumer awareness of the battery stewardship plan and of the convenience and accessibility of end-of-life management options for covered batteries or batteries in battery-containing products collected pursuant to the plan.
- Processes for providing notice to retailers that retailers, producers, or BSOs may not charge a point-of-sale fee to consumers to cover the costs of implementing a battery stewardship plan.
- Processes for providing collection sites with signage, written materials, and other promotional materials to inform consumers of the available end-of-life management options for covered batteries.
- Collection site safety training procedures that but include, but are not limited to, the following:
  - Operating protocols to reduce risks of spills or fires and response protocols for such events and
  - Protocols for the safe management of damaged or defective batteries.
- A detailed budget that equitably distributes plan implementation costs among BSO members.
- Procedures and guidelines for covered battery collection that will ensure covered battery collection will occur at no cost to consumers on a continuous, convenient, visible, and accessible basis, regardless of the brand or producer of the covered battery.
- Procedures and guidelines to govern battery collection and management.
- Criteria for the designation of an entity as a covered battery collection site and the addresses of such designated covered battery collection sites.
- The names of proposed service provides, including sorters, transporters, and processors, to be used for the final disposition of batteries.
- Procedures and guidelines to govern how a BSO will coordinate with material recovery facilities and secondary processors to properly process and transport for end-of-life

[53] *See* 16 C.F.R. s. 1501.4 (method for identifying toys and other articles intended for use by children under 3 years of age which present choking, aspiration, or ingestion hazards because of small parts: size requirements and test procedure) for a description of the small parts cylinder.

management of any covered batteries improperly sent to such facilities through the waste or recycling streams.
- Procedures for recordkeeping, tracking, and documenting the management and disposition of collected covered batteries, including any delay anticipated by a BSO in managing medium format batteries.

An approved battery stewardship plan is valid for five years. Following approval of its plan, a BSO must:
- Submit a new battery stewardship plan to DEP for approval one years before the expiration of the existing approved plan. The new plan must include corrective measures that the BSO must implement if the performance goals in the last plan are not met. Corrective measures may include improvements to the collection site network or increased expenditures dedicated to education and outreach.
- Submit battery stewardship plan amendments to DEP for approval.
- Notify DEP within 90 days after a producer, processor, or transporter begins or ceases participation in the BSO, or within 90 days after the addition or removal of a processor or transporter under the battery stewardship plan.

DEP must approve, conditionally approve, or deny a battery stewardship plan or plan amendment within 120 day after receiving the plan or amendment. If DEP denies a proposed plan or amendment, it must notify the BSO in writing and describe why the plan or amendment does not comply with statutory requirements. Within 60 days of the denial the BSO must submit a revised plan or amendment or notice that it is withdrawing the plan or amendment.

After resubmission, DEP has 90 days to approve or deny the revised plan or amendment. A denial of the revised plan or amendment may be appealed to DEP in accordance with law.

Section 5 creates s. 403.71875, F.S., to require a BSO to:
- Be responsible for all costs associated with implementing a battery stewardship plan;
- Reimburse local governments for demonstrable costs incurred by local government and solid waste or recyclables facilities that individually collect over 200 pounds annually and that are designated collection sites; and
- Collect charges from participating producers sufficient to cover the costs of implementing a battery stewardship plan, including battery collection, transportation, processing, education and outreach, and program evaluation.

Section 6 creates s. 403.71876, F.S., to provide collection and management requirements for BSOs that are implementing an approved battery stewardship plan. A BSO must:
- Provide for the collection of all covered batteries, statewide, from any person, regardless of the chemistry or brand of the battery, and on a free, continuous, convenient, and accessible basis.
- Equip collection sites with suitable collection containers for covered batteries that are separated from other solid waste, or provide alternative arrangements for the collection of such batteries at the site. This must be done at no cost to the sites.

- Ensure that medium format batteries are collected only at household hazardous waste collection sites or other staffed collection site that meet applicable federal, state, and local requirements for managing medium format batteries.
- Provide for the collection of damaged and defective batteries (by persons trained to handle and ship such batteries) at collection sites and at each permanent household hazardous waste facility and each household hazardous waste collection event provided by DEP. "Damaged and defective batteries" are batteries that have been damaged or identified by the manufacturer as being defective for safety reasons and that have the potential to produce a dangerous evolution of heat, fire, or short circuit.[54]
- Coordinate the delivery of services with existing public and private waste collection services and facilities; transporters; consolidators; processors; electronic waste recyclers; other BSOs; retailers if cost-effective, mutually agreeable, and otherwise practical; or other related entities to provide efficient and cost effective delivery of services.
- For portable batteries, provide (within three years of the approval of a battery stewardship plan) at least one permanent collection site within a 15-mile radius for at least 95 percent of state residents and at least one permanent collection site, service or event for every 30,000 residents of a county.
- For medium format batteries, provide (within three years of the approval of a battery stewardship plan) at least 10 permanent collection sites reasonably dispersed throughout Florida, a collection event at least once every three years in each county without a permanent collection site that provides for the collection of all medium format batteries, and any entity that may be used as a collection site or that will authorize a collection event on its property.

A BSO that is implementing an approved battery stewardship plan may issue a warning for the suspension or termination of a collection site or service that is out of compliance with the approved plan or that poses an immediate public health and safety threat.

Additionally, A BSO is not required to provide for the collection of batteries, battery-containing products, or covered batteries that remain contained in a battery-containing product at the time of delivery to a collection site or event, if such batteries or products are under a safety recall.

A BSO may seek reimbursement from the producer of a battery or battery-containing product that is under safety recall for the costs incurred in collecting, transporting, or processing such batteries or products.

Section 7 creates s. 403.71877, F.S., to require a BSO that is implementing an approved battery stewardship plan to do all of the following to promote the implementation of the plan:
- Develop and maintain a website.
- Develop and place advertisements on social media or other relevant media platforms.
- Develop promotional materials about the battery stewardship plan and the restrictions on disposing of covered batteries.
- Develop and distribute to collection sites training procedures to help ensure proper management of covered batteries.

[54] As referred to in 49 C.F.R. s. 173.185(f) or as provided by the state by rule to maintain consistency with federal standards.

- Provide to each collection site consumer-focused educational materials that are accessible by customers of retailers that sell covered batteries or battery-containing products.
- Provide safety information related to covered battery collection activities to the operator of each collection site, including appropriate protocols to reduce risks of spills or fires, respond to a spill or fire, and manage a damaged or defective battery.
- Provide educational materials to the operator of each collection site for the management of recalled batteries.
- Provide educational materials describing collection opportunities for covered batteries upon request by a retailer or other potential collection site.
- Coordinate with other BSOs implementing a battery stewardship plan to provide education and outreach.
- Conduct a survey of public awareness of the outreach efforts undertaken. The survey must be conducted during the first year of implementing the battery stewardship plan and once every five years thereafter. The BSO must make the survey results available to DEP.

Section 8 creates s. 403.71878, F.S., which requires a BSO that is implementing an approved battery stewardship plan to submit an annual report to DEP beginning on June 1, 2029. The report must include the following:

- A summary financial statement documenting the financing of the battery stewardship plan and an analysis of the plan's expenses, like collection, transportation, management, education, and administrative overhead. The summary financial statement must provide transparency regarding funds collected from producers spent on plan implementation, in addition to other necessary financial accounting information.
- The weight, by chemistry, of collected covered batteries.
- A list of all facilities used in the processing or disposition of covered batteries.
- For each facility used for the final disposition of covered batteries, an overview of how the facility processed or otherwise managed batteries and battery components.
- The weight and chemistry of covered batteries sent to each facility used for the final disposition of batteries. This information may be approximated based on extrapolations of national or regional data for programs in operation in multiple states.
- The estimated aggregate sales (by weight and chemistry) of covered batteries, including those contained in or packaged with battery-containing products, sold in Florida by the BSO's participating producers for each of the previous three calendar years.
- A summary describing the management and recycling of collected batteries.
- A description of education and outreach efforts supporting plan implementation, including:
  - A summary of education and outreach provided to consumers, collection sites, manufacturers, distributors, and retailers to promote the collection and recycling of covered batteries and an analysis of how such education and outreach meet requirements in the Safe Battery Collection and Recovery Act;
  - Samples of education and outreach materials;
  - A summary of coordinated education and outreach efforts with any other BSOs that are implementing a battery stewardship plan;
  - A summary of any changes made during the previous calendar year to education and outreach activities; and
  - An evaluation of the effectiveness of education and outreach activities.

- A list of all collection sites used to implement the battery stewardship plan that includes for each site an address, a website link, if available, and an updated map of each site's location.
- A description of methods used to collect, transport, and recycle covered batteries.
- An analysis of the performance goals and if the goals were not met, an explanation why they were not met.

After four years of implementation of an approved battery stewardship plan, a BSO or a producer member of a BSO must hire an independent third party to conduct a one-time audit of the battery stewardship plan and the plan's operation.

The auditor must examine the effectiveness of the battery stewardship plan in collecting and managing covered batteries, as well as the plan's cost-effectiveness. The auditor must compare the cost-effectiveness of the plan to the cost-effectiveness of the collection plans and programs for covered batteries in other jurisdictions.

The BSO must submit a copy of the audit to DEP.

Section 9 creates s. 403.71879, F.S., to require DEP to include the following on its website:
- A copy of all approved battery stewardship plans and any amendments to the plans,
- The names of producer members that are covered under an approved battery stewardship plan,
- A list of brands of covered batteries that are covered under an approved battery stewardship plan, and
- A copy of each annual report submitted by a BSO to DEP.

Section 10 creates s. 403.71881, F.S., to provide that a producer, retailer, or BSO is not liable for any claim of a violation of antitrust laws or laws relating to fraudulent, deceptive, or unfair methods of competition or trade practices arising from conduct that complies with an approved battery stewardship plan.

Section 11 creates s. 403.71882, F.S., to authorize a person or recycler to offer or perform fee-based household battery collection services or mail-back services for covered batteries in Florida independently of a BSO if:
- The services are performed and facilities are opened in compliance with all appliable federal, state, and local laws and requirements;
- The person or recycler accepts all covered batteries; and
- All batteries collected from customers in Florida are provided to a BSO that is implementing an approved battery stewardship plan. After providing collected batteries to a BSO, any transport and processing must be done at the BSO's expense. A BSO may refuse to accept batteries from any such person or recycler if DEP is notified of the reason for such refusal.

The person or recycler described above may recycle covered batteries if the person or recycler provides annual collection data and recycling data to DEP that includes:
- The weight (by chemistry) of covered batteries collected;
- A description of how each facility recycled or otherwise managed batteries and battery components for the final disposition of covered batteries; and

The person or recycler described above may not receive compensation from a BSO for any batteries collected, transported, or recycled, unless otherwise agreed.

Section 12 creates s. 403.71883, F.S., to provide that, beginning January 1, 2028, all of the following will apply:

- A person may dispose of a covered battery only by delivery to a collection site or event operated under an approved battery stewardship plan or by an independent collector, unless the battery is regulated as hazardous waste.
- A person may not knowingly cause or allow a covered battery to mix with recyclable materials intended for processing and sorting at a material recovery facility or with waste intended for burning or incineration without documenting the contents in the shipment manifest and the approval of the receiving and transporting parties.
- A person may not knowingly cause or allow a covered battery to mix with municipal waste intended for landfill disposal.
- A person may not knowingly cause or allow the disposal of a covered battery in a landfill.

A solid waste collector is not in violation of this act for a covered battery placed in a disposal container by a person.

A BSO may not refuse to accept covered batteries inadvertently received by a recycling or solid waste facility if the batteries are properly packaged, unless the BSO notifies DEP.

Section 13 creates s. 403.71884, F.S., which provides the following penalties:

- A person who violates the Safe Battery Collection and Recovery Act is subject to a civil penalty of $1,000 for each violation.
- A person who knowingly makes a false material statement to DEP related to a battery stewardship plan commits a third-degree felony punishable by a fine of up to $5,000 in addition to or in lieu of up to 5 years of imprisonment, or if the offender is a habitual felony offender, up to 10 years of imprisonment.
- In addition to any other penalty, the attorney general or a county attorney of the county where the violation occurs may bring an action to enjoin any person from violating the Safe Battery Collection and Recovery Act.

The bill authorizes a BSO that implements an approved battery stewardship plan to bring civil actions for the following reasons:

- To recover costs and damages from a producer who sells (or otherwise makes available in Florida) covered batteries or battery-containing products that are not included under an approved plan. This action may be brought against one or more defendants, as well as defendant producers if the BSO incurs costs in Florida of over $1,000 to collect, transport, and recycle or otherwise dispose of the covered batteries or battery-containing products of a non-participating producer. These costs may include legal fees and expenses and reasonable incremental administrative and program promotional costs.
- To recover costs associated with handling a recalled battery from the producer of the recalled battery. These costs include legal fees and expenses.

- To recover costs imposed on the BSO that are incurred because another BSO underperforms on its battery collection obligations by failing to collect and provide for the end-of-life management of batteries. These costs include legal fees and expenses.

Section 14 repeals s. 403.7192, F.S., concerning batteries and consumer, manufacturer, and seller requirements.[55] The repealed section includes the following:
- Definitions for cell, cell manufacturer, marketer, rechargeable battery, unit, and unit management program;
- Mercury level requirements for alkaline-manganese and zinc-carbon batteries;
- Disposal requirements for dry cell batteries that use mercuric oxide electrodes and rechargeable batteries in certain circumstances;
- Requirements for cell manufacturers and marketers of products powered by rechargeable batteries;
- Requirements for manufacturers and distributors of mercuric oxide batteries and products that contain them;
- Penalties for violations of the section; and
- A provision concerning recovery by the state of reasonable administrative expenses, court costs, and attorney's fees incurred in taking an enforcement action.

Section 15 provides an effective date of July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The Supremacy Clause in the U.S. Constitution establishes that the federal constitution, and federal law generally, take precedence over state laws and constitutions.[56] The Supremacy Clause prohibits states from interfering with the federal government's

[55] See pages 4 and 6-7 of this analysis for detailed descriptions of the provisions that are repealed by the bill.
[56] U.S. CONST. art. VI, cl. 2.

exercise of its constitutional powers and from assuming any functions that are exclusively entrusted to the federal government.[57]

Because of the Supremacy Clause, section 10 of the bill does not prohibit producers, retailers, or battery stewardship organizations from being liable under federal antitrust laws or laws relating to fraudulent, deceptive, or unfair methods of competition or trade practices.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may cause an indeterminate negative fiscal impact to producers of covered batteries or battery-containing products, who will be required to pay for the implementation of battery stewardship plans.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 403.71871, 403.71872, 403.71873, 403.71874, 403.71875, 403.71876, 403.71877, 403.71878, 403.71879, 403.71881, 403.71882, 403.71883, and 403.71884.

This bill repeals section 403.7192 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

[57] *E.g., Wisconsin Public Intervenor v. Mortier*, 501 U.S. 597, 604 (1991).

CS by Environment and Natural Resources Committee on January 3, 2026:

- Removes electronic keyboards and mice from the list of exceptions to items that are considered "battery-containing products."
- Defines a battery stewardship organization (BSO) as a third party entity designated by producers to implement a battery stewardship plan or a group of producers which directly implement a battery stewardship plan.
- Includes in the definition of "covered battery" a battery designed to power an off-highway vehicle, part of an off-highway vehicle, or a component of an off-highway vehicle assembled by or for a vehicle manufacturer or franchised dealer, including replacement parts; batteries or battery materials that are imported into Florida after collection and sold to or managed by collectors, logistics companies, or recyclers for end-of-life management; and lead-acid batteries or battery components that weigh 11 pounds or more.
- Removes the definitions of "lithium-ion battery" and "recycling efficiency rate."
- Reorganizes the definition of "producer" to make it clearer and revises the exemption in the underlying bill to provide that a producer does not include a person who only manufactures, sells, offers for sale, distributes, or imports into Florida a battery-containing product if the only batteries used in the product are supplied by a producer that has joined a registered BSO as the producer for that covered battery.
- Redefines "recycling" as the reprocessing, by means of a manufacturing process, of a used material into a product or a secondary raw material. The amendment removes the following from the list of acts that are not recycling: energy recovery or energy generation by means of gasification, pyrolysis, or other means and the reuse, repair, or any other process through which batteries are returned to their original form. The amendment adds the following to the list: the use of the used material as fuel and the use of the used material as alternative daily cover for landfills.
- Deletes provisions requiring retailers to join a BSO or to verify that the batteries they sell comply with labeling requirements.
- Provides that retailers are not required to make retail locations available to serve as collection sites for a stewardship program.
- Authorizes a retailer that serves as a collection site may participate in a battery stewardship plan and comply with collection site requirements.
- Requires covered batteries or a battery in a battery-containing product to indicate that the battery is not eligible for curbside recycling.
- Requires labels on packaging for batteries under a certain size.
- Authorizes the Florida Department of Environmental Protection (DEP) to amend the labeling requirements by the rule to maintain consistency with federal labeling requirements or voluntary labeling standards.
- Provides that a battery stewardship plan must be submitted to DEP one year before the expiration of the existing plan.
- Removes language requiring performance goals in a battery stewardship plan to include a strategy for optimal recycling efficiency rates for rechargeable and non-rechargeable batteries.
- Requires a BSO to reimburse local governments for local government and solid waste or recyclables handling facilities that individual collect over 200 pounds annually.

- Removes the following criteria from required inclusion in a BSO's financial statement:
  - The weight of materials recycled from collected covered batteries,
  - A calculation of the recycling efficiency rate,
  - A summary of any violations at each facility,
  - An analysis of best available technologies and the recycling efficiency rate, and
  - The steps that a BSO will take to make recycling covered batteries cost-effective or otherwise increase battery recycling efficiency rates.
- Requires a person and recycling collecting batteries independently of a BSO to accept all covered batteries.
- Removes the following data from required inclusion in a BSO's annual data report:
  - The weight of materials recycled from covered batteries collected,
  - A calculation of the recycling efficiency rate,
  - A list of all facilities used in the processing or disposition of covered batteries,
  - A summary of any violations at each facility, and
  - The weight and chemistry of covered batteries sent to each facility.
- Authorizes a person or recycler to receive compensation from a BSO.
- Allows a person to knowingly cause or allow the mixing of a covered battery with recyclable materials intended for processing and sorting at a material recovery facility or with waste intended for burning or incineration if they document the contents in the shipment manifest, the approval of the receiving party, and the approval of the transporting party.
- Makes technical and conforming changes.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/03/2026	.	
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	.	

The Committee on Environment and Natural Resources (McClain) recommended the following:

Senate Amendment (with title amendment)

Delete lines 98 - 622

and insert:

printers, fax machines, scanners, televisions, digital video disc players and recorders, video cassette recorders, digital converter boxes, cable receivers, satellite receivers, portable digital music players, or video game consoles.

(2) "Battery stewardship organization" or "BSO" means:

(a) A third-party entity designated by one or more

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producers to implement an approved battery stewardship plan; or

(b) A group of producers which directly implement an approved battery stewardship plan.

(3) "Covered battery" means a portable battery or a medium format battery. The term does not include any of the following:

(a) A battery contained in a medical device as defined in 21 U.S.C. s. 321(h) which is not designed or marketed for sale or resale at retail locations for personal use.

(b) A battery that uses free-flowing liquid electrolyte or a product that contains such a battery.

(c) A battery designed to power a motor vehicle, part of a motor vehicle, or a component part of a motor vehicle assembled by or for a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

(d) A battery designed to power an off-highway vehicle as defined in s. 261.03(5), part of an off-highway vehicle, or a component of an off-highway vehicle assembled by or for a vehicle manufacturer or franchised dealer, including replacement parts for use in an off-highway vehicle.

(e) A battery used in a product which is not intended or designed to be easily removable from the product.

(f) A battery or battery-containing product recalled for safety reasons.

(g) A battery or battery-containing product offered for resale by a business that, as part of its operations, offers products for resale to other businesses or to consumers.

(h) Batteries or battery materials that are imported into this state after collection and are sold to or managed by collectors, logistics companies, or recyclers for the purpose of

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end-of-life management.

(i) Lead-acid batteries or battery components that weigh 11 pounds or more.

(4) "Medium format battery" means any of the following:

(a) For nonrechargeable batteries, a battery that weighs more than 4.4 pounds, but not more than 25 pounds; or

(b) For rechargeable batteries, a battery that weighs more than 11 pounds or that has a rating of more than 300 watt-hours, or both, but weighs not more than 25 pounds or has a rating of less than 2,000 watt-hours.

(5) "Portable battery" means any of the following:

(a) For nonrechargeable batteries, a battery that weighs 4.4 pounds or less; or

(b) For rechargeable batteries, a battery that weighs 11 pounds or less and has a rating of not more than 300 watt-hours.

(6)(a) "Producer" means the following person or persons responsible for compliance with requirements under this chapter for a covered battery or battery-containing product sold, offered for sale, or distributed in or into this state:

1. For covered batteries:

a. If the battery is sold under the brand of the battery manufacturer, the producer is the person who manufactures the battery;

b. If the battery is sold under a retail brand or under a brand owned by a person other than the manufacturer, the producer is the brand owner;

c. If there is no person to whom sub-subparagraph a. or sub-subparagraph b. applies, the producer is the person who is the licensee of a brand or trademark under which the battery is

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used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, regardless of whether the trademark is registered in this state;

d. If there is no person to whom sub-subparagraph a., sub-subparagraph b., or sub-subparagraph c. applies, the producer is the person who is the importer of record for importing the battery into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the battery in this state; or

e. If there is no person to whom sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d. applies or no person with a commercial presence in this state, the producer is the person who first sells, offers for sale, or distributes the battery in or into this state.

2. For covered battery-containing products:

a. If the battery-containing product is sold under the brand of the product manufacturer, the producer is the person who manufactures the product;

b. If the battery-containing product is sold under a retail brand or under a brand owned by a person other than the manufacturer, the producer is the brand owner;

c. If there is no person to whom sub-subparagraph a. or sub-subparagraph b. applies, the producer is the person who is the licensee of a brand or trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, regardless of whether the trademark is registered in this state;

d. If there is no person described in sub-subparagraph a., sub-subparagraph b., or sub-subparagraph c. within the United

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States, the producer is the person who is the importer of record for the product into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the product in this state; or

e. If there is no person described in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d. with a commercial presence in this state, the producer is the person who first sells, offers for sale, or distributes the product in or into this state.

(b) A producer does not include any person who only manufactures, sells, offers for sale, distributes, or imports into this state a battery-containing product if the only batteries used by the battery-containing product are supplied by a producer that has joined a registered BSO as the producer for that covered battery under this chapter. Such a producer of covered batteries that are included in a battery-containing product shall provide written certification of that membership in a registered BSO to both the producer of the covered battery-containing product and the BSO of which the battery producer is a member.

(7) "Rechargeable battery" means a battery that contains one or more voltaic or galvanic cells electrically connected to produce electric energy and that is designed to be recharged.

(8) "Recovery" means collecting, accumulating, and transporting quantities of covered batteries or battery-containing products for the purpose of end-of-life management.

(9)(a) "Recycling" means the reprocessing, by means of a manufacturing process, of a used material into a product or a secondary raw material.

(b) The term does not include:

1. Energy recovery or energy generation by means of combustion of the used material;

2. Use of the used material as a fuel;

3. Use of the used material as alternative daily cover, meaning material placed on the surface of a landfill at the end of each operating day to prevent such hazards as fires and to manage odors; or

4. Landfill disposal of discarded covered materials.

(10) "Retailer" means a person or an entity that sells or offers for sale a covered battery in this state or offers or otherwise makes available covered batteries or battery-containing products to a customer, including other businesses, in this state.

Section 3. Section 403.71873, Florida Statutes, is created to read:

403.71873 Requirements for producers or retailers of covered batteries or battery-containing products; prohibition.—

(1) REQUIREMENTS.—

(a) Beginning January 1, 2028, a producer must do all of the following before selling, offering for sale, or distributing for sale in this state any covered battery or battery-containing product:

1. Be a member of a BSO operating pursuant to a battery stewardship plan approved by the department under s. 403.71874. This subparagraph does not apply to a retailer if the website maintained by the department pursuant to s. 403.71879 lists, as of the date a battery or product is made available for retail sale, the producer or brand of the battery or product in the

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approved battery stewardship plan. Retailers of covered batteries or battery-containing products are not required to make retail locations available to serve as collection sites for a stewardship program operated by a BSO. Retailers that serve as a collection site may participate in an approved stewardship plan and comply with the requirements for collection sites, consistent with s. 403.71876.

2. Provide verification to the department that the covered battery or the battery in the battery-containing product has labeling or is imprinted with text that identifies the producer of the battery with a clear mark or insignia.

(b) Beginning January 1, 2029, a producer of a covered battery or a battery in a battery-containing product must list the following information on such batteries:

1. The chemistry of the battery.

2. An indicator that the battery may not be disposed of as household waste and is not eligible for curbside recycling.

Subparagraph (a)2. and paragraph (b) do not apply to a battery that can fit entirely, in any orientation, into the small parts cylinder described in 16 C.F.R. s. 1501.4. In this case, the mark required pursuant to subparagraph (a)2. must be placed on the packaging of the battery or battery-containing product. The department may amend by rule the requirements of this subsection to maintain consistency with the labeling requirements or voluntary standards for batteries established in federal law.

(2) PROHIBITION.—A producer, retailer, or BSO may not charge a point-of-sale fee to consumers to cover the costs of implementing a battery stewardship plan approved by the

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department under s. 403.71874.

Section 4. Section 403.71874, Florida Statutes, is created to read:

403.71874 Battery stewardship plan components.—

(1) Beginning January 1, 2027, any BSO operating in this state shall submit a battery stewardship plan, referred to hereafter as "plan," to the department for review and approval.

(2) A plan must include all of the following:

(a) The name and contact information of each producer included in the plan.

(b) The brand of the covered battery or batteries that the BSO's producer sells, offers for sale, or distributes for sale in this state. All such brands must be listed in the plan.

(c) Performance goals and processes for achieving such goals. Performance goals must include, but need not be limited to, an education and outreach strategy to enhance consumer awareness of the plan and of the convenience and accessibility of end-of-life management options for covered batteries or batteries in battery-containing products collected pursuant to the plan.

(d) Processes for providing notice to retailers of the prohibition in s. 403.71873(2).

(e) Processes for providing collection sites with signage, written materials, and other promotional materials to inform consumers of the available end-of-life management options for covered batteries collected pursuant to the plan.

(f) Collection site safety training procedures that must include, but need not be limited to, all of the following:

1. Operating protocols to reduce risks of spills or fires

and response protocols for such events.

2. Protocols for the safe management of damaged or defective batteries.

(g) A detailed budget that equitably distributes plan implementation costs among the members of the BSO.

(h) Procedures and guidelines for covered battery collection which ensure covered battery collection will occur at no cost to consumers on a continuous, convenient, visible, and accessible basis, regardless of the brand or producer of the covered battery.

(i) Procedures and guidelines to govern the execution of s. 403.71876.

(j) Criteria for the designation of an entity as a covered battery collection site and the addresses of such designated covered battery collection sites.

(k) The names of proposed service providers, including sorters, transporters, and processors, to be used for the final disposition of batteries.

(l) Procedures and guidelines to govern how the BSO shall coordinate with material recovery facilities and secondary processors to properly process and transport for end-of-life management any covered batteries improperly sent to such facilities through the waste or recycling streams.

(m) Procedures for recordkeeping, tracking, and documenting the management and disposition of collected covered batteries, including any delay anticipated by the BSO in managing medium format batteries.

(3) An approved plan is valid for 5 years. A BSO whose plan is approved pursuant to this section shall do all of the


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following:

(a) Submit a new plan to the department for approval 1 year before the expiration of the existing approved plan. If the performance goals included in the previously approved plan have not been met, the new plan must include corrective measures that the BSO must implement to meet such performance goals, which may include, but need not be limited to, improvements to the collection site network or increased expenditures dedicated to education and outreach.

(b) Submit plan amendments to the department for approval.

(c) Notify the department within 90 days after a producer, processor, or transporter begins or ceases participation in the BSO, or within 90 days after the addition or removal of a processor or transporter under the plan.

(4)(a) The department shall approve, conditionally approve, or deny a plan or plan amendment within 120 days after receiving such proposed plan or proposed plan amendment.

(b) If the department denies a proposed plan or amendment:

1. The department must notify the BSO of the denial in writing and provide a rationale describing why the proposed plan or amendment does not comply with this section;

2. The BSO must submit a revised plan or plan amendment, or notice of plan or plan amendment withdrawal, within 60 days after the denial; and

3. The department must approve or deny the revised plan or plan amendment within 90 days after resubmittal. The denial of a revised plan or plan amendment may be appealed to the department, and the appeal must be in accordance with chapter 120.

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Section 5. Section 403.71875, Florida Statutes, is created to read:

403.71875 Battery stewardship organization fiscal duties.—A BSO implementing a battery stewardship plan approved under s. 403.71874 has all of the following fiscal duties:

(1) Responsibility for all costs associated with implementing the plan.

(2) Reimbursement of local governments for demonstrable costs incurred by a local government facility or solid waste facility designated as a collection site under the plan. Reimbursement shall only be for local government and solid waste or recyclables handling facilities that individually collect more than 200 pounds annually.

(3) Collection of charges from participating producers sufficient to cover the costs of implementing the plan, including battery collection, transportation, processing, education and outreach, and program evaluation.

Section 6. Section 403.71876, Florida Statutes, is created to read:

403.71876 Collection and management requirements.—

(1) A BSO implementing an approved battery stewardship plan shall do all of the following:

(a) Provide for the collection of all covered batteries, statewide, from any person, regardless of the chemistry or brand of the battery, on a free, continuous, convenient, and accessible basis.

(b) Equip collection sites designated pursuant to s. 403.71874(2)(j), at no cost to the sites, with suitable collection containers for covered batteries that are segregated

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from other solid waste, or provide alternative arrangements for the collection of such batteries at the site.

(c) Ensure that medium format batteries are collected only at household hazardous waste collection sites or other staffed collection sites that meet applicable federal, state, and local requirements for managing medium format batteries.

(d) Provide for the collection of damaged and defective batteries, by persons trained to handle and ship such batteries, at collection sites and at each permanent household hazardous waste facility and each household hazardous waste collection event provided by the department. As used in this paragraph, the term "damaged and defective batteries" means batteries that have been damaged or that have been identified by the manufacturer as being defective for safety reasons and that have the potential to produce a dangerous evolution of heat, fire, or short circuit, as referred to in 49 C.F.R. s. 173.185(f), or as provided by the state by rule to maintain consistency with federal standards.

(e) Coordinate the delivery of services with existing public and private waste collection services and facilities; transporters; consolidators; processors; electronic waste recyclers; other BSOs; retailers if cost-effective, mutually agreeable, and otherwise practical; or other related entities to provide efficient and cost-effective delivery of services.

(f) For portable batteries, provide all of the following within 3 years after approval of the battery stewardship plan:

1. At least one permanent collection site within a 15-mile radius for at least 95 percent of state residents; and

2. At least one permanent collection site, collection


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service, or collection event for every 30,000 residents of a county.

(g) For medium format batteries, provide all of the following within 3 years after approval of the battery stewardship plan:

1. At least 10 permanent collection sites in this state. Such sites must be reasonably dispersed throughout this state;

2. A collection event at least once every 3 years in each county that does not have a permanent collection site, which must provide for the collection of all medium format batteries, including damaged and defective medium format batteries; and

3. Any entity that may be used as a collection site or that will authorize a collection event on its property that satisfies the criteria in this paragraph.

(2) A BSO implementing an approved battery stewardship plan may issue a warning for the suspension or termination of a collection site or service that does not comply with the approved plan or that poses an immediate threat to public health and safety.

(3) A BSO is not required to provide for the collection of batteries, battery-containing products, or covered batteries that remain contained in a battery-containing product at the time of delivery to a collection site or collection event if such batteries or products are under a recall for safety reasons. A BSO may seek reimbursement from the producer of a battery or battery-containing product under recall for safety reasons for the costs incurred in collecting, transporting, or processing such batteries and products.

Section 7. Section 403.71877, Florida Statutes, is created

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to read:

403.71877 Battery stewardship plan implementation.—A BSO implementing an approved battery stewardship plan shall do all of the following to promote the implementation of the plan:

(1) Develop and maintain a website.

(2) Develop and place advertisements on social media or other relevant media platforms.

(3) Develop promotional materials about the plan and the restrictions on disposing of covered batteries.

(4) Develop and distribute to collection sites collection site safety training procedures to help ensure proper management of covered batteries at collection sites.

(5) Provide to each collection site used under the plan consumer-focused educational materials that are accessible by customers of retailers that sell covered batteries or battery-containing products.

(6) Provide safety information related to covered battery collection activities to the operator of each collection site used under the plan, including appropriate protocols to reduce risks of spills or fires, respond to a spill or fire, and manage a collected damaged or defective battery.

(7) Provide educational materials to the operator of each collection site used under the plan for the management of recalled batteries.

(8) Upon request by a retailer or other potential collection site, provide educational materials describing collection opportunities for covered batteries.

(9) Coordinate with other BSOs implementing a battery stewardship plan in providing education and outreach under s.

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403.71874(2)(c).

(10) Conduct a survey, during the first year of implementing a battery stewardship plan and once every 5 years thereafter, of public awareness of the outreach efforts undertaken pursuant to this section. The BSO shall make the results of the surveys available to the department.

Section 8. Section 403.71878, Florida Statutes, is created to read:

403.71878 Reporting requirements.—

(1) Starting June 1, 2029, and annually thereafter, a BSO implementing an approved battery stewardship plan shall submit a report to the department which includes all of the following:

(a) A summary financial statement documenting the financing of the plan and an analysis of plan costs and expenditures, including an analysis of the plan's expenses, such as collection, transportation, management, education, and administrative overhead. The summary financial statement is sufficiently detailed if it provides transparency regarding funds collected from producers spent on plan implementation, in addition to other necessary financial accounting information.

(b) The weight, by chemistry, of collected covered batteries.

(c) A list of all facilities used in the processing or disposition of covered batteries under the plan.

(d) For each facility used for the final disposition of covered batteries under the plan, an overview of how the facility processed or otherwise managed batteries and battery components.

(e) The weight and chemistry of covered batteries sent to

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each facility used for the final disposition of batteries. This information may be approximated based on extrapolations of national or regional data for programs in operation in multiple states.

(f) The estimated aggregate sales, by weight and chemistry, of covered batteries, including covered batteries contained in or packaged with battery-containing products, sold in this state by the BSO's participating producers for each of the previous 3 calendar years.

(g) A summary describing the management and recycling of collected batteries.

(h) A description of education and outreach efforts supporting plan implementation, including:

1. A summary of education and outreach provided to consumers, collection sites, manufacturers, distributors, and retailers to promote the collection and recycling of covered batteries and an analysis of how such education and outreach met the requirements under s. 403.71874(2)(c)2.;

2. Samples of education and outreach materials;

3. A summary of coordinated education and outreach efforts with any other BSOs implementing a battery stewardship plan;

4. A summary of any changes made during the previous calendar year to education and outreach activities; and

5. An evaluation of the effectiveness of education and outreach activities.

(i) A list of all collection sites used to implement the plan, an address for each listed site, a link to the website of each listed site, if available, and an up-to-date map indicating the location of each site.

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(j) A description of methods used to collect, transport, and recycle covered batteries under the plan.

(l) An analysis of the performance goals under the plan and the rationale describing why performance goals were not met, if applicable.

(2) After 4 years of implementation of an approved battery stewardship plan, a BSO or a producer member of such organization shall hire an independent third party to conduct a one-time audit of the battery stewardship plan and plan operation. The auditor shall examine the effectiveness of the battery stewardship plan in collecting and managing covered batteries. The auditor shall also examine the cost-effectiveness of the plan and compare it to the cost-effectiveness of collections plans and programs for covered batteries in other jurisdictions. The BSO shall submit a copy of such audit to the department.

Section 9. Section 403.71879, Florida Statutes, is created to read:

403.71879 Responsibilities of the department.—The department shall include on its website:

(1) A copy of all battery stewardship plans approved under s. 403.71874 and any amendments to such plans;

(2) The names of producer members covered under an approved battery stewardship plan;

(3) A list of brands of covered batteries covered under approved battery stewardship plans; and

(4) A copy of each annual report submitted to the department pursuant to s. 403.71878.

Section 10. Section 403.71881, Florida Statutes, is created

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to read:

403.71881 Antitrust.—A producer, retailer, or BSO is not liable for any claim of a violation of antitrust laws or laws relating to fraudulent, deceptive, or unfair methods of competition or trade practices arising from conduct that complies with an approved battery stewardship plan.

Section 11. Section 403.71882, Florida Statutes, is created to read:

403.71882 Collection of batteries independent of a battery stewardship plan.—

(1) A person or recycler may offer or perform fee-based household battery collection services or mail-back services for covered batteries in this state independently of a BSO if:

(a) The services are performed and facilities are operated in compliance with all applicable federal, state, and local laws and requirements;

(b) A person or recycler accepts all covered batteries; and

(c) Except as provided in subsection (2), all batteries collected by the person or recycler from customers in this state are provided to a BSO implementing an approved battery stewardship plan. After providing collected batteries to a BSO, any transport and processing of such batteries by the BSO must be done at the BSO's expense. A BSO may refuse to accept batteries from any such person or recycler if the department is notified of the reason for such refusal.

(2) A person or recycler described in subsection (1) may recycle covered batteries collected from customers in this state if such person or recycler provides annual collection data and recycling data to the department. Such data must include all of

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the following:

(a) The weight, by chemistry, of covered batteries collected.

(b) A description of how each facility recycled or otherwise managed batteries and battery components for the final disposition of covered batteries.

(3) Such person or recycler may not receive compensation from a BSO for any batteries collected, transported, or recycled under this section, unless otherwise agreed.

Section 12. Section 403.71883, Florida Statutes, is created to read:

403.71883 General battery disposal and collection requirements.—

(1) Beginning January 1, 2028, all of the following shall apply:

(a) A person may dispose of a covered battery only by delivery to a collection site or collection event operated under an approved battery stewardship plan or operated by an independent collector, unless the battery is regulated as hazardous waste.

(b) A person may not knowingly cause or allow the mixing of a covered battery with recyclable materials that are intended for processing and sorting at a material recovery facility without documenting the contents in the shipment manifest, the approval of the receiving party, and the approval of the transporting party.

(c) A person may not knowingly cause or allow the mixing of a covered battery with municipal waste that is intended for disposal at a landfill.

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(d) A person may not knowingly cause or allow the disposal of a covered battery in a landfill.

(e) A person may not knowingly cause or allow the mixing of a covered battery with waste that is intended for burning or incineration without documenting contents in the shipment manifest, the approval of the receiving party, and the approval of the transporting party.

(2) An owner or operator of a solid waste facility may not be found in violation of this act if the facility has posted in a conspicuous location a sign stating that covered batteries must be managed through collection sites established by a BSO and are not accepted for disposal.

(3) A solid waste collector is not in violation of this act for a covered battery placed in a disposal container by a person.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete lines 5 - 67

and insert:

s. 403.71873, F.S.; requiring a producer to fulfill certain requirements, beginning on a specified date, before selling, offering for sale, or distributing for sale in this state any covered battery or battery-containing product; providing applicability; authorizing the department to amend by rule certain provisions for a certain purpose; requiring certain producers to list certain information on the battery beginning on a specified date; prohibiting a producer,

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retailer, or battery stewardship organization (BSO) from charging a certain fee to consumers; creating s. 403.71874, F.S.; requiring a BSO operating in this state to submit a battery stewardship plan to the Department of Environmental Protection for review and approval, beginning on a specified date; providing requirements for the plan; providing a term of validity for the plan; providing requirements for the plan; requiring a BSO with an approved plan to take certain actions; requiring the department to make a certain determination regarding a battery stewardship plan or plan amendment within a specified timeframe; providing certain requirements for the department and a BSO in the event a battery stewardship plan or amendment is denied; creating s. 403.71875, F.S.; providing fiscal duties for a BSO implementing an approved battery stewardship plan; creating s. 403.71876, F.S.; requiring a BSO to take certain actions to implement an approved battery stewardship plan; authorizing a BSO implementing an approved battery stewardship plan to issue a warning for the suspension or termination of certain collection sites or services; providing that a BSO is not required to provide for the collection of batteries, battery-containing products, or covered batteries if such batteries or products are recalled for safety reasons; authorizing a BSO to seek reimbursement from the producer of such batteries or battery-containing products for certain costs; creating s. 403.71877,


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F.S.; requiring a BSO to take certain actions to promote the implementation of a plan; creating s. 403.71878, F.S.; requiring a BSO to submit a report to the department annually beginning on a specified date; providing requirements for such report; requiring a BSO to hire an independent third party to audit the battery stewardship plan and plan operation within a specified amount of time after the implementation of an approved battery stewardship plan; providing requirements for such audit; requiring a BSO to submit a copy of the audit to the department; creating s. 403.71879, F.S.; requiring the department to include certain information on its website relating to battery stewardship plans; creating s. 403.71881, F.S.; providing that a producer, retailer, or BSO is not liable for any claim of a violation of antitrust laws or laws relating to fraudulent, deceptive, or unfair methods of competition or trade practices; creating s. 403.71882, F.S.; authorizing a person or recycler to offer or perform fee-based household battery collection services or mail-back battery collection services independently of a BSO if certain conditions are met; authorizing such person or recycler to recycle covered batteries if such person or recycler provides annual collection and recycling data to the department; providing requirements for such data; prohibiting such person or recycler from receiving compensation from a BSO for certain batteries, unless otherwise agreed; creating s. 403.71883, F.S.;

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providing requirements for the disposal and management of covered batteries, beginning on a specified date; providing an

By Senator McClain

9-00620-26 2026912__

A bill to be entitled

An act relating to battery collection and recovery; creating s. 403.71871, F.S.; providing a short title; creating s. 403.71872, F.S.; defining terms; creating s. 403.71873, F.S.; requiring a producer or retailer to fulfill certain requirements, beginning on a specified date, before selling, offering for sale, or distributing for sale in this state any covered battery or battery-containing product; prohibiting a producer, retailer, or battery stewardship organization (BSO) from charging a certain fee to consumers; creating s. 403.71874, F.S.; requiring a BSO operating in this state to submit a battery stewardship plan to the Department of Environmental Protection annually for review and approval; providing a term of validity for the plan; providing requirements for the plan; providing requirements for a BSO with an approved plan; requiring the department to make a certain determination regarding a battery stewardship plan or plan amendment within a specified timeframe; providing certain requirements for the department and a BSO in the event a battery stewardship plan or amendment is denied; creating s. 403.71875, F.S.; requiring a BSO implementing an approved battery stewardship plan to satisfy certain requirements; creating s. 403.71876, F.S.; requiring a BSO to take certain actions to implement an approved battery stewardship plan; authorizing a BSO implementing an approved battery stewardship plan to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

issue a warning for the suspension or termination of certain collection sites or services; providing that a BSO is not required to provide for the collection of batteries, battery-containing products, or covered batteries if such batteries or products are recalled for safety reasons; authorizing a BSO to seek reimbursement from the producer of such batteries or battery-containing products for certain costs; creating s. 403.71877, F.S.; requiring a BSO to take certain actions to promote the implementation of a plan; creating s. 403.71878, F.S.; requiring a BSO to submit a report to the department annually beginning on a specified date; providing requirements for such report; requiring a BSO to hire an independent third party to audit the battery stewardship plan and plan operation within a specified amount of time after the implementation of an approved battery stewardship plan; providing requirements for such audit; requiring a BSO to submit a copy of the audit to the department; creating s. 403.71879, F.S.; requiring the department to include certain information on its website relating to battery stewardship plans; creating s. 403.71881, F.S.; providing that a producer, retailer, or BSO is not liable for any claim of a violation of antitrust laws or laws relating to fraudulent, deceptive, or unfair methods of competition or trade practices; creating s. 403.71882, F.S.; authorizing a person or recycler to offer or perform fee-based household battery collection services or mail-back battery

collection services independently of a BSO if certain conditions are met; authorizing such person or recycler to recycle covered batteries if such person or recycler provides certain data to the department; providing requirements for such data; prohibiting such person or recycler from receiving compensation from a BSO for certain batteries; creating s. 403.71883, F.S.; providing requirements for the disposal and management of covered batteries; providing an exception for an owner or operator of a solid waste facility or a solid waste collector under certain circumstances; prohibiting a BSO from refusing to accept certain covered batteries unless the BSO provides certain notice to the department; creating s. 403.71884, F.S.; providing civil and criminal penalties; authorizing the Attorney General and certain county attorneys to bring certain actions; authorizing a BSO to bring a civil action against certain producers; providing construction; authorizing a BSO to bring a civil action against another BSO under certain circumstances; repealing s. 403.7192, F.S., relating to batteries and the penalties for violations of certain requirements for consumers, manufacturers, and sellers; providing an effective date.

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

Section 1. Section 403.71871, Florida Statutes, is created

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

to read:

403.71871 Short title.—Sections 403.71871-403.71884 may be cited as the "Safe Battery Collection and Recovery Act."

Section 2. Section 403.71872, Florida Statutes, is created to read:

403.71872 Definitions.—As used in ss. 403.71871-403.71884, the term:

(1) "Battery-containing product" means a product that contains or is packaged with a covered battery. The term does not include computers, small-scale servers, computer monitors, electronic keyboards and mice, printers, fax machines, scanners, televisions, digital video disc players and recorders, video cassette recorders, digital converter boxes, cable receivers, satellite receivers, portable digital music players, or video game consoles.

(2) "Battery stewardship organization" or "BSO" means an organization designated by a producer or a group of five or more producers which directly implements an approved battery stewardship plan.

(3) "Covered battery" means a portable battery or a medium format battery. The term does not include any of the following:

(a) A battery contained in a medical device regulated under 21 U.S.C. 301 et seq. which is not designed or marketed for sale or resale at retail locations for personal use.

(b) A battery that uses free-flowing liquid electrolyte or a product that contains such a battery.

(c) A battery designed to power a motor vehicle, part of a motor vehicle, or a component part of a motor vehicle assembled by or for a vehicle manufacturer or franchised dealer, including

replacement parts for use in a motor vehicle.

(d) A battery in a product which is not intended or designed to be easily removable from the product.

(e) A battery or battery-containing product recalled for safety reasons.

(f) A battery or battery-containing product offered for resale by a business that, as part of its operations, offers products for resale to other businesses or to consumers.

(4) "Lithium-ion battery" means a rechargeable energy storage device, weighing less than 25 pounds, which uses lithium ions to move between a positive electrode made of lithium-containing compounds and a negative electrode facilitating energy storage and release through an intercalation process.

(5) "Medium format battery" means any of the following:

(a) For nonrechargeable batteries, a battery that weighs more than 4.4 pounds, but less than 25 pounds; or

(b) For rechargeable batteries, a battery that weighs more than 11 pounds or that has a rating of more than 300 watt-hours, or both, but weighs less than 25 pounds or has a rating of less than 2,000 watt-hours.

(6) "Portable battery" means any of the following:

(a) For nonrechargeable batteries, a battery that weighs 4.4 pounds or less; or

(b) For rechargeable batteries, a battery that weighs 11 pounds or less and has a rating of no more than 300 watt-hours.

(7)(a) "Producer" means a person who sells, offers for sale, or distributes for sale a covered battery or battery-containing product in this state and:

1. Is the person who manufactures such battery or product

if such battery or product is sold under a brand of the battery's or product's manufacturer;

2. Is the person who owns the brand if such battery or product is sold under a retail brand or under a brand owned by a person other than the battery's or product's manufacturer;

3. If subparagraphs 1. or 2. do not apply, the person that is the licensee of a brand or trademark under which the covered battery or battery-containing product is sold, offered for sale, or distributed for sale in this state, regardless of whether the trademark is registered in this state;

4. If subparagraphs 1., 2., or 3. do not apply, the person that is the importer of record for the covered battery or battery-containing product into the United States for the purpose of selling, offering for sale, or distributing for sale the battery or product in this state; or

5. If subparagraphs 1. through 4. do not apply to any person with a commercial presence in this state, the person who first sells, offers for sale, or distributes for sale the covered battery or battery-containing product in this state.

(b) The term does not include a person who only sells, offers for sale, or distributes for sale a battery-containing product if the battery is supplied by another producer who has designated a BSO to implement a battery stewardship plan and who certifies this fact in writing to the person who only sells, offers for sale, or distributes for sale the battery-containing product.

(8) "Rechargeable battery" means a battery that contains one or more voltaic or galvanic cells electrically connected to produce electric energy and that is designed to be recharged.

(9) "Recovery" means collecting, accumulating, and transporting quantities of covered batteries or battery-containing products for the purpose of introducing them into a recycling process.

(10)(a) "Recycling" means separating, dismantling, or processing recovered batteries or battery-containing products or materials, components, or commodities contained in electronic waste for the purpose of preparing batteries for use or reuse in new products or components. The term includes manually and mechanically separating electronic waste to recover materials, components, or commodities contained therein for the purpose of reuse or recycling and changing the physical composition of electronic waste to segregate components for purposes of recycling those components.

(b) The term does not include any of the following:

1. Destruction by incineration or other processes.

2. Energy recovery or energy generation by means of combustion, gasification, pyrolysis, or other means.

3. Land disposal of recyclable materials.

4. Reuse, repair, or any other process through which batteries are returned in their original form.

(11) "Recycling efficiency rate" means the percentage calculated by dividing the weight of components and materials recovered by a BSO by the weight of covered batteries collected by the BSO.

(12) "Retailer" means a person or entity that sells or offers for sale a covered battery in this state or offers or otherwise makes available covered batteries or battery-containing products to a customer, including other businesses,

in this state.

Section 3. Section 403.71873, Florida Statutes, is created to read:

403.71873 Requirements for producers or retailers of covered batteries or battery-containing products; prohibition.—

(1) REQUIREMENTS.—

(a) Beginning January 1, 2028, a producer or retailer must do all of the following before selling, offering for sale, or distributing for sale in this state any covered battery or battery-containing product:

1. Be a member of a BSO operating pursuant to a battery stewardship plan approved by the department under s. 403.71874. This subparagraph does not apply to a retailer if the website maintained by the department pursuant to s. 403.71879 lists, as of the date a battery or product is made available for retail sale, the producer or brand of the battery or product as listed in the approved battery stewardship plan.

2. Provide verification to the department that the covered battery or the battery in the battery-containing product identifies the producer of the battery with a clear mark or insignia.

(b) Beginning January 1, 2029, a producer or retailer must provide verification to the department that the covered battery or the battery in the battery-containing product states or otherwise indicates all of the following information to ensure proper collection and recycling:

1. The chemistry of the battery.

2. An advisement that the battery should not be disposed of as household waste.

Subparagraph (a)2. and paragraph (b) do not apply to batteries that are less than 0.5 inches in diameter or do not have a surface with a length that exceeds 0.5 inches.

(2) PROHIBITION.—A producer, retailer, or BSO may not charge a point-of-sale fee to consumers to cover the costs of implementing a battery stewardship plan approved by the department under s. 403.71874.

Section 4. Section 403.71874, Florida Statutes, is created to read:

403.71874 Battery stewardship plan components.—

(1) Beginning January 1, 2027, any BSO operating in this state shall submit a battery stewardship plan, referred to hereafter as "plan," to the department annually for review and approval.

(2) A plan is valid for 5 years and must include all of the following:

(a) The name and contact information of each producer included in the plan.

(b) The brand of the covered battery or batteries that the BSO's producer sells, offers for sale, or distributes for sale in this state. All such brands must be listed in the plan.

(c) Performance goals and processes for achieving such goals. Performance goals must include, but need not be limited to, all of the following:

1. A strategy, including metrics, for optimal recycling efficiency rates of at least 60 percent for rechargeable batteries and 70 percent for nonrechargeable batteries.

2. An education and outreach strategy to enhance consumer

awareness of the plan and of the convenience and accessibility of end-of-life management options for covered batteries or batteries in battery-containing products collected pursuant to the plan.

(d) Processes for providing notice to retailers of the prohibition in s. 403.71873(2).

(e) Processes for providing collection sites with signage, written materials, and other promotional materials to inform consumers of the available end-of-life management options for covered batteries collected pursuant to the plan.

(f) Collection site safety training procedures that must include, but need not be limited to, all of the following:

1. Operating protocols to reduce risks of spills or fires and response protocols for such events.

2. Protocols for the safe management of damaged or defective batteries.

(g) A detailed budget that equitably distributes plan implementation costs among the members of the BSO.

(h) Procedures and guidelines for covered battery collection which ensure covered battery collection will occur at no cost to consumers on a continuous, convenient, visible, and accessible basis, regardless of the brand or producer of the covered battery.

(i) Procedures and guidelines to govern the execution of s. 403.71876.

(j) Criteria for the designation of an entity as a covered battery collection site and the addresses of such designated covered battery collection sites.

(k) The names of proposed service providers, including

sorters, transporters, and processors, to be used for the final disposition of batteries.

(l) Procedures and guidelines to govern how the BSO shall coordinate with material recovery facilities and secondary processors to properly process and transport for recycling any covered batteries improperly sent to such facilities through the waste or recycling streams.

(m) Procedures for recordkeeping, tracking, and documenting the management and disposition of collected covered batteries, including any delay anticipated by the BSO in managing medium format batteries.

(3) A BSO whose plan is approved pursuant to this section shall do all of the following:

(a) Submit a new plan to the department for approval every 4 years. If the performance goals included in the previously approved plan have not been met, the new plan must include corrective measures that the BSO must implement to meet such performance goals, which may include, but need not be limited to, improvements to the collection site network or increased expenditures dedicated to education and outreach.

(b) Submit plan amendments to the department for approval.

(c) Notify the department within 90 days after a producer, processor, or transporter begins or ceases participation in the BSO, or within 90 days after the addition or removal of a processor or transporter under the plan.

(4)(a) The department shall approve, conditionally approve, or deny a plan or plan amendment within 120 days after receiving such proposed plan or proposed plan amendment.

(b) If the department denies a proposed plan or amendment:

1. The department must notify the BSO of the denial in writing and provide a rationale describing why the proposed plan or amendment does not comply with this section;

2. The BSO must submit a revised plan or plan amendment, or notice of plan or plan amendment withdrawal, within 60 days after the denial; and

3. The department must approve or deny the revised plan or plan amendment within 90 days after resubmittal. The denial of a revised plan or plan amendment may be appealed to the department, and the appeal must be in accordance with chapter 120.

Section 5. Section 403.71875, Florida Statutes, is created to read:

403.71875 Battery stewardship organization fiscal duties.—A BSO implementing a battery stewardship plan approved under s. 403.71874 shall do all of the following:

(1) Be responsible for all costs associated with implementing the plan.

(2) Reimburse local governments for demonstrable costs incurred by a local government facility or solid waste facility designated as a collection site under the plan.

(3) Collect charges from participating producers sufficient to cover the costs of implementing the plan, including battery collection, transportation, processing, education and outreach, and program evaluation.

Section 6. Section 403.71876, Florida Statutes, is created to read:

403.71876 Collection and management requirements.—

(1) A BSO implementing an approved battery stewardship plan

shall do all of the following:

(a) Provide for the collection of all covered batteries, statewide, from any person, regardless of the chemistry or brand of the battery, on a free, continuous, convenient, and accessible basis.

(b) Equip collection sites designated pursuant to s. 403.71874(2)(j), at no cost to the sites, with suitable collection containers for covered batteries that are segregated from other solid waste, or provide alternative arrangements for the collection of such batteries at the site.

(c) Ensure that medium format batteries are collected only at household hazardous waste collection sites or other staffed collection sites that meet applicable federal, state, and local requirements for managing medium format batteries.

(d) Provide for the collection of damaged and defective batteries, by persons trained to handle and ship such batteries, at collection sites and at each permanent household hazardous waste facility and each household hazardous waste collection event provided by the department. As used in this paragraph, the term "damaged and defective batteries" means batteries that have been damaged or that have been identified by the manufacturer as being defective for safety reasons and that have the potential to produce a dangerous evolution of heat, fire, or short circuit, as referred to in 49 C.F.R. s. 173.185(f), or as provided by the state by rule to maintain consistency with federal standards.

(e) Coordinate the delivery of services with existing public and private waste collection services and facilities; transporters; consolidators; processors; electronic waste

recyclers; other BSOs; retailers if cost-effective, mutually agreeable, and otherwise practical; or other related entities to provide efficient and cost effective delivery of services.

(f) For portable batteries, provide all of the following within 3 years after approval of the battery stewardship plan:

1. At least one permanent collection site within a 15-mile radius for at least 95 percent of state residents; and

2. At least one permanent collection site, collection service, or collection event for every 30,000 residents of a county.

(g) For medium format batteries, provide all of the following within 3 years after approval of the battery stewardship plan:

1. At least 10 permanent collection sites in this state. Such sites must be reasonably dispersed throughout this state;

2. A collection event at least once every 3 years in each county that does not have a permanent collection site, which must provide for the collection of all medium format batteries, including damaged and defective medium format batteries; and

3. Any entity which may be used as a collection site or that will authorize a collection event on their property that satisfies the criteria in paragraph (g) and subparagraphs (h)1. and 2.

(2) A BSO implementing an approved battery stewardship plan may issue a warning for the suspension or termination of a collection site or service that does not comply with the approved plan or that poses an immediate threat to health and safety.

(3) A BSO is not required to provide for the collection of

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batteries, battery-containing products, or covered batteries that remain contained in a battery-containing product at the time of delivery to a collection site or collection event if such batteries or products are under a recall for safety reasons. A BSO may seek reimbursement from the producer of a battery or battery-containing product under recall for safety reasons for the costs incurred in collecting, transporting, or processing such batteries and products.

Section 7. Section 403.71877, Florida Statutes, is created to read:

403.71877 Battery stewardship plan implementation.—A BSO implementing an approved battery stewardship plan shall do all of the following to promote the implementation of the plan:

(1) Develop and maintain a website.

(2) Develop and place advertisements on social media or other relevant media platforms.

(3) Develop promotional materials about the plan and the restrictions on disposing of covered batteries.

(4) Develop and distribute to collection sites collection site safety training procedures to help ensure proper management of covered batteries at collection sites.

(5) Provide to each collection site used under the plan consumer-focused educational materials that are accessible by customers of retailers that sell covered batteries or battery-containing products.

(6) Provide safety information related to covered battery collection activities to the operator of each collection site used under the plan, including appropriate protocols to reduce risks of spills or fires, respond to a spill or fire, and manage

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a collected damaged or defective battery.

(7) Provide educational materials to the operator of each collection site used under the plan for the management of recalled batteries.

(8) Upon request by a retailer or other potential collection site, provide educational materials describing collection opportunities for covered batteries.

(9) Coordinate with other BSOs implementing a battery stewardship plan in providing education and outreach under s. 403.71874(2)(c).

(10) Conduct a survey, during the first year of implementing a battery stewardship plan and once every 5 years thereafter, of public awareness of the outreach efforts undertaken pursuant to this section. The BSO shall make the results of the surveys available to the department.

Section 8. Section 403.71878, Florida Statutes, is created to read:

403.71878 Reporting requirements.—

(1) Starting June 1, 2029, and annually thereafter, a BSO implementing an approved battery stewardship plan shall submit a report to the department which includes all of the following:

(a) A summary financial statement documenting the financing of the plan and an analysis of plan costs and expenditures, including an analysis of the plan's expenses, such as collection, transportation, recycling, education, and administrative overhead. The summary financial statement is sufficiently detailed if it provides transparency regarding funds collected from producers spent on plan implementation, in addition to other necessary financial accounting information.

(b) The weight, by chemistry, of collected covered batteries.

(c) The weight of materials recycled from collected covered batteries, as recovered by any method of battery recycling.

(d) A calculation of the recycling efficiency rate under the plan.

(e) A list of all facilities used in the processing or disposition of covered batteries under the plan.

(f) A summary of any violations of environmental laws and regulations during the previous calendar year at each facility.

(g) For each facility used for the final disposition of covered batteries under the plan, a review of how the facility recycled or otherwise managed batteries and battery components.

(h) The weight and chemistry of covered batteries sent to each facility used for the final disposition of batteries. This information may be approximated based on extrapolations of national or regional data for programs in operation in multiple states.

(i) The estimated aggregate sales, by weight and chemistry, of covered batteries, including covered batteries contained in or packaged with battery-containing products, sold in this state by the BSO's participating producers for each of the previous 3 calendar years.

(j) A summary describing the management and recycling of collected batteries, including an analysis of best available technologies and the recycling efficiency rate.

(k) A description of education and outreach efforts supporting plan implementation, including:

1. A summary of education and outreach provided to

consumers, collection sites, manufacturers, distributors, and retailers to promote the collection and recycling of covered batteries and an analysis of how such education and outreach met the requirements under s. 403.71874(2)(c)2.;

2. Samples of education and outreach materials;

3. A summary of coordinated education and outreach efforts with any other BSOs implementing a battery stewardship plan;

4. A summary of any changes made during the previous calendar year to education and outreach activities; and

5. An evaluation of the effectiveness of education and outreach activities.

(l) A list of all collection sites used to implement the plan, an address for each listed site, a link to the website of each listed site, if available, and an up-to-date map indicating the location of each site.

(m) A description of methods used to collect, transport, and recycle covered batteries under the plan.

(n) A analysis of the performance goals under the plan and the rationale describing why performance goals were not met, if applicable.

(o) If a BSO has disposed of covered batteries through energy recovery, incineration, or landfilling during the preceding calendar year of plan implementation, the steps that the BSO will take to make the recycling of covered batteries cost-effective, when possible, or to otherwise increase battery recycling efficiency rates achieved by the BSO.

(2) After 4 years of implementation of an approved battery stewardship plan, a BSO or a producer member of such organization shall hire an independent third party to conduct a

one-time audit of the battery stewardship plan and plan operation. The auditor shall examine the effectiveness of the battery stewardship plan in collecting and recycling covered batteries. The auditor shall also examine the cost-effectiveness of the plan and compare it to the cost-effectiveness of collections plans and programs for covered batteries in other jurisdictions. The BSO shall submit a copy of such audit to the department.

Section 9. Section 403.71879, Florida Statutes, is created to read:

403.71879 Responsibilities of the department.—The department shall include on its website:

(1) A copy of all battery stewardship plans approved under s. 403.71874 and any amendments to such plans;

(2) The names of producer members covered under an approved battery stewardship plan;

(3) A list of brands of covered batteries covered under approved battery stewardship plans; and

(4) A copy of each annual report submitted to the department pursuant to s. 403.71878.

Section 10. Section 403.71881, Florida Statutes, is created to read:

403.71881 Antitrust.—A producer, retailer, or BSO is not liable for any claim of a violation of antitrust laws or laws relating to fraudulent, deceptive, or unfair methods of competition or trade practices arising from conduct that complies with an approved battery stewardship plan.

Section 11. Section 403.71882, Florida Statutes, is created to read:

403.71882 Collection of batteries independent of a battery stewardship plan.—

(1) A person or recycler may offer or perform fee-based household battery collection services or mail-back services for covered batteries or a recycler in this state independently of a BSO if:

(a) The services are performed and facilities are operated in compliance with all applicable federal, state, and local laws and requirements; and

(b) Except as provided in subsection (2), all batteries collected by the person or recycler from customers in this state are provided to a BSO implementing an approved battery stewardship plan. After providing collected batteries to a BSO, any transport and processing of such batteries by the BSO must be done at the BSO's expense. A BSO may refuse to accept batteries from any such person or recycler if the department is notified of the reason for such refusal.

(2) A person or recycler described in subsection (1) may recycle covered batteries collected from customers in this state if such person or recycler provides collection data and recycling data to the department. Such data must include all of the following:

(a) The weight, by chemistry, of covered batteries collected.

(b) The weight of materials recycled from covered batteries collected, in total and by method of battery recycling.

(c) A calculation of such person's or recycler's recycling efficiency rate.

(d) A list of all facilities used in the processing or

disposition of covered batteries and a summary of any violations of environmental laws and regulations during the previous 3 years at each facility.

(e) A description of how each facility recycled or otherwise managed batteries and battery components for the final disposition of covered batteries.

(f) The weight and chemistry of covered batteries sent to each facility for the final disposition of batteries.

(3) Such person or recycler may not receive compensation from a BSO for any batteries collected, transported, or recycled under this section.

Section 12. Section 403.71883, Florida Statutes, is created to read:

403.71883 General battery disposal and collection requirements.—

(1) Beginning January 1, 2028, all of the following shall apply:

(a) A person may dispose of a covered battery only by delivery to a collection site or collection event operated under an approved battery stewardship plan, unless the battery is regulated as hazardous waste.

(b) A person may not knowingly cause or allow the mixing of a covered battery with recyclable materials that are intended for processing and sorting at a material recovery facility.

(c) A person may not knowingly cause or allow the mixing of a covered battery with municipal waste that is intended for disposal at a landfill.

(d) A person may not knowingly cause or allow the disposal of a covered battery in a landfill.

(e) A person may not knowingly cause or allow the mixing of a covered battery with waste that is intended for burning or incineration.

(f) A person may not knowingly cause or allow the burning or incineration of a covered battery.

(2) An owner or operator of a solid waste facility may not be found in violation of this act if the facility has posted in a conspicuous location a sign stating that covered batteries must be managed through collection sites established by a BSO and are not accepted for disposal.

(3) A solid waste collector is not in violation of this act for a covered battery placed in a disposal container by a person or recycler.

(4) A BSO may not refuse to accept covered batteries inadvertently received by a recycling or solid waste facility if the batteries are properly packaged, unless the BSO properly notifies the department.

Section 13. Section 403.71884, Florida Statutes, is created to read:

403.71884 Penalties.—

(1) PENALTIES.—

(a) A person who violates this act shall be subject to a civil penalty of $1,000 for each violation.

(b) A person who knowingly makes a false material statement to the department related to a battery stewardship plan submitted pursuant to s. 403.71874 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or 775.084.

(c) The Attorney General or the county attorney of any

county in which a violation of the act occurs may, in addition to any other penalty, bring an action to enjoin any person from violating this act.

(2) CIVIL ACTION.—

(a) A BSO implementing an approved battery stewardship plan may bring a civil action or actions to recover costs and damages, as specified in this section, from a producer who sells or otherwise makes available in this state covered batteries or battery-containing products not included under an approved plan in violation of the requirements of this act. An action under this subsection may be brought against one or more defendants. An action under this subsection may be brought against a defendant producer only if the BSO incurs costs in this state, including legal fees and expenses and reasonable incremental administrative and program promotional costs, in excess of $1,000 to collect, transport, and recycle or otherwise dispose of the covered batteries or battery-containing products of a nonparticipating producer.

(b) A BSO implementing an approved battery stewardship plan may bring a civil action against a producer of a recalled battery to recover costs associated with handling the recalled battery, including legal fees and expenses.

(c) A BSO implementing an approved battery stewardship plan may bring a civil action against another BSO that underperforms on its battery collection obligations under this act by failing to collect and provide for the end-of-life management of batteries in an amount roughly equivalent to costs imposed on the plaintiff BSO by virtue of the failures of the defendant BSO, plus legal fees and expenses.

Section 14. Section 403.7192, Florida Statutes, is repealed.

Section 15. This act shall take effect July 1, 2026.

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The Florida Senate

APPEARANCE RECORD

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2/3/2026
Meeting Date

ENVIRONMENT & NAT'L R.
Committee

SB 912
Bill Number or Topic

448936
Amendment Barcode (if applicable)

Name CHRISTIAN CAMACHO

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Address PO Box 122
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Email

TALLAHASSEE, FL 32302
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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against
AUDT.

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
CONSUMER TECHNOLOGY ASSOCIATION

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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2-3-2026
Meeting Date

ENVIRONMENT + NATURAL RESOURCES
Committee

SB 912
Bill Number or Topic

448936
Amendment Barcode (if applicable)

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PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

PRBA - THE RECHARGEABLE BATTERY ASSOC.

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2/5/2026
Meeting Date

SENR
Committee

SB 912
Bill Number or Topic

448936
Amendment Barcode (if applicable)

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PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

NATIONAL WASTE & RECYCLING ASSN. - FL CHAPTER

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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2-3-2026
Meeting Date

SB-912
Bill Number or Topic

ENVIRONMENT & NATURAL RESOURCES
Committee

Amendment Barcode (if applicable)

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PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

PRBA - THE RECHARGEABLE BATTERY ASSOC.

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S-001 (08/10/2021)

The Florida Senate

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2/3/2026
Meeting Date

SENR
Committee

SB 912
Bill Number or Topic

[redacted]
Amendment Barcode (if applicable)

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TALLAHASSEE FL 32301
City State Zip

Speaking: [X] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

NATIONAL WASTE & RECYCLING ASSN - FL CHAPTER

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S-001 (08/10/2021)

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2/3/2026
Meeting Date

ENVIRONMENT & NAT'L RES.
Committee

SB912 - AS AMENDED
Bill Number or Topic

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: CONSUMER TECHNOLOGY ASSOCIATION

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/3/24
Meeting Date

Environment
Committee

SB 912
Bill Number or Topic

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: FL Association of Counties

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL:	CS/SB 1510
INTRODUCER:	Environment and Natural Resources and Senator Massullo
SUBJECT:	Department of Environmental Protection
DATE:	February 3, 2026 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	**Fav/CS**
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1510 amends laws that govern the Acquisition and Restoration Council, septic system and wastewater restrictions, basin management action plans, the Sea Level Rise Resilience Plan, the Environmental Regulation Commission, and air pollution permitting.

Regarding the Acquisition and Restoration Council (ARC), the bill adds two new members. Additionally, the bill directs ARC to administer the Florida Communities Trust to improve consistency and effectiveness in conservation-focused land acquisition and resource stewardship.

Regarding onsite sewage treatment and disposal systems (septic systems), the bill:

- Removes a requirement that owners of residential properties within the Indian River Lagoon Protection program over ten acres must connect to sewer or upgrade their septic system.
- Allows a septic system remediation plan to require conventional septic system upgrades where central sewerage is unavailable for certain properties.
- Requires DEP to notify new owners of a property with a septic system of certain applicable requirements.
- Requires notice to a person receiving ownership of a property with a septic system that the property is subject to septic system regulations, providing documents, and stating the location of the septic system.

Regarding BMAPs, the bill provides a 60-day waiting period before an approved BMAP is effective. The bill allows the installation of distributed wastewater treatment systems on lots of

one acre or less in a BMAP, reasonable assurance plan, or pollution reduction plan if a sewer system is unavailable.

Regarding the Statewide Flooding and Sea Level Rise Resilience Plan, the bill provides that municipalities and counties that are rural communities will not need a minimum 50 percent cost share for projects in the plan.

Regarding the Environmental Regulation Commission (ERC), the bill repeals provisions establishing the ERC and removes all references to the ERC in statute.

Regarding air pollution permitting, the bill extends the due date for annual operating permits for major sources of air pollution.

II. Present Situation:

The Environmental Regulation Commission

The Environmental Regulation Commission (ERC) is a non-salaried, seven-member board created by the Legislature within the Florida Department of Environmental Protection (DEP).[1] The ERC is responsible for setting statutorily specified air and water quality standards by evaluating their scientific and technical validity, economic impacts, and risks and benefits to the public and Florida's natural resources.[2] The ERC's members are selected by the Governor and confirmed by the Senate.[3] They must be representative of:

- Agriculture;
- The development industry;
- Local government;
- The environmental community;
- Residents; and
- Members of the scientific and technical community with substantial expertise in water pollutants, toxicology, epidemiology, geology, biology, environmental science, or engineering. [4]

DEP must conduct a study of the economic and environmental impact of any proposed standard that would be stricter or more stringent than one set by federal law or regulation.[5] The study must be submitted to the ERC, which must initially adopt the standard and submit it to the Governor and Cabinet. The Governor and Cabinet must take final action and must accept, reject, modify, or remand the standard for further proceedings within 60 days of the submission.[6]

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[1] Florida Department of Environmental Protection (DEP), *Environmental Regulation Commission*, https://floridadep.gov/ogc/ogc/content/environmental-regulation-commission (last visited Jan. 23, 2026).
[2] *Id*.; section 403.804(1), F.S. The ERC does not establish DEP policies, priorities, plans, or directives. It may adopt procedural rules governing its meetings and hearings.
[3] DEP, *Environmental Regulation Commission*; section 20.255(6), F.S.
[4] *Id*.
[5] Section 403.804(2), F.S.
[6] *Id*.

The ERC was created in statute in 1975.[7] It was established 35 years before the legislative rule ratification requirement, which requires legislative approval of rules that have adverse economic impacts or high regulatory costs.[8] In the past ten years, the ERC has met four times: once in 2016, 2017, 2024, and 2025.[9]

Acquisition and Restoration Council

The Acquisition and Restoration Council (ARC) is a ten-member body that makes recommendations on the acquisition, management, and disposal of state-owned lands.[10] ARC's members are composed of:

- The Secretary of Environmental Protection (or designee);
- The director of the Florida Forest Service (or designee);
- The executive director of the Fish and Wildlife Conservation Commission (or designee);
- The director of the Division of Historical Resources (or designee);
- One member appointed by Commissioner of Agriculture;
- One member appointed by the Fish and Wildlife Conservation Commission; and
- Four members appointed by the Governor.[11]

Of the Governor's four appointees, three must be from scientific disciplines related to land, water, or environmental sciences and one must have at least five years of experience managing lands for both active and passive types of recreation.[12] The appointees serve four-year staggered terms and may not serve for more than six years.[13]

ARC's recommendations must be approved by the Board of Trustees of the Internal Improvement Trust Fund.[14]

Florida Communities Trust

The Florida Communities Trust (Trust) is a state-funded land acquisition program that was created within DEP in 1989 to help local communities protect natural resources, provide recreational opportunities, preserve traditional working waterfronts, ensure beach access, protect historical and cultural resources, and provide clean air and drinking water.[15]

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[7] Chapter 75-22, Laws of Fla.; section 403.804, F.S.
[8] Chapter 2010-279, Laws of Fla.; section 120.541(3), F.S.
[9] DEP, *Environmental Regulation Commission Agenda* (2016), *available at* https://floridadep.gov/sites/default/files/ERC_Agenda_July.pdf; DEP, *ERC Meeting*, https://floridadep.gov/ogc/ogc/content/7319-erc-meeting (last visited Jan. 26, 2026); DEP, *The Environmental Regulation Commission Meeting*, https://floridadep.gov/water/water/content/42188-environmental-regulation-commission-meeting (last visited Jan. 26, 2026); and DEP, *Environmental Regulation Commission*, https://floridadep.gov/ogc/ogc/content/environmental-regulation-commission (last visited Jan. 26, 2026).
[10] DEP, *2024 Florida Forever Plan*, 1 (2024), *available at* https://floridadep.gov/lands/environmental-services/content/2024-florida-forever-plan; section 259.035(3), F.S.
[11] Section 259.035(1), F.S.
[12] Section 259.035(1)(a), F.S.
[13] *Id.*
[14] Section 259.035(6), F.S.
[15] DEP, *The Florida Communities Trust*, https://floridadep.gov/lands/land-and-recreation-grants/content/florida-communities-trust (last visited Jan. 22, 2026); Section 380.504(1), F.S. The Florida Communities Trust is a nonregulatory state agency.

The Legislature created the Trust to help local governments bring local comprehensive plans into compliance and to implement comprehensive plan goals, objectives, and policies concerning conservation, recreation and open space, and coastal elements.[16] It also created the Trust to assist local governments in conserving natural resources and resolving land use conflicts by:

- Responding promptly and creatively to opportunities to correct undesirable development patterns, restore degraded natural areas, enhance resource values, restore and preserve urban and working waterfronts, reserve lands for later purchase, participate in and promote the use of innovative land acquisition methods, and provide public access to surface waters;
- Providing financial and technical assistance to local governments, state agencies, and nonprofit organizations to carry out projects and activities and to develop authorized programs; and
- Involving local governments and private interests in voluntarily resolving land use conflicts and issues.[17]

The Trust consists of the Secretary of DEP and four members of the public who are appointed by the Governor and are subject to Senate confirmation. Members must include a former elected official of a county government, a former elected official of a metropolitan[18] municipal government, a representative of a nonprofit organization,[19] and a representative of the development industry. The Governor must make appointments upon the expiration of any current terms or within 60 days after the effective date of a member's resignation.

Governor-appointed governing body members serve four-year terms.[20] Members receive no compensation for their services, but are entitled to necessary expenses, including per diem and travel expenses, incurred in the discharge of their duties.[21]

The Trust has the power to:

- Make and execute contracts and other instruments that are necessary or convenient to exercise its powers.
- Undertake, coordinate, or fund activities and projects including, but not limited to:
  - Redevelopment projects,
  - Resource enhancement projects,
  - Public access projects,
  - Urban waterfront restoration projects,
  - Site reservation,
  - Urban greenways and open space projects, and
  - Working waterfronts.
- Provide technical and financial assistance to local governments, state agencies, water management districts, regional planning councils, and nonprofit agencies.

[16] Section 380.502(3), F.S.
[17] *Id*.
[18] "Metropolitan" is defined as an area consisting of a central city with adjacent cities and smaller surrounding communities: a major urban area and its environs. Section 380.503(4), F.S.
[19] A "nonprofit organization" is defined as any private nonprofit organization, existing under the provisions of s. 501(c)(3) of the U.S. Internal Revenue Code, which has among its principal goals the conservation of natural resources or protection of the environment.
[20] Section 380.504(2), F.S.
[21] Section 380.504(3), F.S.

- Acquire and dispose of real and personal property or any interest therein to protect the natural environment, provide public access or recreational facilities, preserve wildlife habitat, and provide access for managing acquired lands.
- Acquire interests in land through land exchanges, and enter into all alternatives to the acquisition of fee interests in land.
- Award grants and make loans to local governments and nonprofit organizations.
- Provide grants or loans for approved projects.
- Undertake, or authorize a nonprofit organization to undertake, a project or activity that a local government is unable to undertake.
- Invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement.
- Contract for and accept gifts, grants, loans, or other aid, including gifts of real property or any interest in real property.
- Adopt rules.
- Contract with private consultants and nonprofit organizations for professional and technical assistance and advice.
- Make and execute agreements, contracts, and other instruments that are necessary or convenient in the exercise of the powers and functions of the Trust.
- Conduct promotional campaigns, including advertising, for the sale of communities trust license plates.[22]
- Administer the working waterfronts land acquisition program.[23]

Since its inception in 1989, the Trust has facilitated the acquisition of over 96,987 acres of lands for conservation and local recreation opportunities.[24]

Impaired Waters

Under section 303(d) of the federal Clean Water Act, states must establish water quality standards for waters within their borders and develop a list of impaired waters that do not meet the established water quality standards.[25] States must also develop a list of threatened waters that may not meet water quality standards in the following reporting cycle.[26]

DEP sorted those waters into 29 major watersheds, or basins, and further organized them into five basin groups for assessment purposes.[27] If DEP determines that any waters are impaired, the waterbody must be placed on the verified list of impaired waters and a total maximum daily load

[22] Section 380.507, F.S.
[23] Section 380.5105(1), F.S.
[24] DEP, *The Florida Communities Trust*, https://floridadep.gov/lands/land-and-recreation-grants/content/florida-communities-trust (last visited Jan. 22, 2026).
[25] EPA, *Overview of Identifying and Restoring Impaired Waters under Section 303(d) of the CWA*, https://www.epa.gov/tmdl/overview-identifying-and-restoring-impaired-waters-under-section-303d-cwa (last visited Jan. 23, 2026); 40 C.F.R. 130.7.
[26] *Id.*
[27] DEP, *Assessment Lists*, https://floridadep.gov/dear/watershed-assessment-section/content/assessment-lists (last visited Jan. 23, 2026).

(TMDL) must be calculated.[28] A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards.[29] A waterbody may be removed from the verified list at any time during the TMDL process if it attains water quality standards.[30]

Basin Management Action Plans

Basin management action plans (BMAPs) are one of the primary mechanisms DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges,[31] for a watershed.

DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody.[32] First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole or to each identified point source or category of nonpoint sources. Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations.[33]

Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by implementing appropriate best management practices or conducting water quality monitoring.[34] A nonpoint source discharger in a BMAP area may be subject to enforcement action by DEP or a water management district for failure to implement these requirements.[35]

BMAPs must include five-year milestones for implementation and water quality improvement and an associated water quality monitoring component to evaluate the progress of pollutant load reductions.[36] Every five years an assessment of progress toward these milestones must be conducted and the appropriate revisions may be made to the BMAP.[37]

Each BMAP must also include:

- The management strategies available through existing water quality protection programs to achieve TMDLs;
- A description of best management practices adopted by rule;

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[28] *Id.*; DEP, *Watershed Evaluation and Total Maximum Daily Loads (TMDL) Section*, https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program (last visited Jan. 23, 2026); DEP, *Verified List Waterbody Ids (WBIDs)*, https://geodata.dep.state.fl.us/datasets/FDEP::verified-list-waterbody-ids-wbids/about (last visited Jan. 23, 2026); section 403.067(4), F.S.

[29] Section 403.067(6)(a), F.S. *See also* The Clean Water Act, 33 U.S.C. § 1251, s. 303(d).

[30] Section 403.067(5), F.S.

[31] "Point source" is defined as any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. Nonpoint sources of pollution are sources of pollution that are not point sources. Fla. Admin. Code R. 62-620.200(37).

[32] Section 403.067(7)(b)2.h., F.S.

[33] *Id.*

[34] Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.

[35] Section 403.067(7)(b)2.h., F.S.

[36] Section 403.067(7)(a)6., F.S.

[37] *Id.*

- For the applicable five-year implementation milestones, a list of projects that will achieve the pollutant load reductions needed to meet a TMDL or other established load allocations, including a planning-level cost estimate and an estimated date of completion;
- A list of regional nutrient reduction projects submitted by the Department of Agriculture and Consumer Services which will achieve pollutant load reductions established for agricultural nonpoint sources;[38]
- The source and amount of financial assistance that will be made available; and
- A planning-level estimate of each project's expected load reduction, if applicable.[39]

Indian River Lagoon Protection Program

The Indian River Lagoon is a critical water resource that provides many economic, natural habitat, and biodiversity functions, including fishing, boating, recreation, and habitat for endangered and threatened species and other plants and animals.[40]

The Indian River Lagoon Protection Program was created in 2023 to provide additional requirements, projects, and water quality monitoring to further the efforts identified in the Banana River Lagoon BMAP, the Central Indian River Lagoon BMAP, the North Indian River Lagoon BMAP, and the Mosquito Lagoon Reasonable Assurance Plan, which are all components of the Indian River Lagoon Protection Program.[41]

Pursuant to the Indian River Lagoon Protection Program, the installation of new onsite sewage treatment and disposal system (septic systems) is prohibited within the program area where a publicly-owned or investor-owned sewerage system is available.[42] If central sewerage is unavailable, only enhanced nutrient-reducing septic systems or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction are authorized for installation. By July 1, 2030, any commercial or residential property within the program area must be connected to an available central sewer or upgrade septic systems to the specified standards.[43]

Outstanding Florida Springs

In 2016, the Florida Legislature enacted the Florida Springs and Aquifer Protection Act and identified 30 Outstanding Florida Springs that require additional protections to ensure their conservation and restoration for future generations.[44] These springs are a unique part of the state's scenic beauty, provide critical habitat, and have immeasurable natural, recreational, and economic value.[45] Outstanding Florida Springs are defined by statute and include all historic first magnitude springs, including their associated spring runs, as determined by DEP using the most recent Florida Geological Survey springs bulletin, and several additional enumerated springs.[46]

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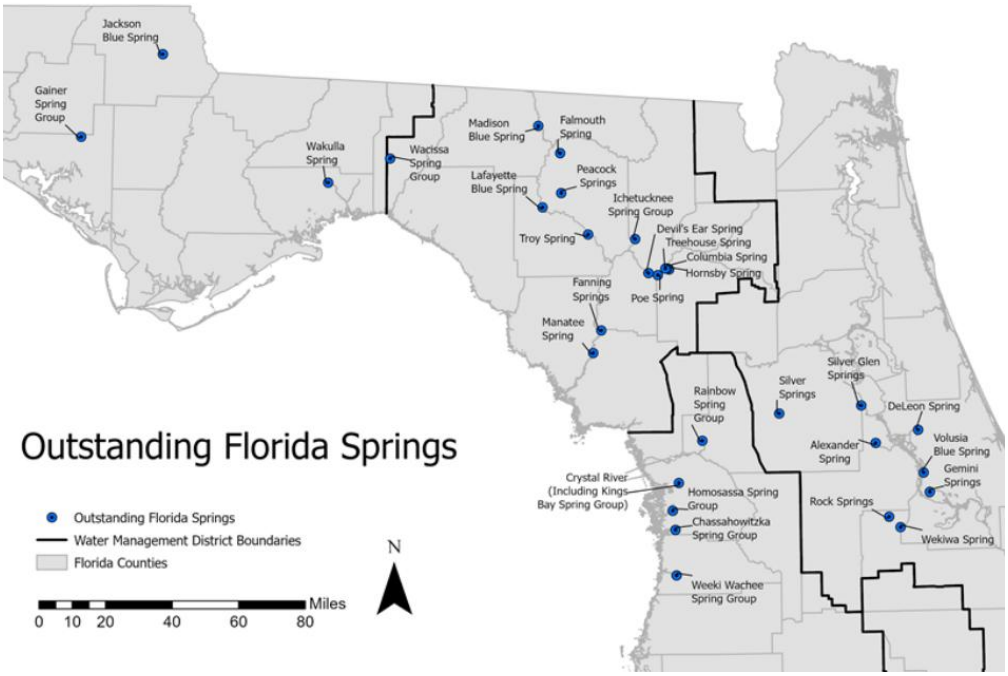
[38] This is required only where agricultural nonpoint sources contribute to at least 20 percent of nonpoint source nutrient discharges or DEP determines that additional measures are necessary to achieve a TMDL. Section 403.067(7)(e)1., F.S.
[39] Section 403.067(7)(a)4., F.S.
[40] *See* section 373.469, F.S.
[41] Section 373.469(3), F.S.; chapter 2023-196, Laws of Fla.
[42] Section 373.469(3)(d), F.S.
[43] *Id*.
[44] DEP, *Springs*, https://floridadep.gov/springs/ (last visited Jan. 23, 2026).
[45] DEP, *Protect and Restore Springs*, https://floridadep.gov/springs/protect-restore (last visited Jan. 23, 2026); Ch. 2016-1, s. 22, Laws of Fla.
[46] Section 373.802(4), F.S.

There are 30 Outstanding Florida Springs, including 24 historic first magnitude springs and six named additional springs.[47]



For areas within a BMAP in effect for an Outstanding Florida Spring, the following activities are prohibited:

- New domestic wastewater disposal facilities, including rapid infiltration basins, with permitted capacities of 100,000 gallons per day or more, except for those facilities that meet an advanced wastewater treatment standard of no more than 3 mg/l total nitrogen on an annual permitted basis, or a more stringent treatment standard if it is necessary to attain a TMDL for the Outstanding Florida Spring.
- New septic systems where connection to a publicly-owned or investor-owned sewerage system is available. On lots of 1 acre or less, if a sewerage system is not available, only the installation of enhanced nutrient-reducing septic systems or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction are authorized.
- New hazardous waste disposal facilities.
- Land application of Class A or Class B domestic wastewater biosolids[48] not in accordance with a DEP-approved nutrient management plan establishing the rate at which all biosolids,

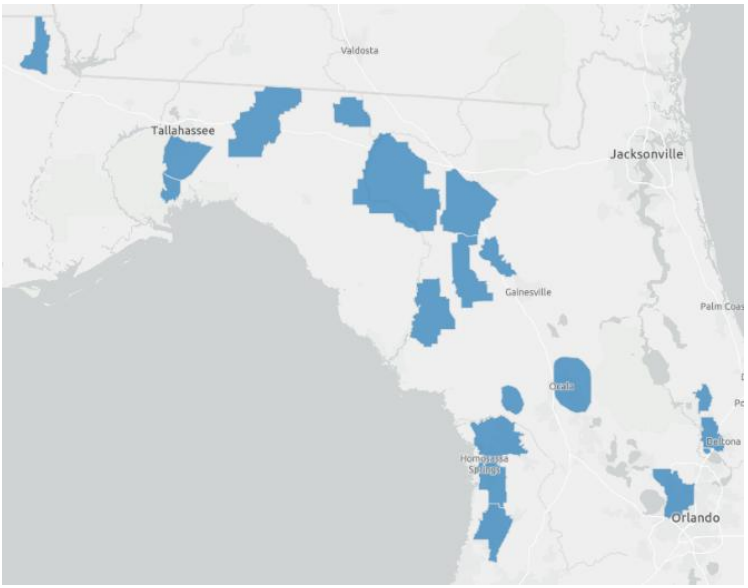
[47] DEP, *Outstanding Florida Springs*, https://geodata.dep.state.fl.us/datasets/outstanding-florida-springs-ofs/about?layer=1 (last visited Jan. 23, 2026). The 30 Outstanding Florida Springs are Alexander Spring, Chassahowitzka Springs Group, Columbia Spring, Crystal River, DeLeon Spring, Devil's Ear Spring, Falmouth Spring, Fanning Springs, Gainer Spring Group, Gemini Springs, Homosassa Spring Group, Hornsby Spring, Ichetucknee Spring Group, Jackson Blue Spring, Lafayette Blue Spring, Madison Blue Spring, Manatee Spring, Peacock Springs, Poe Spring, Rainbow Spring Group, Rock Springs, Silver Glen Springs, Silver Springs, Treehouse Spring, Troy Spring, Volusia Blue Spring, Wacissa Spring Group, Wakulla Spring, Weeki Wachee Springs Group, and Wekiwa Spring. DEP, *62-41.400-403, F.A.C. Outstanding Florida Springs Rule Development Workshop*, 5 (2023), *available at* https://floridadep.gov/sites/default/files/OFS_Workshop_Aug-28-2023_0.pdf (showing map of Outstanding Florida Springs).

[48] Biosolids are the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility and include products and treated material from biosolids treatment facilities and septage management facilities. Section 373.4595(2)(b), F.S. DEP regulates three classes of biosolids for beneficial use: Class AA,

soil amendments, and nutrient sources at the land application site can be applied to the land for crop production while minimizing the pollutants and nutrients being discharged.
- New agriculture operations that do not implement best management practices, measures necessary to achieve DEP-established pollution reduction levels, or groundwater monitoring plans approved by a water management district or DEP.

During the development of a BMAP for an Outstanding Florida Spring, if DEP determines that septic systems are contributing at least 20 percent of nonpoint source nitrogen pollution, or if DEP determines remediation is necessary to achieve the TMDL, the BMAP must include a septic system remediation plan.[49]

DEP is required to collaborate with the water management districts to delineate priority focus areas for each Outstanding Florida Spring or group of springs that contains one or more Outstanding Florida Spring and is impaired.[50] In delineating these areas, DEP must consider groundwater travel time to the spring, hydrogeology, nutrient load, and any other factors that may lead to spring degradation.[51] The image to the right shows the location and boundaries of the current priority focus areas.[52]



Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (septic systems) generally consist of two basic parts: the septic tank and the drainfield.[53] Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue

Class A, and Class B biosolids. These classes are categorized based on treatment and quality, with Class AA biosolids receiving the highest level of treatment, and Class B receiving the lowest. Fla. Admin. Code R. 62-640.200; DEP, *Domestic wastewater biosolids*. https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids (last visited Jan. 14, 2026).

[49] Section 373.807(1)(a) and (3), F.S.

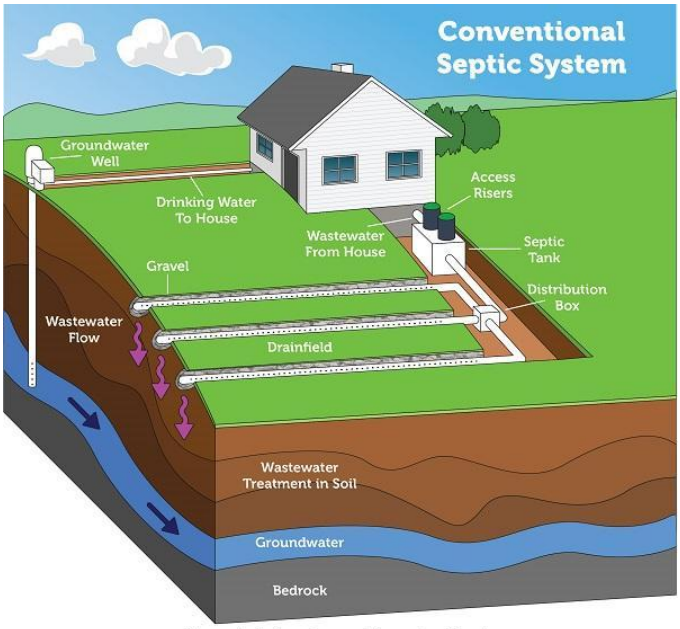
[50] Section 373.803, F.S.

[51] *Id*.

[52] DEP Geospatial Open Data, *Springs Priority Focus Areas*, https://geodata.dep.state.fl.us/datasets/FDEP::springs-priority-focus-areas/explore?location=29.509410%2C-82.973290%2C7.11 (last visited Jan. 23, 2026).

[53] DEP, *Onsite Sewage Program*, https://floridadep.gov/water/onsite-sewage (last visited Jan. 12, 2026); U.S. Environmental Protection Agency (EPA), *How Septic Systems Work*, https://www.epa.gov/septic/how-septic-systems-work (last visited Jan. 12, 2026); EPA, *Types of Septic Systems*, https://www.epa.gov/septic/types-septic-systems (last visited Jan. 12, 2026) (showing the graphic provided on the following page).

deactivating the germs. The drainfield also filters the wastewater as gravity draws the water down through the soil layers.[54] In Florida, the bottom of the drainfield must be at least 24 inches above the water table during the wettest season of the year.[55] There are an estimated 2.6 million septic systems in Florida, providing wastewater disposal for 30 percent of the state's population.[56] The vast majority of these are conventional systems.[57]



Conventional septic systems do not reduce nitrogen from raw sewage. In Florida, approximately 30 to 40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.[58] This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from septic systems a potential contaminant in groundwater.[59]

Aerobic treatment units are an alternative to conventional septic systems for smaller lots or areas where the soil condition is inadequate, the water table is high, or the septic system will be close to an environmentally sensitive water body.[60] Aerobic systems use processes that are similar to municipal sewage plants. The system injects oxygen into the treatment tank, which increases the activity of natural bacteria to provide additional treatment of the effluent.[61]

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[54] *Id.*
[55] Fla. Admin. Code R. 62-6.006(2). For system repairs and alterations to add sewage flow, where the existing elevation of the bottom surface of the drainfield is less than 24 inches above the wet season high water table, the bottom of the drainfield must be maintained at the existing separation or a minimum of 12 inches above the wet season high water table, whichever is greater. Where the bottom of the drainfield is less than 12 inches above the wet season high water table, the drainfield must be brought into full compliance with all new system standards. Fla. Admin. Code R. and 62-6.001(4)(e)2. and 3. *See also* Fla. Admin. Code R. 62-6.015(6)(a).
[56] DEP, *Onsite Sewage Program*, https://floridadep.gov/water/onsite-sewage#:~:text=Onsite%20sewage%20treatment%20and%20disposal%20systems%20%28OSTDS%29%2C%20commonly,represents%2012%25%20of%20the%20United%20States%E2%80%99%20septic%20systems (last visited Jan. 12, 2026).
[57] DEP, *Onsite Sewage Research Projects*, https://floridadep.gov/water/onsite-sewage/content/onsite-sewage-research-projects (last visited Jan. 12, 2026).
[58] Florida Department of Health, *Florida Onsite Sewage Nitrogen Reduction Strategies Study*, *Final Report 2008-2015*, 21 (Dec. 2015), *available at* https://wakullaspringsalliance.org/wp-content/uploads/2016/11/Fla-OSTDS-N-Reduction-Strategies.DOH2015.pdf; *See* Fla. Admin. Code R. 64E-6.006(2).
[59] University of Florida Institute of Food and Agricultural Sciences, *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (2020), *available at* http://edis.ifas.ufl.edu/pdffiles/SS/SS55000.pdf.
[60] EPA, *Types of Septic Systems*, https://www.epa.gov/septic/types-septic-systems#aerobic (last visited Jan. 26, 2026).
[61] *Id.*

Different types of advanced septic systems can remove greater amounts of nitrogen than a typical septic system (often referred to as "advanced" or "nutrient-reducing" septic systems),[62] and may be required in certain areas. For example, enhanced nutrient-reducing septic systems[63] are required for new systems within the Indian River Lagoon[64] and on lots of 1 acre or less within a BMAP, reasonable assurance plan, or pollution reduction plan where a sewerage system is not available.[65] There are also special treatment requirements for the Florida Keys.[66] In addition, performance-based treatment systems[67] must meet specific treatment standards.[68]

Septic System Permits

State law requires a person to receive an approved[69] permit to construct, repair, modify, abandon, or operate a septic system.[70] Once received, a permit to construct a septic system is valid for 18 months after it is issued, although one 90-day extension is available. A permit to repair a septic system is valid for 90 days after it is issued.[71]

A property owner who personally performs construction, maintenance, or repairs to a septic system serving their own owner-occupied, single-family residence does not have to be registered as a septic tank contractor;[72] however, they will be subject to all permitting requirements.[73]

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[62] DEP, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (updated May 2021), *available at* https://floridadep.gov/sites/default/files/Nitrogen_Reducing_Systems_for%20_Springs_Protection_0.pdf.
[63] "Enhanced nutrient-reducing OSTDS" means a septic system approved by DEP as capable of meeting or exceeding a 50 percent total nitrogen reduction before disposal of wastewater in the drainfield, or at least 65 percent total nitrogen reduction combined from onsite sewage tank or tanks and drainfield. Section 373.469(2)(b), F.S.
[64] *See* section 373.469(3)(d), F.S.
[65] Sections 373.811(2) and 403.067(7)(a)10., F.S.
[66] Section 381.0065(4)(l), F.S.
[67] "Performance-based treatment system" means a specialized septic systems designed by a professional engineer with a background in wastewater engineering, licensed in the state of Florida, using appropriate application of sound engineering principles to achieve specified levels of CBOD5 (carbonaceous biochemical oxygen demand after five days), TSS (total suspended solids), TN (total nitrogen), TP (total phosphorus), or fecal coliform found in domestic or commercial sewage waste, to a specific and measurable established performance standard. Fla. Admin. Code R. 62-6.025(7). If a site restricts home construction because of setbacks or authorized sewage flow, a system can be designed by an engineer to meet strict levels of effluent pollutant reductions. The three levels of performance-based treatment systems are secondary treatment, advanced secondary treatment, and advanced wastewater treatment.
[68] *See* Fla. Admin. Code R. 62-6.025(11).
[69] The transfer of the Onsite Sewage Program from the Florida Department of Health to DEP was initiated in 2020 with the passage of SB 712. The first phase of the transition has been implemented, meaning that DEP is currently responsible for permitting septic tanks in Northwest Florida (including Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington counties) and Marion County. In the other counties, septic system permits are issued by the Environmental Public Health Program of the Florida Department of Health's local county health department. DEP, *Onsite Sewage FAQ – Permitting*, https://floridadep.gov/water/onsite-sewage/content/onsite-sewage-faq-permitting (last visited Jan. 27, 2026).
[70] Section 381.0065(4), F.S. DEP may issue septic system permits, except that the issuance of a permit to work seaward of the coastal construction control line is contingent upon receipt of any required coastal construction control line permit from DEP.
[71] *Id*.
[72] *See* chapter 489, part III, F.S., relating to septic tank contracting.
[73] Section 381.0065(4), F.S.

State law prohibits a municipality or political subdivision of the state from issuing a building or plumbing permit for any building that requires the use of a septic system, unless the owner or builder has received a construction permit for the septic system.[74]

An operating permit is required for the use of an aerobic treatment unit system or if the establishment generates commercial waste.[75] An operating permit for a commercial wastewater system is valid for 1 year and must be annually renewed. An operating permit for an aerobic treatment unit is valid for two years and must be renewed every two years.[76] An operating permit for a performance-based treatment system must also be renewed every two years.[77]

DEP must inspect a septic system before placing it system into service[78] and must approve the final installation before a building or structure may be occupied.[79] If certain alterations[80] are made, septic tanks must be pumped and visually inspected.[81] If an existing septic system was approved within the preceding five years, a new inspection is not required unless there is a record of system failure.[82] Septic system repairs must be inspected by DEP or a master septic tank contractor.[83] Buildings or establishments that use an aerobic treatment unit or generate commercial waste must be inspected by DEP at least annually.[84]

DEP is required to regulate and permit maintenance entities for performance-based systems and aerobic treatment unit systems.[85] DEP must establish minimum qualifying criteria for maintenance entities to ensure that these performance-based and aerobic treatment unit systems are maintained and operated according to the manufacturer's specifications.[86] The owner of an engineer-designed performance-based system or an aerobic treatment unit system must maintain a current maintenance service agreement with a maintenance entity, which must inspect each system twice a year and submit a quarterly report to DEP regarding the number of systems inspected and serviced.[87]

Any permit issued for the installation, modification, or repair of a septic system will transfer with the title to the property in a real estate transaction.[88] For the transfer of a construction or repair permit, all information pertaining to the siting, location, and installation conditions or repair must remain the same and the transferee must file an amended application providing updated

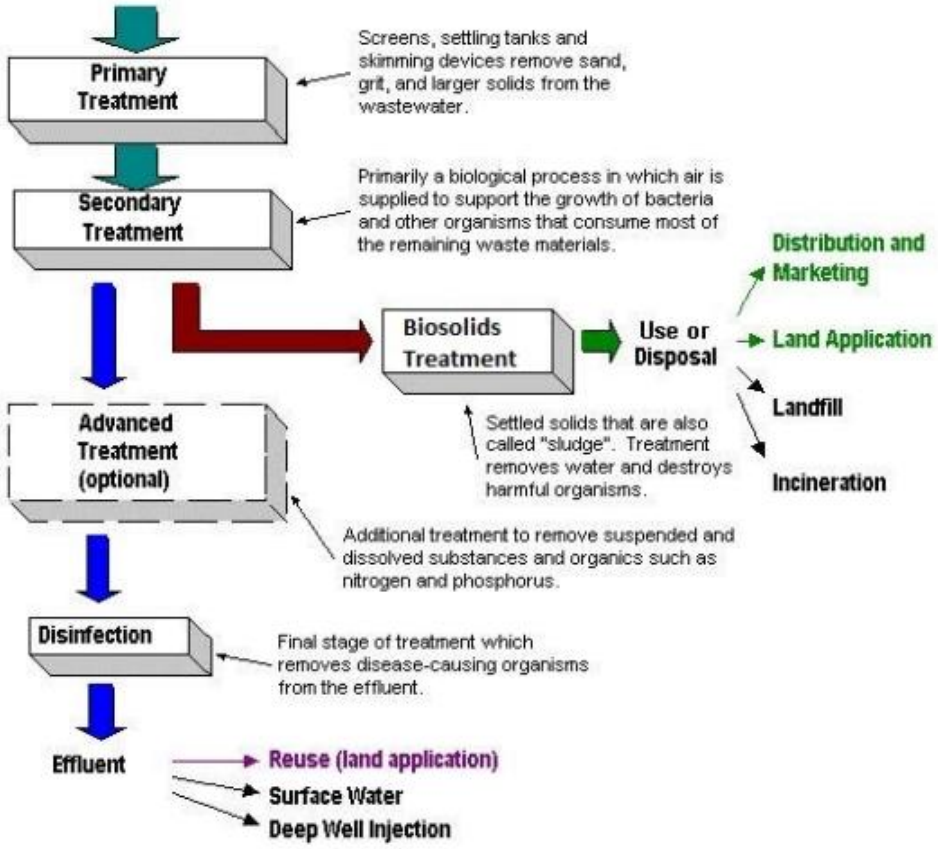
[74] *Id*.
[75] *Id*.
[76] *Id*.
[77] Section 381.0065(4)(j)5., F.S.
[78] Fla. Admin. Code R. 62-6.003(2).
[79] Section 381.0065(4), F.S.
[80] This includes alterations that change the conditions under which the system was permitted, sewage characteristics, or increase sewage flow. DEP approval is required prior to such alterations. Fla. Admin. Code R. 62-6.001(4), F.S.
[81] Fla. Admin. Code R. 62-6.001(4)(b).
[82] Fla. Admin. Code R. 62-6.001(4)(c).
[83] Fla. Admin. Code R. 62-6.003(3).
[84] Section 381.0065(4), F.S.
[85] Section 381.0065(3)(n), F.S.
[86] *Id*.
[87] Section 381.0065(4)(j)3., F.S. (performance-based system requirement); section 381.0065(4)(t)1., F.S. (aerobic treatment unit system requirement).
[88] Section 381.0065(4)(v), F.S.

information and proof of property ownership.[89] The transferee must file the amended application within 60 days of the transfer of ownership.[90] There is no fee associated with processing this information.[91]

Domestic Wastewater Treatment Facilities

The majority of the state's wastewater is controlled and treated by centralized treatment facilities regulated by DEP.[92] Florida has approximately 2,000 permitted domestic wastewater treatment facilities.[93]

Wastewater treatment facilities are required to provide secondary treatment prior to reuse or disposal.[94] Such treatment requires that carbonaceous biochemical oxygen demand and total suspended solids not exceed specific levels based on the method of disposal (i.e., surface water disposal, reuse, land application, or groundwater discharge).[95]



[89] Section 381.0065(4), F.S.
[90] *Id*.
[91] *Id*.
[92] DEP, *Domestic Wastewater Program*, https://floridadep.gov/water/domestic-wastewater (last visited Jan. 22, 2026).
[93] DEP, *General Facts and Statistics about Wastewater in Florida*, https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida (last visited Jan. 22, 2026).
[94] Sections 403.086(1)(a) and (2), F.S.; Fla. Admin. Code R. 62-600.420.
[95] Carbonaceous biochemical oxygen demand (or CBOD5) is the quantity of oxygen used in the carbonaceous biochemical oxidation of organic matter present in water or wastewater, reported as a five-day value determined using approved methods. Fla. Admin. Code R. 62-600.200(8).

For example, for land application or groundwater discharge, the annual average of carbonaceous biochemical oxygen demand and total suspended solids may not exceed 20.0 milligrams per liter (mg/L), and the maximum-permissible concentration in any single sample may not exceed 60.0 mg/L.[96]

Advanced waste treatment is required before discharging into certain impaired waterbodies.[97] DEP may also order advanced waste treatment if necessary.[98] Advanced waste treatment provides a reclaimed water product containing no more than the following concentrations of pollutants:

- 5 mg/L of Biochemical Oxygen Demand;
- 5 mg/L of Suspended Solids;
- 3 mg/L of total nitrogen; and
- 1 mg/L of total phosphorous.[99]

Facilities may be required to provide additional treatment to satisfy water quality standards for receiving surface and ground waters.[100] Systems within Monroe County are subject to different treatment requirements.[101]

Distributed Wastewater Treatment Systems

Distributed wastewater treatment systems consist of separate distributed wastewater treatment units that are in different geographical locations but are linked to a central system either physically or by management.[102] The design of distributed wastewater treatment units varies based on manufacturer and setting (residential, commercial, or industrial).

Distributed wastewater treatment units are currently permitted and regulated as domestic wastewater treatment facilities under ch. 403, F.S., and chs. 62-600 and 62-620 of the Florida Administrative Code.[103]

Statewide Flooding and Sea Level Rise Resilience Plan

The Statewide Flooding and Sea Level Rise Resilience Plan is a three-year plan consisting of ranked projects that address risks of flooding and sea level rise to coastal and inland

[96] Fla. Admin. Code R. 62-600.420(3).
[97] Section 403.086(1)(c), F.S.
[98] Section 403.086(1)(a), F.S.
[99] Section 403.086(4)(a), F.S. This statute defines the term "advanced waste treatment," rather than "advanced wastewater treatment." However, the term is used in the context of wastewater treatment and appears to refer to the treatment of wastewater.
[100] Fla. Admin. Code R. 62-600.430. DEP, *Domestic Wastewater Treatment Process*, *available at* https://floridadep.gov/water/domestic-wastewater/documents/domestic-wastewater-treatment-process (showing flowchart of wastewater treatment process).
[101] Section 403.086(11), F.S.
[102] *See* EPA, Water Environment Foundation, and The Water Research Foundation, *Distributed Systems Overview*, 1 (2019), *available at* https://www.wef.org/globalassets/assets-wef/2-resources/topics/a-n/distributed-systems/technical-resources/wsec-2019-fs-012-wef_wrf_distributed_sytems_overview.pdf.
[103] *See* Email from DEP to Senate Committee on Environment and Natural Resources on Oct. 4, 2024 (on file with committee staff).

communities in the state.[104] Local governments, certain local districts, and water management districts may submit projects for funding.[105]

Each project included in the plan must have a minimum 50 percent cost share, unless the project assists a community eligible for a reduced cost share or is located within a community eligible for a reduced cost share.[106] The total amount of funding proposed for each year of the plan may not be less than $100 million.[107] The Legislature must review and, subject to appropriation, approve funding.[108]

Rural Communities

Florida law defines a rural community as:

- A county with a population of 75,000 or fewer;
- A county with a population of 125,000 or fewer that is contiguous to a county with a population of 75,000 or fewer;
- A municipality within a county described above; and
- An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural that has at least three or more economic distress factors.[109]

A rural community is in economic distress if conditions exist that affect the community's fiscal and economic viability.[110] Factors that indicate economic distress include low per capita income, low per capita taxable values, high unemployment, high underemployment, low weekly earned wages compared to the state average, low housing values compared to the state average, high percentages of the population receiving public assistance, high poverty levels compared to the state average, and a lack of year-round stable employment opportunities.[111]

As of May 2025, the Florida Department of Commerce classified 31 counties as rural communities and 36 as non-rural communities.[112] It identified 31 municipalities that are rural communities.[113]

[104] Section 380.093(5)(a), F.S.
[105] Section 380.093(5)(a), F.S.
[106] Section 380.093(5)(e), F.S.
[107] Section 380.093(5)(h), F.S.
[108] *Id*.
[109] Section 288.0656(2)(e), F.S. These distress factors are verified by the Florida Department of Commerce.
[110] Section 288.0656(2)(c), F.S.
[111] *Id*.
[112] Florida Department of Commerce, *Rural Community Analysis*, 1 (May 6, 2025), *available at* https://floridajobs.org/docs/default-source/office-of-rural-initiatives/2025-rural-communities-analysis.pdf.
[113] *Id*. at 1-2.

Air Pollution Regulation

The federal Clean Air Act requires the U.S. Environmental Protection Agency to establish national ambient air quality standards for common and widespread pollutants.[114] The Environmental Protection Agency has established air quality standards for six common criteria air pollutants, which are particulate matter, ozone, sulfur dioxide, nitrogen dioxide, carbon monoxide, and lead.[115] The Clean Air Act requires states to adopt enforceable plans to achieve and maintain air quality standards.[116]

Pursuant to the Clean Air Act, Florida law requires each major source of air pollution in the state to obtain an operation permit from DEP.[117] A major source of air pollution is defined as a stationary source or group of stationary sources located within a contiguous area and under common control that emits or can emit 10 tons per year or more of any hazardous air pollutant, or 25 tons per year or more of any combination of hazardous air pollutants.[118]

State law requires each major source of air pollution operating in Florida to pay an annual operation license fee.[119] This fee must be sufficient to cover all reasonable direct and indirect costs required to develop and administer the major stationary source air-operation permit program.[120] The fee is due between January 15 and April 1 of each year.[121] DEP must send a written warning of the consequences of failing to pay the fee if it has not received the payment by March 1 of each year. A fee must be postmarked by April 1 to avoid imposition of a late penalty.[122]

DEP may not require air pollution construction fees for changes or additions to a major source of air pollution, unless the activity triggers certain permitting requirements.[123] Costs to issue and administer such permits are considered direct and indirect costs of the major stationary source air-operation permit program.

III. Effect of Proposed Changes:

The Environmental Regulation Commission

Section 1 amends s. 20.255, F.S., to remove language that creates the Environmental Regulation Commission (ERC) as a part of the Florida Department of Environmental Protection (DEP).

[114] EPA, *Clean Air Act Requirements and History*, https://www.epa.gov/clean-air-act-overview/clean-air-act-requirements-and-history (last visited Jan. 28, 2026); *see* 42 U.S.C. ch. 85.
[115] EPA, *Clean Air Act Requirements and History*; *See* 40 C.F.R. sections 50.1-50.21.
[116] EPA, *Clean Air Act Requirements and History*; 42 U.S.C. §7407.
[117] Section 403.0872, F.S.
[118] 42 U.S.C. §7412(a)(1).
[119] Section 403.0872(11), F.S.
[120] Section 403.0872(11)(b), F.S.
[121] *Id*.
[122] Section 403.0872(11)(a)3., F.S.
[123] Section 403.0872(11)(a)5., F.S.

The bill deletes the following provisions related to the ERC's membership and operation:

- The ERC is composed of seven Florida residents appointed by the Governor and subject to Senate confirmation;
- The Governor must provide reasonable representation from all sections of the state when making appointments to the ERC;
- Membership must be representative of agriculture, the development industry, local government, the environmental community, lay citizens, and members of the scientific and technical community with substantial expertise in water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering;
- The Governor must appoint the chair and the members must appoint the vice chair;
- All appointments are four-year terms;
- The Governor may fill a vacancy at any time for the unexpired term;
- Members serve without compensation, but are paid travel and per diem while in performance of their official duties;
- DEP shall furnish administrative, personnel, and other necessary support services; and
- The ERC may employ independent counsel and contract for the services of outside technical consultants.

Section 18 amends s. 403.1838, F.S., regarding rule requirements under the Small Community Sewer Construction Assistance Act to replace references to the ERC with DEP generally.

Section 19 repeals s. 403.804, F.S., which establishes the ERC and its powers and duties.

Section 20 amends s. 120.81, F.S., regarding a requirement that DEP prepare a risk impact statement for any proposed rule that establishes or changes certain standards or criteria and that is proposed for approval by the ERC. The bill deletes the criteria that the rule be proposed for approval by the ERC.

Section 21 amends s. 373.421, F.S., which requires the ERC to adopt a unified statewide methodology for the delineation of specified wetlands. The bill replaces the ERC with DEP.

Section 22 amends s. 403.031, F.S., to delete language providing that if the ERC designates waters within the boundaries of waters of the state as an Outstanding Florida Water, waters outside the boundaries are not included as part of such designation unless a noticed hearing is held and the boundaries of such lands are specifically considered and described for such designation.

Section 23 amends s. 403.061, F.S., to delete two provisions authorizing DEP to adopt standards that are more stringent than federal regulations only through the approval by the ERC.

Section 24 amends s. 403.704, F.S., to delete a provision authorizing DEP to adopt standards that are more stringent than the U.S. Environmental Protection Agency's regulations only through approval by the ERC.

The bill makes technical changes.

Section 25 amends s. 403.707, F.S., to delete language specifying that DEP is not required to submit rules relating to permits for solid waste management facility permits to the ERC for approval.

The bill also deletes a citation to the statute that sets out the organizational structure of DEP.

The bill makes technical changes

Section 26 amends s. 403.7222, F.S., to remove a reference to the ERC in language providing that DEP is not prohibited from banning the disposal of hazardous waste in other types of waste management units in a manner consistent with federal requirements, except as provided in laws related to the ERC.

Section 27 amends s. 403.7234, F.S., which in part allows DEP to regulate the waste management practices of small quantity generators to ensure proper management of hazardous waste in a manner consistent with federal requirements, except through approval by the ERC. The bill removes the language referring to approval by the ERC.

The bill makes a technical change.

Section 28 amends s. 403.803, F.S., to remove the definition of "commission," which referred to the ERC. The bill makes technical changes.

Section 29 amends s. 403.805, F.S., regarding the powers and duties of the Secretary of DEP. The bill updates the list of chapters that the Secretary of DEP has the authority to implement by adding the following:

- Ch. 161, F.S., beach and shore preservation,
- Ch. 258, F.S., state parks and preserves,
- Ch. 369, F.S., conservation,
- Ch. 377, F.S., energy resources,
- Ch. 378, F.S., land reclamation, and
- Ch. 380, F.S., land and water management.

The bill also removes a provision requiring the Secretary of DEP to submit any proposed rule containing standards to the ERC, except for total maximum daily load calculations and allocations. The bill removes a second statutory citation to the ERC's legislative authority.

The bill makes technical changes.

Section 30 amends s. 403.8055, F.S., to remove a statutory citation to the ERC and to replace the ERC with DEP in a provision directing rulemaking objections to be filed with the ERC.

The bill makes technical changes.

Section 31 amends s. 403.814, F.S., to remove a reference to the ERC's adoption of standards.

Section 37 reenacts s. 403.1835, F.S., to incorporate an amendment made by the bill to s. 403.1838, F.S.

The Acquisition and Restoration Council & the Florida Communities Trust

Section 2 amends s. 259.035, F.S., to add two members to the Acquisition and Restoration Council (ARC) for a total of 12 voting members and to authorize ARC to administer the Florida Communities Trust (Trust).

The bill amends membership requirements to incorporate the two new members. It adds two members to the current four who must be appointed by the Governor. It requires one of those six Governor-appointed members to be a former elected official of a county and one to be a former elected official of a metropolitan[124] municipality.
The bill provides that, effective July 1, 2026, ARC will administer the Trust. This includes reviewing, approving, and overseeing project applications, disbursements, and implementation measures consistent with the Trust. The bill requires ARC to coordinate with DEP for rulemaking and grant cycle administration to ensure alignment with the Florida Forever Act and the state's conservation priorities.

The bill makes conforming and technical changes.

Section 3 amends s. 259.105, F.S., to reflect the transfer of the Trust from DEP to ARC.[125] Current law requires certain Florida Forever projects and acquisitions to be measured by goals in rules developed by the Trust's Governing Board. The bill removes only the specification that the rule is developed by the governing board, so that the projects and acquisitions are measured by goals in rules developed by the Trust.

Section 8 amends s. 380.502, F.S., to provide that it is the intent of the Legislature to transfer the administration and oversight of the Trust from DEP to ARC to improve consistency and effectiveness in conservation land acquisition and resource stewardship.

The Legislature finds that the goals of land conservation and community development are best served through coordinated decision-making and streamlined oversight.

The provision described above replaces language describing the Legislative intent to establish a nonregulatory agency to assist local governments in bringing local comprehensive plans into compliance and implementing the goals, objectives, and policies of conservation, recreation and open space, and coastal elements in local comprehensive plans, or in conserving natural resources and resolving land use conflicts. This language is moved to Section 9 of the bill.

Current law includes a list describing how the nonregulatory agency will assist local governments. The bill transfers the list so it describes how the transfer of the administration and oversight of the Trust to ARC will improve consistency and effectiveness in conservation land acquisition and resource stewardship. The bill deletes the last item in the list, which provides that

[124] "Metropolitan" must have the same meaning as in section 380.503, F.S., which describes the term as "a population area consisting of a central city with adjacent cities and smaller surrounding communities: a major urban area and its environs."
[125] See sections 8 through 10 of the bill.

the transfer will improve consistency and effectiveness in land acquisition and resource stewardship by involving local governments and private interests in voluntarily resolving land use conflicts and issues.

Section 9 amends s. 380.504, F.S., to transfer the administration of the Trust to ARC. The bill adds that the Trust's purpose is to assist local governments in bringing their comprehensive plans into compliance and implementing conservation, recreation and open space, and coastal elements of their comprehensive plans, or conserving natural resources and resolving land use conflicts. The Trust will do this by providing financial assistance to local governments and nonprofit environmental organizations to carry out authorized projects and activities.

The bill removes language that creates the Trust as a nonregulatory state agency and instrumentality, which shall be a public body corporate and politic, within DEP. Additionally, the bill removes the following provisions regarding the membership and operation of the Trust:

- The governing body of the Trust consists of the Secretary of DEP and four public members appointed by the Governor and subject to Senate confirmation;
- The Governor must appoint a former elected official of a county government and a metropolitan municipal government, a representative of a nonprofit organization, and a representative of the development industry;
- The Secretary of DEP may appoint their deputy secretary, the director of the Division of State Lands, or the director of the Division of Recreation and Parks to serve in the Secretary's absence;
- The Secretary of DEP is the chair of the governing body of the Trust;
- The Governor must make their appointments upon the expiration of any current terms or within 60 days after the effective date of the resignation of any member;
- Of the initial governing body members, two of the Governor's appointees will serve a two-year term and the remaining one will serve a four-year term, and thereafter governing body members appointed by the Governor will serve four-year terms;
- The Governor may fill any vacancy for an unexpired term; and
- Governing body members will receive no compensation for their services, but are entitled to the necessary expenses, including travel and per diem expenses, incurred in the discharge of their duties.

Section 10 amends s. 380.507, F.S., which enumerates the power of the Trust.

The bill removes the Trust's power to make loans to local governments and nonprofit organizations for acquiring fee and less-than-fee title. It makes a conforming change to remove language providing that the Trust may loan up to the total cost of any approved project.
The bill removes the Trust's power to invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement in specified investments if the investments are made on behalf of the Trust by the State Board of Administration.

It revises the Trust's rulemaking authority to direct it to develop, in conjunction with ARC, rules, policies, and guidelines for the administration of the Trust that are consistent with provisions relating to the administration of the Trust, to ARC, and to the Florida Forever Trust Fund.

Related to the Trust's rulemaking power, the bill deletes the following provisions:

- The Trust must adopt rules governing the acquisition of lands with proceeds from the Florida Forever Trust Fund;
- Rules for land acquisition must include procedures for appraisals and confidentiality, a method of determining a maximum purchase price, and procedures to ensure that the land is acquired in a voluntarily negotiated transaction, surveyed, conveyed with marketable title, and examined for hazardous materials contamination;
- Land acquisition procedures of a local land authority may be used for certain land acquisition programs.

The bill also removes the Trust's power to contract with private consultants and nonprofit organizations, as well as its power to conduct promotional campaigns, including advertising, for the sale of communities trust license plates.

The bill gives the Trust the power to review project recommendations and funding priorities and provide acquisition decisions. It also gives the Trust the power to submit project recommendations, funding priorities, and acquisition decisions to ARC, which has final approval authority over Trust expenditures and acquisitions.

The bill makes technical changes.

Section 11 repeals s. 380.512, F.S., which requires the Trust to submit a report to the Governor and the Legislature within three months of the end of the fiscal year that provides the Trust's:

- Operations and accomplishments;
- Receipts and expenditures during the fiscal year;
- Assets and liabilities and the status of reserve, special, or other funds;
- Evaluation of the effectiveness of projects;
- Identification of additional funding, legislation, or other resources required to carry out its objectives more effectively; and
- Account of any other Trust or DEP duties established in statutes relating to the Trust.

Section 12 repeals s. 380.513, F.S., which provides that the Trust and its corporate existence shall continue until terminated by law, at which time all its rights and properties in excess of its obligations shall pass to and be vested in the state.

Section 13 repeals s. 380.514, F.S., which provides that if the statutory provisions relating to the Trust are inconsistent with the provisions of any other general, special, or local law, the provisions relating to the Trust will be controlling.

Section 32 amends s. 376.302, F.S., to make a citation less specific.

Section 33 amends s. 380.5105, F.S., to make a conforming change to a citation.

Septic System and Wastewater Regulations

Section 4 amends s. 373.469, F.S., regarding requirements for onsite sewage treatment and disposal systems (septic systems) for properties located within the area covered by the Indian River Lagoon Protection Program.

Specifically, the bill limits the requirement that any residential property with an existing septic system must connect to central sewer or upgrade the septic system so that it only applies to residential properties of ten acres or less.

For all applications submitted before July 1, 2030 to repair, modify, or replace a conventional septic system on a commercial property or a residential property of ten acres or less, the bill requires the permitting agency to notify property owners that the existing septic system must be upgraded.

The bill makes technical changes.

Section 5 amends s. 373.807, F.S., regarding septic system remediation plans under a basin management action plan (BMAP). The bill provides that a septic system remediation plan may require existing conventional septic systems to upgrade to a nutrient-reducing septic system where central sewerage is unavailable for:

- Properties of 10 acres or less that are located outside an established priority focus area of an Outstanding Florida Spring but within the boundary of a specific springs BMAP, and
- Properties of any size located within the boundary of an established priority focus area of an Outstanding Florida Spring.

Section 6 repeals s. 373.811, F.S., which prohibits the following activities within a BMAP for an Outstanding Florida Spring:

- New domestic wastewater disposal facilities, including rapid infiltration basins, with permitted capacities of 100,000 gallons per day or more, except for those facilities that meet an advanced wastewater treatment standard of no more than 3 mg/l total nitrogen on an annual permitted basis, or a more stringent treatment standard if it is necessary to attain a total maximum daily load for the Outstanding Florida Spring.
- New hazardous waste disposal facilities.
- New septic systems where connection to a publicly-owned or investor-owned sewerage system is available. On lots of 1 acre or less, if a sewerage system is not available, only the installation of enhanced nutrient-reducing septic systems or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction are authorized.
- Land application of Class A or Class B domestic wastewater biosolids not in accordance with a DEP-approved nutrient management plan establishing the rate at which all biosolids, soil amendments, and nutrient sources at the land application site can be applied to the land for crop production while minimizing the pollutants and nutrients being discharged.
- New agriculture operations that do not implement best management practices, measures necessary to achieve DEP-established pollution reduction levels, or groundwater monitoring plans approved by a water management district or DEP.

The first two prohibited activities listed above are included in an amendment to s. 403.067, F.S., in section 15 of the bill, which expands the prohibitions. The third prohibition is currently expanded in statute.[126] The fourth prohibited activity is currently prohibited in DEP rule.[127] The final prohibition is partially captured by the requirement that agricultural operations within a BMAP adopt best management practices, suitable interim measures, or other measures necessary to achieve the TMDL.[128] However, the adoption of groundwater monitoring plans is not a specific requirement.[129]

Section 14 amends s. 381.0065, F.S., concerning septic systems. The bill allows DEP to annually review and audit up to 25 percent of all inspection and maintenance reports submitted by maintenance entities for performance-based treatment systems and aerobic treatment unit systems. DEP may adopt rules to establish procedures for these audits.

The bill directs DEP to concurrently process septic system operating and construction permits when a person jointly applies for an operating permit and a construction permit for the same septic system.

The bill adds that an operating permit must be obtained before the use of any engineer-designed performance-based system.

The bill provides that the operating permit for a residential septic system is valid for the lifetime of the installation. The bill requires an operating permit modification for any subsequent change in ownership of the property or modification to the wastewater system.

When property with a septic system that requires an operating permit is sold or transferred, the subsequent owner with a controlling interest must provide written notice and proof of ownership to DEP to amend the operating permit information within 60 days of the sale or transfer.

The bill deletes language providing that the operating permit for an aerobic treatment unit is valid for two years and must be renewed every two years.

Current law provides that a fee is not associated with the processing of supplemental information in an amended operating permit. The bill limits this to cases where only ownership information is updated to reflect a permit transfer for a construction, repair, or operating permit.

Current law requires maintenance entities to perform twice-a-year inspections of engineer-designed performance-based septic systems and aerobic treatment unit septic systems and to submit four reports per year to DEP on the number of systems inspected and serviced. The bill matches the frequency of these inspections and reports so that both will be required twice a year.

The bill removes the requirement that a property owner obtain a biennial system operating permit from DEP for each septic system.

[126] Section 403.067(7)(a)10., F.S.
[127] *See* Fla. Admin. Code R. 62-640.700.
[128] Section 403.067(7)(c)2., F.S.
[129] Section 403.067(7), F.S.

The bill provides that any transfer of title of a property with a septic system that has not been abandoned or that is subject to a permit for the installation, modification, repair, or operation of such a system is subject to certain requirements. Two of these requirements are currently in law. However, the bill adds the following requirement:

- At or before the time of such real estate transaction, the following notifications must be provided to persons receiving ownership of the property:
  - A disclosure statement clearly identifying that the property is subject to septic system regulations;
  - Information indicating the nature and location of any existing septic system components;
  - If applicable, a statement that the property is subject to a septic system operating permit and that one or more of the persons receiving a controlling interest in the property are required to provide written notice and proof of ownership to update the operating permit information within 60 days of such real estate transaction; and
  - A copy of any valid permit for the installation, modification, repair, or operation of a septic system that is being transferred.

Current law provides that DEP may contract with or delegate its powers and duties concerning septic systems to a county. The bill removes the phrase "to a county."

The bill makes technical changes.

Section 15 amends s. 403.067, F.S., which concerns the establishment and implementation of total maximum daily loads (TMDLs). The bill removes language providing that TMDLs are not subject to approval by the Environmental Regulation Commission (ERC).

The bill provides a 60-day waiting period after a secretarial order is filed before a BMAP or an amendment to a BMAP is effective.

The bill provides that the following activities are prohibited within a BMAP, a reasonable assurance plan, or a pollution reduction plan:

- The construction or installation of new domestic wastewater disposal facilities, including rapid infiltration basins, with permitted capacities of 100,000 or more gallons per day, except facilities that meet an advanced wastewater treatment standard of no more than 3 mg/l total nitrogen and 1 mg/l total phosphorus on an annual permitted basis, or a more stringent treatment standard if DEP determines it is necessary to attain a TMDL.
- The construction or installation of new hazardous waste disposal facilities.

These activities listed above were previously prohibited only within a BMAP for an Outstanding Florida Spring. This language expands the prohibitions[130] to all BMAPs, reasonable assurance plans, and pollution reduction plans. Further, it narrows the exception for facilities that meet certain wastewater treatment standards by adding the requirement that they also meet the 1 mg/l total phosphorus standard. The current exception for wastewater disposal facilities in Outstanding Florida Springs' BMAPs only require the 3 mg/l total nitrogen standard.

[130] These prohibitions are found in s. 373.811, F.S., which the bill repeals in section 6. See page 24 of this bill analysis.

Current law requires the installation of enhanced nutrient-reducing septic systems or other specified wastewater treatment systems on lots of one acre or less in a BMAP, reasonable assurance plan, or pollution reduction plan, if a publicly-owned or investor-owned sewerage system is unavailable. The bill also allows the installation of distributed wastewater treatment systems in this case.

Section 16 amends s. 403.0671, F.S., to delete a citation to s. 373.811, F.S., which the bill repeals.[131] This is a conforming change.

Section 34 reenacts s. 381.0066, F.S., to incorporate an amendment made by the bill to s. 381.0065, F.S.

Section 35 reenacts s. 373.4595, F.S., to incorporate an amendment made by the bill to s. 403.067, F.S.

Statewide Flooding and Sea Level Rise Resilience Plan

Section 7 amends s. 380.093, F.S., regarding the Statewide Flooding and Sea Level Rise Resilience Plan. The bill adds to the current definition of "community eligible for a reduced cost share," a municipality or county that is a rural community. These municipalities and counties will not need a minimum 50 percent cost share for projects in the Statewide Flooding and Sea Level Rise Resilience Plan.

The bill makes technical changes.

Air Pollution

Section 17 amends s. 403.0872, F.S., regarding operation permits for major sources of air pollution. The bill will require each major source of air pollution permitted to operate in Florida to pay the annual operation license fee by June 30 of each year, instead of between January 15 and April 1, which is the requirement in current law.

The bill removes language requiring DEP to send a written warning to a permittee if the annual operating license fee is not received by April 1. Current law provides that a fee is timely if it is postmarked by the deadline. The bill changes this provision to require that the fee be received to be paid on time.

The bill removes language providing that the costs to issue and administer permits shall be considered direct and indirect costs of the major stationary source air-operation permit program.

Section 36 reenacts s. 403.0873, F.S., to incorporate an amendment made by the bill to s. 403.0872, F.S.

[131] See section 6 of the bill and page 24 of this bill analysis.

Effective Date

Section 38 provides an effective date of July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate positive fiscal impact on residential property owners of properties of ten acres or more in certain areas, who will not be required to upgrade to central sewer or upgrade a septic system.

The bill may cause an indeterminate positive fiscal impact on property owners by extending the lifespan of permits for certain residential septic systems.

C. Government Sector Impact:

The bill may have an indeterminate positive fiscal impact on local governments that are rural communities with projects in the Statewide Flooding and Sea Level Rise Resilience Plan.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.255, 120.81, 259.035, 259.105, 376.302, 373.421, 373.469, 373.807, 380.093, 380.502, 380.504, 380.507, 380.5105, 381.0065, 403.031, 403.061, 403.067, 403.0671, 403.0872, 403.1838, 403.704, 403.707, 403.7222, 403.7234, 403.803, 403.805, 403.8055, and 403.814.

This bill repeals the following sections of the Florida Statutes: 373.811, 380.512, 380.513, 380.514, and 403.804.

This bill reenacts the following sections of the Florida Statutes: 373.4595, 381.0066, 403.0873, and 403.1835.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environment and Natural Resources on January 3, 2026:
The committee substitute:

- Provides that an onsite sewage treatment and disposal system (septic system) remediation plan may require existing conventional septic systems to upgrade to nutrient-reducing septic systems where central sewerage is not available for:
  - Properties of 10 acres or less located outside of a priority focus area of an Outstanding Florida Spring, but within a springs basin management action plan, and
  - Properties of any size located within a priority focus area.
- Provides that the operating permit for a commercial wastewater system is valid for one year after the date of issuance and may be renewed annually.
- Narrows the types of septic system operating permits that are valid for the lifetime of the installation to only residential septic systems.
- Requires a septic system operating permit to be modified upon a change in occupancy of the property. The committee substitute requires modification for a change in *ownership*.
- Removes language in the underlying bill regarding fees for the submission of septic system inspection reports and inspection and supplemental fees paid by fertilizer distributors for Class AA biosolids-composed fertilizers.
- Removes language added in the underlying bill that requires a local government or special district's wastewater services needs analysis to include an analysis of domestic biosolids and septage generation, treatment, management, use, and disposal.
- Makes technical and conforming changes.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/03/2026	.	
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	.	
	.	

The Committee on Environment and Natural Resources (Massullo) recommended the following:

Senate Amendment (with title amendment)

Delete lines 309 - 1728

and insert:

identified as requiring remediation. For properties 10 acres or less located outside the boundary of an established priority focus area of an Outstanding Florida Spring but within the boundary of a specific springs basin management action plan, such remediation plans may require existing conventional onsite sewage treatment and disposal systems to upgrade to a nutrient-

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reducing onsite sewage treatment and disposal system where central sewerage is not available. Such remediation plan may also require properties of any size located within the boundary of an established priority focus area of an Outstanding Florida Spring to upgrade existing conventional onsite sewage treatment and disposal systems to a nutrient-reducing onsite sewage treatment and disposal system where central sewerage is not available.

Section 6. Section 373.811, Florida Statutes, is repealed.

Section 7. Paragraph (e) of subsection (5) of section 380.093, Florida Statutes, is amended to read:

380.093 Resilient Florida Grant Program; comprehensive statewide flood vulnerability and sea level rise data set and assessment; Statewide Flooding and Sea Level Rise Resilience Plan; regional resilience entities.—

(5) STATEWIDE FLOODING AND SEA LEVEL RISE RESILIENCE PLAN.—

(e) Each project included in the plan must have a minimum 50 percent cost share unless the project assists or is within a community eligible for a reduced cost share. For purposes of this section, the term "community eligible for a reduced cost share" means:

1. A municipality that has a population of less than 10,000 ~~or fewer~~, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements;

2. A county that has a population of less than 50,000 ~~or~~

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~~fewer~~, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income ~~that is~~ less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; ~~or~~

3. A municipality or county that has a per capita annual income ~~that is~~ equal to or less than 75 percent of the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce; or

4. A municipality or county that is a rural community as defined in s. 288.0656(2).

Section 8. Subsection (3) of section 380.502, Florida Statutes, is amended to read:

380.502 Legislative findings and intent.—

(3) The Legislature further finds that the goals of land conservation and community development are best served through coordinated decisionmaking and streamlined oversight. It is therefore the intent of the Legislature to transfer the administration and oversight of the Florida Communities Trust from the Department of Environmental Protection to the Acquisition and Restoration Council to improve consistency and effectiveness in conservation land acquisition and resource stewardship ~~It is the intent of the Legislature to establish a nonregulatory agency that will assist local governments in bringing local comprehensive plans into compliance and implementing the goals, objectives, and policies of the conservation, recreation and open space, and coastal elements of~~

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~~local comprehensive plans, or in conserving natural resources and resolving land use conflicts~~ by:

(a) Responding promptly and creatively to opportunities to correct undesirable development patterns, restore degraded natural areas, enhance resource values, restore deteriorated or deteriorating urban waterfronts, preserve working waterfronts, reserve lands for later purchase, participate in and promote the use of innovative land acquisition methods, and provide public access to surface waters.

(b) Providing financial and technical assistance to local governments, state agencies, and nonprofit organizations to carry out projects and activities and to develop programs authorized by this part.

~~(c) Involving local governments and private interests in voluntarily resolving land use conflicts and issues.~~

Section 9. Section 380.504, Florida Statutes, is amended to read:

380.504 Florida Communities Trust; creation~~; membership; expenses~~.—

(1) There is created ~~within the Department of Environmental Protection a nonregulatory state agency and instrumentality, which shall be a public body corporate and politic, known as~~ the "Florida Communities Trust~~,~~" administered by the Acquisition and Restoration Council ~~The governing body of the trust shall consist of:~~

~~(a) The Secretary of Environmental Protection; and~~

~~(b) Four public members whom the Governor shall appoint subject to Senate confirmation.~~


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~~The Governor shall appoint a former elected official of a county government, a former elected official of a metropolitan municipal government, a representative of a nonprofit organization as defined in this part, and a representative of the development industry. The Secretary of Environmental Protection may appoint his or her deputy secretary, the director of the Division of State Lands, or the director of the Division of Recreation and Parks to serve in his or her absence. The Secretary of Environmental Protection shall be the chair of the governing body of the trust. The Governor shall make his or her appointments upon the expiration of any current terms or within 60 days after the effective date of the resignation of any member~~.

(2) The purpose of the trust is to assist local governments in bringing into compliance and implementing the conservation, recreation and open space, and coastal elements of their comprehensive plans or in conserving natural resources and resolving land use conflicts by providing financial assistance to local governments and nonprofit environmental organizations to carry out projects and activities authorized by this part ~~Of the initial governing body members, two of the Governor's appointees shall serve for a term of 2 years and the remaining one shall serve for a term of 4 years from the date of appointment. Thereafter, governing body members whom the Governor appoints shall serve for terms of 4 years. The Governor may fill any vacancy for an unexpired term~~.

~~(3) Governing body members shall receive no compensation for their services, but shall be entitled to the necessary expenses, including per diem and travel expenses, incurred in~~


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~~the discharge of their duties pursuant to this part, as provided by law.~~

Section 10. Subsections (6), (7), (9) through (12), and (14) of section 380.507, Florida Statutes, are amended to read:

380.507 Powers of the trust.—The trust shall have all the powers necessary or convenient to carry out the purposes and provisions of this part, including:

(6) To award grants ~~and make loans~~ to local governments and nonprofit organizations for the purposes listed in subsection (2) and for acquiring fee title and less than fee title, such as conservation easements or other interests in land, for the purposes of this part.

(7) To provide by grant ~~or loan~~ up to the total cost of any project approved according to this part, including the local share of federally supported projects. The trust may require local funding participation in projects. The trust shall determine the funding it will provide by considering the total amount of funding available for the project, the fiscal resources of other project participants, the urgency of the project relative to other eligible projects, and other factors which the trust shall have prescribed by rule. The trust may fund up to 100 percent of any local government land acquisition costs, if part of an approved project.

(9) To review project recommendations and funding priorities and provide acquisition decisions ~~To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be authorized for trust funds under s. 215.47, and in any other authorized investments, if such investments are made on behalf of the trust~~


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~~by the State Board of Administration~~.

(10) To contract for and to accept donations ~~gifts~~, grants, loans, or other aid from the United States Government or any person or corporation, including donations ~~gifts~~ of real property or any interest in real property.

(11) To submit project recommendations, funding priorities, and acquisition decisions to the Acquisition and Restoration Council, which shall have final approval authority over trust expenditures and acquisitions ~~to make rules necessary to carry out the purposes of this part and to exercise any power granted in this part, pursuant to chapter 120. The trust shall adopt rules governing the acquisition of lands with proceeds from the Florida Forever Trust Fund, consistent with the intent expressed in the Florida Forever Act. Such rules for land acquisition must include, but are not limited to, procedures for appraisals and confidentiality consistent with ss. 125.355(1)(a) and (b) and 166.045(1)(a) and (b), a method of determining a maximum purchase price, and procedures to assure that the land is acquired in a voluntarily negotiated transaction, surveyed, conveyed with marketable title, and examined for hazardous materials contamination. Land acquisition procedures of a local land authority created pursuant to s. 380.0663 may be used for the land acquisition programs described in former s. 259.101(3)(c), Florida Statutes 2014, and in s. 259.105 if within areas of critical state concern designated pursuant to s. 380.05, subject to approval of the trust~~.

(12) To develop, in conjunction with the council, rules, policies, and guidelines for the administration of the trust consistent with this part and ss. 259.035 and 259.105 ~~to~~

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~~contract with private consultants and nonprofit organizations for professional and technical assistance and advice~~.

~~(14) To conduct promotional campaigns, including advertising, for the sale of communities trust license plates authorized in s. 320.08058.~~

Section 11. Section 380.512, Florida Statutes, is repealed.

Section 12. Section 380.513, Florida Statutes, is repealed.

Section 13. Section 380.514, Florida Statutes, is repealed.

Section 14. Paragraph (n) of subsection (3), and subsections (4) and (9) of section 381.0065, Florida Statutes, are amended, and subsection (7) of that section is reenacted, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

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

(n) Regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems. To ensure systems are maintained and operated according to manufacturer’s specifications and designs, the department shall establish by rule minimum qualifying criteria for maintenance entities. The criteria shall include training, access to approved spare parts and components, access to manufacturer’s maintenance and operation manuals, and service response time. The maintenance entity shall employ a contractor licensed under s. 489.105(3)(m), or part III of chapter 489, or a state-licensed wastewater plant operator, who is responsible for maintenance and repair of all systems under contract. The department may annually review and audit up to 25 percent of all

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inspection and maintenance reports submitted by such maintenance entities for performance-based treatment systems and aerobic treatment unit systems. The department may adopt rules to establish procedures for such audits.

(4) PERMITS; INSTALLATION; CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the department. A construction permit is valid for 18 months after the date of issuance and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days after the date of issuance. When a person jointly applies for a construction permit and an operating permit for the same onsite sewage treatment and disposal system, the department shall concurrently process the operating permit with the construction permit. An operating permit must be obtained before the use of any aerobic treatment unit or engineer-designed performance-based system, or if the establishment generates commercial waste. Buildings or establishments that ~~use an aerobic treatment unit or~~ generate commercial waste shall be inspected by the department at least annually to ensure ~~assure~~ compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year after the date of issuance and must be renewed annually. The operating permit, where

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required for a residential onsite sewage treatment and disposal system, is valid for the lifetime of the installation; however, any subsequent change in ownership of the property or any modification of the wastewater system requires an operating permit modification upon such change. When an onsite sewage treatment and disposal system that requires an operating permit is sold or transferred, the subsequent owner with a controlling interest shall provide written notice and proof of ownership to the department to amend the operating permit information within 60 days of such property sale or transfer ~~commercial wastewater system is valid for 1 year after the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years after the date of issuance and must be renewed every 2 years~~. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. A fee is not associated with the processing of this supplemental information if only ownership information is updated to reflect a permit transfer for a construction, repair, or an operating permit. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system

serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and

other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the department, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed-upon densities are reached. In a subdivision regulated by this paragraph, the average daily sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewage treatment system is available. This paragraph does not allow development of

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additional proposed subdivisions in order to evade the requirements of this paragraph.

(e) The department shall adopt rules relating to the location of onsite sewage treatment and disposal systems, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rules must consider conventional and enhanced nutrient-reducing onsite sewage treatment and disposal system designs, impaired or degraded water bodies, domestic wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the onsite sewage treatment and disposal system remediation plans developed pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to former s. 381.00652. The rules must also allow a person to apply for and receive a variance from a rule requirement upon demonstration that the requirement would cause an undue hardship and granting the variance would not cause or contribute to the exceedance of a total maximum daily load.

(f) Onsite sewage treatment and disposal systems that are permitted before June 21, 2022, may not be placed closer than:

1. Seventy-five feet from a private potable well.

2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.

3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.

4. Fifty feet from any nonpotable well.

5. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.

6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body.

7. Seventy-five feet from the mean annual flood line of a permanent nontidal surface water body.

8. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual lot stormwater retention areas.

(g) This section and rules adopted under this section relating to soil condition, water table elevation, distance, and other setback requirements must be equally applied to all lots, with the following exceptions:

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and recorded or approved on or after January 1, 1972, shall, to the

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maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

2. Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for onsite sewage treatment and disposal systems for lots platted before 1972 may not exceed:

a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(h)1. The department may grant variances in hardship cases which may be less restrictive than the provisions specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of

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ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. A fee is not associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. A reasonable alternative, taking into consideration factors such as cost, does not exist for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance


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requests and shall also strive to allow property owners the full use of their land where possible.

a. The committee is composed of the following:

(I) The Secretary of Environmental Protection or his or her designee.

(II) A representative from the county health departments.

(III) A representative from the home building industry recommended by the Florida Home Builders Association.

(IV) A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

(V) A representative from the Department of Health.

(VI) A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.

(VII) A representative from the engineering profession recommended by the Florida Engineering Society.

b. Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

3. The variance review and advisory committee is not responsible for reviewing water well permitting. However, the committee shall consider all requirements of law related to onsite sewage treatment and disposal systems when making recommendations on variance requests for onsite sewage treatment and disposal system permits.

(i) A construction permit may not be issued for an onsite

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sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewage treatment system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department may not grant approval when the proposed use of the system is to dispose of toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal

system that was installed and approved before July 5, 1989, does not need to obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(j) An onsite sewage treatment and disposal system designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre,

wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the performance of a system and not a system's design.

2. A person electing to use an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may use an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under the provisions of chapter 120.

3. The owner of an engineer-designed performance-based system must maintain a current maintenance service agreement


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with a maintenance entity permitted by the department. The maintenance entity shall inspect each system at least twice each year and shall submit an inspection report to the department each time the system is inspected which states ~~report quarterly to the department on~~ the number of systems inspected and serviced. The reports may be submitted electronically.

4. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own performance-based treatment system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

5. ~~The property owner shall obtain a biennial system operating permit from the department for each system.~~ The department may ~~shall~~ inspect the system at least annually, or on such periodic basis as the fee collected permits, and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit must ~~shall~~ be collected beginning with the second year of system operation.

6. If an engineer-designed system fails to properly function or fails to meet performance standards, the system must ~~shall~~ be re-engineered, if necessary, to bring the system into

compliance with the provisions of this section.

(k) An innovative system may be approved in conjunction with an engineer-designed site-specific system that is certified by the engineer to meet the performance-based criteria adopted by the department.

(l) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The following additional requirements apply to onsite sewage treatment and disposal systems in Monroe County:

1. The county, each municipality, and those special districts established for the purpose of the collection, transmission, treatment, or disposal of sewage shall ensure, in accordance with the specific schedules adopted by the Administration Commission under s. 380.0552, the completion of onsite sewage treatment and disposal system upgrades to meet the requirements of this paragraph.

2. Onsite sewage treatment and disposal systems must cease discharge by December 31, 2015, or must comply with department rules and provide the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:


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a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

b. Suspended Solids of 10 mg/l.

c. Total Nitrogen, expressed as N, of 10 mg/l or a reduction in nitrogen of at least 70 percent. A system that has been tested and certified to reduce nitrogen concentrations by at least 70 percent shall be deemed to be in compliance with this standard.

d. Total Phosphorus, expressed as P, of 1 mg/l.

In addition, onsite sewage treatment and disposal systems discharging to an injection well must provide basic disinfection as defined by department rule.

3. In areas not scheduled to be served by a central sewerage system, onsite sewage treatment and disposal systems must, by December 31, 2015, comply with department rules and provide the level of treatment described in subparagraph 2.

4. In areas scheduled to be served by a central sewerage system by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewerage system, the property owner may install a holding tank with a high water alarm or an onsite sewage treatment and disposal system that meets the following minimum standards:

a. The existing tanks must be pumped and inspected and certified as being watertight and free of defects in accordance with department rule; and

b. A sand-lined drainfield or injection well in accordance with department rule must be installed.

5. Onsite sewage treatment and disposal systems must be monitored for total nitrogen and total phosphorus concentrations

as required by department rule.

6. The department shall enforce proper installation, operation, and maintenance of onsite sewage treatment and disposal systems pursuant to this chapter, including ensuring that the appropriate level of treatment described in subparagraph 2. is met.

7. The authority of a local government, including a special district, to mandate connection of an onsite sewage treatment and disposal system is governed by s. 4, chapter 99-395, Laws of Florida.

8. Notwithstanding any other law, an onsite sewage treatment and disposal system installed after July 1, 2010, in unincorporated Monroe County, excluding special wastewater districts, that complies with the standards in subparagraph 2. is not required to connect to a central sewerage system until December 31, 2020.

(m) A product sold in the state for use in onsite sewage treatment and disposal systems may not contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. If a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be

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performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(l). The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(o) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. Specific documentation of property ownership is not required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(p) The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider before submission of an application for an onsite sewage treatment and disposal system.

(q) This section does not limit the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(r) In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering may not be required on single-family residential dwelling units

for systems located greater than 5 feet from the roof drip line of the house. If guttering is used on residential dwelling units, the downspouts shall be directed away from the drainfield.

(s) Notwithstanding subparagraph (g)1., onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the following requirements:

1. The absorption surface of the drainfield may not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations before January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:

a. The lot is at least one-half acre in size;

b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and

c. The applicant installs a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system that is capable of reducing effluent nitrate by at least 50 percent in accordance with department rules; or a system other than a system using alternative drainfield


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materials in accordance with department rules. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.

2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water may not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

(t)1. The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. The maintenance entity shall inspect each aerobic treatment unit system at least twice each year and shall submit an inspection report to the department each time the system is inspected stating ~~report quarterly to the department on~~ the number of aerobic treatment unit systems inspected and serviced. The reports may be submitted electronically.

2. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own aerobic treatment unit system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system.

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The maintenance entity service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

3. A septic tank contractor licensed under part III of chapter 489, if approved by the manufacturer, may not be denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities. After the original warranty period, component parts for an aerobic treatment unit system may be replaced with parts that meet manufacturer’s specifications but are manufactured by others. The maintenance entity shall maintain documentation of the substitute part’s equivalency for 2 years and shall provide such documentation to the department upon request.

4. The owner of an aerobic treatment unit system shall obtain a system operating permit from the department and allow the department to inspect during reasonable hours each aerobic treatment unit system at least annually, and such inspection may include collection and analysis of system-effluent samples for performance criteria established by rule of the department.

(u) The department may require the submission of detailed system construction plans that are prepared by a professional engineer registered in this state. The department shall establish by rule criteria for determining when such a submission is required.

(v) Any permit issued and approved by the department for the installation, modification, or repair of an onsite sewage

treatment and disposal system transfers ~~shall transfer~~ with the title to the property in a real estate transaction. For any such transfer of title to a property that has an onsite sewage treatment and disposal system that has not been abandoned in accordance with this section, or which is subject to a permit for the installation, modification, repair, or operation of such a system, the real estate transaction is subject to the following requirements:

1. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired.

2. An inspection of a system may not be mandated by a governmental entity at the point of sale in a real estate transaction.

3. At or before the time of such real estate transaction, the following notifications must be provided to the persons receiving ownership of the property:

a. A disclosure statement clearly identifying that the property is subject to regulations for an onsite sewage treatment and disposal system;

b. Information indicating the nature and location of any existing onsite sewage treatment and disposal system components;

c. If applicable, a statement that the property is subject to an onsite sewage treatment and disposal system operating permit and that one or more of the persons receiving a controlling interest in the property are required pursuant to this subsection to provide written notice and proof of ownership

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to update the operating permit information within 60 days of such real estate transaction; and

d. A copy of any valid permit for the installation, modification, repair, or operation of an onsite sewage treatment and disposal system which will transfer pursuant to this paragraph.

This paragraph does not affect a septic tank phase-out deferral program implemented by a consolidated government as defined in s. 9, Art. VIII of the State Constitution of 1885.

(w) A governmental entity, including a municipality, county, or statutorily created commission, may not require an engineer-designed performance-based treatment system, excluding a passive engineer-designed performance-based treatment system, before the completion of the Florida Onsite Sewage Nitrogen Reduction Strategies Project. This paragraph does not apply to a governmental entity, including a municipality, county, or statutorily created commission, which adopted a local law, ordinance, or regulation on or before January 31, 2012. Notwithstanding this paragraph, an engineer-designed performance-based treatment system may be used to meet the requirements of the variance review and advisory committee recommendations.

(x)1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and if the system was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be

reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, if the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that existed before the disaster;

b. The system is not a sanitary nuisance; and

c. The system has not been altered without prior authorization.

2. An onsite sewage treatment and disposal system that serves a property that is foreclosed upon is not considered abandoned.

(y) If an onsite sewage treatment and disposal system permittee receives, relies upon, and undertakes construction of a system based upon a validly issued construction permit under rules applicable at the time of construction but a change to a rule occurs within 5 years after the approval of the system for construction but before the final approval of the system, the rules applicable and in effect at the time of construction approval apply at the time of final approval if fundamental site conditions have not changed between the time of construction approval and final approval.

(z) An existing-system inspection or evaluation and assessment, or a modification, replacement, or upgrade of an onsite sewage treatment and disposal system is not required for a remodeling addition or modification to a single-family home if a bedroom is not added. However, a remodeling addition or modification to a single-family home may not cover any part of the existing system or encroach upon a required setback or the

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unobstructed area. To determine if a setback or the unobstructed area is impacted, the local health department shall review and verify a floor plan and site plan of the proposed remodeling addition or modification to the home submitted by a remodeler which shows the location of the system, including the distance of the remodeling addition or modification to the home from the onsite sewage treatment and disposal system. The local health department may visit the site or otherwise determine the best means of verifying the information submitted. A verification of the location of a system is not an inspection or evaluation and assessment of the system. The review and verification must be completed within 7 business days after receipt by the local health department of a floor plan and site plan. If the review and verification is not completed within such time, the remodeling addition or modification to the single-family home, for the purposes of this paragraph, is approved.

(7) USE OF ENHANCED NUTRIENT-REDUCING ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS.—To meet the requirements of a total maximum daily load, the department shall implement a fast-track approval process of no longer than 6 months for the determination of the use of American National Standards Institute 245 systems approved by NSF International before July 1, 2020. The department shall also establish an enhanced nutrient-reducing onsite sewage treatment and disposal system approval program that will expeditiously evaluate and approve such systems for use in this state to comply with ss. 403.067(7)(a)10. and 373.469(3)(d).

(9) CONTRACT OR DELEGATION AUTHORITY.—The department may contract with or delegate its powers and duties under this


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section ~~to a county~~ as provided in s. 403.061 or s. 403.182.

Section 15. Paragraph (c) of subsection (6) and paragraph (a) of subsection (7) of section 403.067, Florida Statutes, are amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(6) CALCULATION AND ALLOCATION.—

(c) Adoption of rules. The total maximum daily load calculations and allocations established under this subsection for each water body or water body segment shall be adopted by rule by the secretary pursuant to ss. 120.536(1), 120.54, and 403.805. Where additional data collection and analysis are needed to increase the scientific precision and accuracy of the total maximum daily load, the department is authorized to adopt phased total maximum daily loads that are subject to change as additional data becomes available. Where phased total maximum daily loads are proposed, the department shall, in the detailed statement of facts and circumstances justifying the rule, explain why the data are inadequate so as to justify a phased total maximum daily load. The rules adopted pursuant to this paragraph are not ~~subject to approval by the Environmental Regulation Commission and are not~~ subject to ~~the provisions of~~ s. 120.541(3). As part of the rule development process, the department shall hold at least one public workshop in the vicinity of the water body or water body segment for which the total maximum daily load is being developed. Notice of the public workshop shall be published not less than 5 days nor more than 15 days before the public workshop in a newspaper of general circulation in the county or counties containing the

water bodies or water body segments for which the total maximum daily load calculation and allocation are being developed.

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a waterbody, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the waterbody. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, when appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When

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appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least 5 days, but not more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.


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4. Each new or revised basin management action plan must include all of the following:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151.

b. A description of best management practices adopted by rule.

c. For the applicable 5-year implementation milestone, a list of projects that will achieve the pollutant load reductions needed to meet the total maximum daily load or the load allocations established pursuant to subsection (6). Each project must include a planning-level cost estimate and an estimated date of completion.

d. A list of projects developed pursuant to paragraph (e), if applicable.

e. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable.

f. A planning-level estimate of each listed project's expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement this section. A basin management action plan and any amendment to such plan shall become effective 60 days after the date the secretarial order is filed.

6. The basin management action plan must include 5-year

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milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Any entity with a specific pollutant load reduction requirement established in a basin management action plan shall identify the projects or strategies that such entity will undertake to meet current 5-year pollution reduction milestones, beginning with the first 5-year milestone for new basin management action plans, and submit such projects to the department for inclusion in the appropriate basin management action plan. Each project identified must include an estimated amount of nutrient reduction that is reasonably expected to be achieved based on the best scientific information available. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other

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sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or waterbody segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A domestic wastewater treatment plan developed by each local government, in cooperation with the department, the water management district, and the public and private domestic wastewater treatment facilities providing services or located within the jurisdiction of the local government, which addresses domestic wastewater. Private domestic wastewater facilities and special districts providing domestic wastewater services must

provide the required wastewater facility information to the applicable local governments. The domestic wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The domestic wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a domestic wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system

remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

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10. The following activities are prohibited within a basin management action plan adopted under this section, a reasonable assurance plan, or a pollution reduction plan:

a. The installation of new onsite sewage treatment and disposal systems ~~constructed within a basin management action plan area adopted under this section, a reasonable assurance plan, or a pollution reduction plan is prohibited~~ where connection to a publicly owned or investor-owned sewerage system is available as defined in s. 381.0065(2)(a). On lots of 1 acre or less ~~within a basin management action plan adopted under this section, a reasonable assurance plan, or a pollution reduction plan~~ where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems, distributed wastewater treatment systems as defined in s. 403.814(13), or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction is required.

b. The construction or installation of new domestic wastewater disposal facilities, including rapid infiltration basins, with permitted capacities of 100,000 or more gallons per day, except for those facilities that meet an advanced wastewater treatment standard of no more than 3 mg/l total nitrogen and 1 mg/l total phosphorus on an annual permitted basis, or a more stringent treatment standard if the department determines the more stringent standard is necessary to attain a total maximum daily load.

c. The construction or installation of new facilities for the disposal of hazardous waste.

11. When identifying wastewater projects in a basin

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management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant reduction requirements of an adopted total maximum daily load and meets or exceeds the pollution reduction requirement of the original project.

12. Annually, local governments subject to a basin management action plan or located within the basin of a waterbody not attaining nutrient or nutrient-related standards must provide to the department an update on the status of construction of sanitary sewers to serve such areas, in a manner prescribed by the department.

Section 16. Paragraph (e) of subsection (1) of section 403.0671, Florida Statutes, is amended to read:

403.0671 Basin management action plan wastewater reports.—

(1) By July 1, 2021, the department, in coordination with the county health departments, wastewater treatment facilities, and other governmental entities, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the costs of wastewater projects identified in the basin management action plans developed pursuant to ss. 373.807 and 403.067(7) and the onsite sewage treatment and disposal system remediation plans and other restoration plans developed to meet the total maximum daily loads required under s. 403.067. The report must include all of the following:

(e) The projected costs of installing enhanced nutrient-reducing onsite sewage treatment and disposal systems on


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buildable lots in priority focus areas ~~to comply with s. 373.811~~.

Section 17. Subsection (11) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section. This operation permit is the only department operation permit for a major source of air pollution required for such source; provided, at the applicant's request, the department shall issue a separate acid rain permit for a major source of air pollution that is an affected source within the meaning of 42 U.S.C. s. 7651a(1). Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the procedures contained in this section and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with this section, the procedures contained in this section prevail.

(11) Each major source of air pollution permitted to operate in this state must pay by June 30 ~~between January 15 and April 1~~ of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States

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Environmental Protection Agency imposes annual fees solely to implement and administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

(a) The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant actually emitted, as calculated in accordance with the department's emissions computation and reporting rules. The annual fee shall only apply to those regulated pollutants, except carbon monoxide and greenhouse gases, for which an allowable numeric emission limiting standard is specified in the source's most recent construction or operation permit; provided, however, that:

1. The license fee factor is $25 or another amount determined by department rule which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond $25 only if the secretary of the department affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed $35.

2. The amount of each regulated air pollutant in excess of 4,000 tons per year emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources,

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which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.

3. If the department has not received the fee ~~by March 1 of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by April 1. If the fee is not postmarked~~ by June 30 ~~April 1~~ of the calendar year, the department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and may not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to $50. The department may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.

4. Notwithstanding the computational provisions of this subsection, the annual operation license fee for any source subject to this section may not be less than $250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814 may not exceed $50 per year.


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5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes air pollution construction permit fees, the department may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a. ~~Costs to issue and administer such permits shall be considered direct and indirect costs of the major stationary source air-operation permit program under s. 403.0873.~~ The department shall, however, require fees pursuant to s. 403.087(7)(a)5.a. for the construction of a new major source of air pollution that will be subject to the permitting requirements of this section once constructed and for activities triggering permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

(b) Annual operation license fees collected by the department must be sufficient to cover all reasonable direct and indirect costs required to develop and administer the major stationary source air-operation permit program, which shall consist of the following elements to the extent that they are reasonably related to the regulation of major stationary air pollution sources, in accordance with United States Environmental Protection Agency regulations and guidelines:

1. Reviewing and acting upon any application for such a permit.

2. Implementing and enforcing the terms and conditions of any such permit, excluding court costs or other costs associated with any enforcement action.

3. Emissions and ambient monitoring.

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4. Preparing generally applicable regulations or guidance.

5. Modeling, analyses, and demonstrations.

6. Preparing inventories and tracking emissions.

7. Implementing the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

8. Any audits conducted under paragraph (c).

(c) An audit of the major stationary source air-operation permit program must be conducted 2 years after the United States Environmental Protection Agency has given full approval of the program to ascertain whether the annual operation license fees collected by the department are used solely to support any reasonable direct and indirect costs as listed in paragraph (b). A program audit must be performed biennially after the first audit.

Section 18. Paragraphs (a) and (b) of subsection (3) of section 403.1838, Florida Statutes, are amended to read:

403.1838 Small Community Sewer Construction Assistance Act.—

(3)(a) In accordance with rules adopted by the department ~~Environmental Regulation Commission under this section~~, the department may provide grants, from funds specifically appropriated for this purpose, to financially disadvantaged small communities for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses.

(b) The rules of the department ~~Environmental Regulation Commission~~ must:

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1. Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable.

2. Require appropriate user charges, connection fees, and other charges sufficient to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant.

3. Require grant applications to be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained.

4. Establish a system to determine eligibility of grant applications.

5. Establish a system to determine the relative priority of grant applications. The system must consider public health protection and water pollution prevention or abatement and must prioritize projects that plan for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

6. Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.

7. Provide for termination of grants when program requirements are not met.

Section 19. Section 403.804, Florida Statutes, is repealed.

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Delete lines 24 - 112

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and insert:
amending s. 373.807, F.S.; authorizing remediation plans for certain properties to have certain requirements related to existing conventional onsite sewage treatment disposal systems; repealing s. 373.811, F.S., relating to prohibited activities within a basin management action plan; amending s. 380.093, F.S.; revising the definition of the term "community eligible for a reduced cost share"; providing for a type 2 transfer of powers and functions of the Florida Communities Trust from the department to the Acquisition and Restoration Council; amending s. 380.502, F.S.; revising legislative findings and intent for the Florida Communities Trust; providing for the transfer of the administration and oversight of the trust from the department to the Acquisition and Restoration Council for a specified purpose; amending s. 380.504, F.S.; deleting provisions relating to the membership, appointments, and organizational structure of the governing board of the trust; providing the purpose of the trust; amending s. 380.507, F.S.; deleting provisions authorizing the trust to make certain loans; revising the powers of the trust; repealing ss. 380.512, 380.513, and 380.514, F.S., relating to an annual report, corporate existence, and inconsistent provisions of other laws superseded, respectively; reenacting and amending s. 381.0065, F.S.; authorizing the department to annually review and audit certain


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inspection and maintenance reports for certain systems; authorizing the department to adopt rules that establish certain procedures; requiring the department to concurrently process operating permits and construction permits under certain circumstances; requiring that an operating permit be obtained before the use of an engineer-designed performance-based system; providing a timeframe for the validity of certain operating permits; requiring an operating permit modification upon certain changes or modifications; providing requirements for subsequent property owners when a property with an onsite sewage treatment and disposal system that requires an operating permit is sold or transferred; requiring certain subsequent property owners to provide notice and proof of ownership to the department within a certain timeframe; providing an exception to certain fees under certain circumstances; requiring a maintenance entity permitted by the department to submit a report to the department on a specified basis; deleting a requirement for a property owner to obtain a certain permit from the department for certain onsite sewage treatment and disposal systems; revising the approval criteria for certain onsite sewage treatment and disposal systems; requiring an aerobic treatment unit maintenance entity to submit an inspection report to the department under certain circumstances; subjecting real estate transactions for the transfer of title to properties with a certain

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onsite sewage treatment and disposal system to certain requirements; deleting a requirement that the department contract with or delegate its powers and duties to a county only; amending s. 403.067, F.S.; conforming a provision to changes made by the act; providing a timeframe within which a basin management action plan or plan amendment becomes effective; prohibiting certain activities within a basin management action plan, a reasonable assurance plan, or a pollution reduction plan; making a technical change; amending s. 403.0671, F.S.; conforming a provision to changes made by the act; amending s. 403.0872, F.S.; revising the date by which major permitted sources of air pollution operating in this state must pay an annual operation license fee; authorizing the department to impose penalties if it does not receive such fee by the specified date; deleting provisions relating to costs for administering air pollution construction permits; amending s. 403.1838, F.S.; conforming provisions to changes made by the act; repealing s. 403.804, F.S., relating to the powers and duties of the Environmental Regulation Commission; amending ss. 120.81,

By Senator Massullo

11-00759C-26 20261510__

A bill to be entitled

An act relating to the Department of Environmental Protection; amending s. 20.255, F.S.; deleting provisions creating the Environmental Regulation Commission; amending s. 259.035, F.S.; expanding the membership of the Acquisition and Restoration Council; providing requirements for membership; defining the term "metropolitan"; requiring the council to administer the Florida Communities Trust; requiring the council to coordinate with the department for rulemaking and grant cycle administration of the trust; conforming provisions to changes made by the act; amending s. 259.105, F.S.; conforming a provision to changes made by the act; amending s. 373.469, F.S.; requiring that residential properties of a specified size located in a certain area connect to a central sewer system or upgrade to a specified type of nutrient-reducing wastewater treatment system; requiring a permitting agency to notify a property owner of such requirement if the agency, before a certain date, receives an application to repair, modify, or replace a conventional onsite sewage treatment and disposal system on certain property; amending s. 373.807, F.S.; providing that remediation plans for certain properties may not prohibit or require certain actions relating to onsite sewage treatment and disposal systems; repealing s. 373.811, F.S., relating to prohibited activities within a basin management action plan; amending s. 380.093, F.S.;

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revising the definition of the term "community eligible for a reduced cost share"; providing for a type 2 transfer of powers and functions of the Florida Communities Trust from the department to the Acquisition and Restoration Council; amending s. 380.502, F.S.; revising legislative findings and intent for the Florida Communities Trust; providing for the transfer of the administration and oversight of the trust from the department to the Acquisition and Restoration Council for a specified purpose; amending s. 380.504, F.S.; deleting provisions relating to the membership, appointments, and organizational structure of the governing board of the trust; providing the purpose of the trust; amending s. 380.507, F.S.; deleting provisions authorizing the trust to make certain loans; revising the powers of the trust; repealing ss. 380.512, 380.513, and 380.514, F.S., relating to an annual report, corporate existence, and inconsistent provisions of other laws superseded, respectively; reenacting and amending s. 381.0065, F.S.; authorizing the department to annually review and audit certain inspection and maintenance reports for certain systems; authorizing the department to adopt rules that establish certain procedures; requiring the department to concurrently process operating permits and construction permits under certain circumstances; requiring that an operating permit be obtained before the use of an engineer-designed performance-based system; providing

a timeframe for the validity of certain operating permits; requiring an operating permit modification upon certain changes or modifications; providing requirements for subsequent property owners when a property with an onsite sewage treatment and disposal system that requires an operating permit is sold or transferred; requiring certain subsequent property owners to provide notice and proof of ownership to the department within a certain timeframe; providing an exception to certain fees under certain circumstances; requiring a maintenance entity permitted by the department to submit a report to the department on a specified basis; providing requirements for fees submitted with an engineer-designed performance-based system inspection report; deleting a requirement for a property owner to obtain a certain permit from the department for certain onsite sewage treatment and disposal systems; revising the approval criteria for certain onsite sewage treatment and disposal systems; requiring an aerobic treatment unit maintenance entity to submit an inspection report to the department under certain circumstances; subjecting real estate transactions for the transfer of title to properties with a certain onsite sewage treatment and disposal system to certain requirements; deleting a requirement that the department contract with or delegate its powers and duties to a county only; amending s. 403.067, F.S.; conforming a provision to changes made by the act; providing a timeframe within which a basin

management action plan or plan amendment becomes effective; prohibiting certain activities within a basin management action plan, a reasonable assurance plan, or a pollution reduction plan; making a technical change; amending s. 403.0671, F.S.; conforming a provision to changes made by the act; amending s. 403.0872, F.S.; revising the date by which major permitted sources of air pollution operating in this state must pay an annual operation license fee; authorizing the department to impose penalties if it does not receive such fee by the specified date; deleting provisions relating to costs for administering air pollution construction permits; amending s. 403.1838, F.S.; conforming provisions to changes made by the act; repealing s. 403.804, F.S., relating to the powers and duties of the Environmental Regulation Commission; amending s. 403.9301, F.S.; revising the definition of the term "wastewater services"; revising requirements for certain needs analyses; amending s. 576.041, F.S.; revising the requirements for inspection fees for fertilizers; providing requirements for the calculation of inspection fees paid for Class AA biosolids; amending s. 576.045, F.S.; requiring licensees to pay a certain fee for Class AA biosolids; amending ss. 120.81, 373.421, 403.031, 403.061, 403.704, 403.707, 403.7222, 403.7234, 403.803, 403.805, 403.8055, and 403.814, F.S.; conforming provisions to changes made by the act; amending ss. 376.302 and 380.5105, F.S.;

conforming cross-references; reenacting s. 381.0066(2)(k), F.S., relating to onsite sewage treatment and disposal system fees, to incorporate the amendment made to s. 381.0065, F.S., in a reference thereto; reenacting s. 373.4595, F.S., relating to the Northern Everglades and Estuaries Protection Program, to incorporate the amendment made to s. 403.067, F.S., in a reference thereto; reenacting s. 403.0873, F.S., relating to the Florida Air-Operation License Fee Account, to incorporate the amendment made to s. 403.0872, F.S., in a reference thereto; reenacting s. 403.1835(3)(d), F.S., relating to water pollution control financial assistance, to incorporate the amendment made to s. 403.1838, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsection (6) of section 20.255, Florida Statutes, is amended to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

~~(6) There is created as a part of the Department of Environmental Protection an Environmental Regulation Commission. The commission shall be composed of seven residents of this state appointed by the Governor, subject to confirmation by the Senate. In making appointments, the Governor shall provide reasonable representation from all sections of the state. Membership shall be representative of agriculture, the~~

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~~development industry, local government, the environmental community, lay citizens, and members of the scientific and technical community who have substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering. The Governor shall appoint the chair, and the vice chair shall be elected from among the membership. All appointments shall be for 4-year terms. The Governor may at any time fill a vacancy for the unexpired term. The members of the commission shall serve without compensation, but shall be paid travel and per diem as provided in s. 112.061 while in the performance of their official duties. Administrative, personnel, and other support services necessary for the commission shall be furnished by the department. The commission may employ independent counsel and contract for the services of outside technical consultants.~~

Section 2. Paragraph (a) of subsection (1) and subsections (2), (3), and (5) of section 259.035, Florida Statutes, are amended to read:

259.035 Acquisition and Restoration Council.—

(1) There is created the Acquisition and Restoration Council.

(a) The council shall be composed of 12 ~~10~~ voting members, 6 ~~4~~ of whom shall be appointed by the Governor. Of these 6 ~~four~~ appointees, 3 must ~~three shall~~ be from scientific disciplines related to land, water, or environmental sciences, 1 must ~~and the fourth shall~~ have at least 5 years of experience in managing lands for both active and passive types of recreation, 1 must be a former elected official of a county, and 1 must be a former

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elected official of a metropolitan municipality. As used in this paragraph, the term "metropolitan" has the same meaning as in s. 380.503. They shall serve 4-year terms, except that, initially, to provide for staggered terms, 2 ~~two~~ of the appointees shall serve 2-year terms. All subsequent appointments shall be for 4-year terms. An appointee may not serve more than 6 years. The Governor may at any time fill a vacancy for the unexpired term of a member appointed under this paragraph.

(2) The 6 ~~four~~ members of the council appointed pursuant to paragraph (1)(a) and the 2 ~~two~~ members of the council appointed pursuant to paragraph (1)(c) shall receive reimbursement for expenses and per diem for travel, to attend council meetings, as allowed state officers and employees while in the performance of their duties, pursuant to s. 112.061.

(3) The council shall:

(a) Provide assistance to the board in reviewing the recommendations and plans for state-owned conservation lands required under s. 253.034 and this chapter. The council shall, in reviewing such plans, consider the optimization of multiple-use and conservation strategies to accomplish the provisions funded pursuant to former s. 259.101(3)(a), Florida Statutes 2014, and to s. 259.105(3)(b).

(b) Effective July 1, 2026, administer the Florida Communities Trust established in ss. 380.501-380.515, including reviewing, approving, and overseeing project applications and disbursements, and implementation measures consistent with the trust's purposes. The council shall coordinate with the department for rulemaking and grant cycle administration for the trust, ensuring alignment with the Florida Forever Act and the

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state's conservation priorities.

(5) An affirmative vote of 6 ~~five~~ members of the council is required in order to change a project boundary or to place a proposed project on a list developed pursuant to subsection (4). Any member of the council, who by family or a business relationship has a connection with all or a portion of any proposed project, shall declare the interest before voting on its inclusion on a list.

Section 3. Paragraph (i) of subsection (4) of section 259.105, Florida Statutes, is amended to read:

259.105 The Florida Forever Act.—

(4) It is the intent of the Legislature that projects or acquisitions funded pursuant to paragraphs (3)(a) and (b) contribute to the achievement of the following goals, which shall be evaluated in accordance with specific criteria and numeric performance measures developed pursuant to s. 259.035(4):

(i) Mitigate the effects of natural disasters and floods in developed areas, as measured by:

1. The number of acres acquired within a 100-year floodplain or a coastal high hazard area;

2. The number of acres acquired or developed to serve dual functions as:

a. Flow ways or temporary water storage areas during flooding or high water events, not including permanent reservoirs; and

b. Greenways or open spaces available to the public for recreation;

3. The number of acres that protect existing open spaces

and natural buffer areas within a floodplain that also serve as natural flow ways or natural temporary water storage areas; and

4. The percentage of the land acquired within the project boundary that creates additional open spaces, natural buffer areas, and greenways within a floodplain, while precluding rebuilding in areas that repeatedly flood.

Florida Forever projects and acquisitions funded pursuant to paragraph (3)(c) shall be measured by goals developed by rule by the Florida Communities Trust ~~Governing Board created in s. 380.504~~.

Section 4. Paragraph (d) of subsection (3) of section 373.469, Florida Statutes, is amended to read:

373.469 Indian River Lagoon Protection Program.—

(3) THE INDIAN RIVER LAGOON PROTECTION PROGRAM.—The Indian River Lagoon Protection Program consists of the Banana River Lagoon Basin Management Action Plan, Central Indian River Lagoon Basin Management Action Plan, North Indian River Lagoon Basin Management Action Plan, and Mosquito Lagoon Reasonable Assurance Plan, and such plans are the components of the Indian River Lagoon Protection Program which achieve phosphorous and nitrogen load reductions for the Indian River Lagoon.

(d) *Onsite sewage treatment and disposal systems.*—

1. Beginning on January 1, 2024, unless previously permitted, the installation of new onsite sewage treatment and disposal systems is prohibited within the Banana River Lagoon Basin Management Action Plan, Central Indian River Lagoon Basin Management Action Plan, North Indian River Lagoon Basin Management Action Plan, and Mosquito Lagoon Reasonable Assurance

Plan areas where a publicly owned or investor-owned sewerage system is available as defined in s. 381.0065(2)(a). Where central sewerage is not available, only enhanced nutrient-reducing onsite sewage treatment and disposal systems or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction are authorized.

2. By July 1, 2030, any commercial property or any residential property of 10 acres or less with an existing onsite sewage treatment and disposal system located within the Banana River Lagoon Basin Management Action Plan, Central Indian River Lagoon Basin Management Action Plan, North Indian River Lagoon Basin Management Action Plan, and Mosquito Lagoon Reasonable Assurance Plan areas must connect to central sewer if available or upgrade to an enhanced nutrient-reducing onsite sewage treatment and disposal system or other wastewater treatment system that achieves at least 65 percent nitrogen reduction. For all applications submitted before July 1, 2030, to a permitting agency to repair, modify, or replace a conventional onsite sewage treatment and disposal system on a commercial property or a residential property of 10 acres or less, the permitting agency shall notify the property owner of the requirement provided in this subparagraph.

Section 5. Paragraph (a) of subsection (1) of section 373.807, Florida Statutes, is amended to read:

373.807 Protection of water quality in Outstanding Florida Springs.—By July 1, 2016, the department shall initiate assessment, pursuant to s. 403.067(3), of Outstanding Florida Springs or spring systems for which an impairment determination has not been made under the numeric nutrient standards in effect

for spring vents. Assessments must be completed by July 1, 2018.

(1)(a) Concurrent with the adoption of a nutrient total maximum daily load for an Outstanding Florida Spring, the department, or the department in conjunction with a water management district, shall initiate development of a basin management action plan, as specified in s. 403.067. For an Outstanding Florida Spring with a nutrient total maximum daily load adopted before July 1, 2016, the department, or the department in conjunction with a water management district, shall initiate development of a basin management action plan by July 1, 2016. During the development of a basin management action plan, if the department identifies onsite sewage treatment and disposal systems as contributors of at least 20 percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve the total maximum daily load, the basin management action plan must ~~shall~~ include an onsite sewage treatment and disposal system remediation plan pursuant to subsection (3) for those systems identified as requiring remediation. For residential properties greater than 10 acres located outside the boundary of an established priority focus area of an Outstanding Florida Spring, such remediation plans may not prohibit the construction and installation of new conventional onsite sewage treatment and disposal systems, unless central sewer is available, or require existing conventional onsite sewage treatment and disposal systems to upgrade to a nutrient-reducing onsite sewage treatment and disposal system.

Section 6. Section 373.811, Florida Statutes, is repealed.

Section 7. Paragraph (e) of subsection (5) of section

380.093, Florida Statutes, is amended to read:

380.093 Resilient Florida Grant Program; comprehensive statewide flood vulnerability and sea level rise data set and assessment; Statewide Flooding and Sea Level Rise Resilience Plan; regional resilience entities.—

(5) STATEWIDE FLOODING AND SEA LEVEL RISE RESILIENCE PLAN.—

(e) Each project included in the plan must have a minimum 50 percent cost share unless the project assists or is within a community eligible for a reduced cost share. For purposes of this section, the term "community eligible for a reduced cost share" means:

1. A municipality that has a population of less than 10,000 ~~or fewer~~, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements;

2. A county that has a population of less than 50,000 ~~or fewer~~, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income ~~that is~~ less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements; ~~or~~

3. A municipality or county that has a per capita annual income ~~that is~~ equal to or less than 75 percent of the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of

Commerce; or

4. A municipality or county that is a rural community as defined in s. 288.0656(2).

Section 8. Subsection (3) of section 380.502, Florida Statutes, is amended to read:

380.502 Legislative findings and intent.—

(3) The Legislature further finds that the goals of land conservation and community development are best served through coordinated decisionmaking and streamlined oversight. It is therefore the intent of the Legislature to transfer the administration and oversight of the Florida Communities Trust from the Department of Environmental Protection to the Acquisition and Restoration Council to improve consistency and effectiveness in conservation land acquisition and resource stewardship ~~It is the intent of the Legislature to establish a nonregulatory agency that will assist local governments in bringing local comprehensive plans into compliance and implementing the goals, objectives, and policies of the conservation, recreation and open space, and coastal elements of local comprehensive plans, or in conserving natural resources and resolving land use conflicts~~ by:

(a) Responding promptly and creatively to opportunities to correct undesirable development patterns, restore degraded natural areas, enhance resource values, restore deteriorated or deteriorating urban waterfronts, preserve working waterfronts, reserve lands for later purchase, participate in and promote the use of innovative land acquisition methods, and provide public access to surface waters.

(b) Providing financial and technical assistance to local

governments, state agencies, and nonprofit organizations to carry out projects and activities and to develop programs authorized by this part.

~~(c) Involving local governments and private interests in voluntarily resolving land use conflicts and issues.~~

Section 9. Section 380.504, Florida Statutes, is amended to read:

380.504 Florida Communities Trust; creation~~; membership; expenses~~.—

(1) There is created ~~within the Department of Environmental Protection a nonregulatory state agency and instrumentality, which shall be a public body corporate and politic, known as~~ the "Florida Communities Trust~~,~~." administered by the Acquisition and Restoration Council ~~The governing body of the trust shall consist of:~~

~~(a) The Secretary of Environmental Protection; and~~

~~(b) Four public members whom the Governor shall appoint subject to Senate confirmation.~~

~~The Governor shall appoint a former elected official of a county government, a former elected official of a metropolitan municipal government, a representative of a nonprofit organization as defined in this part, and a representative of the development industry. The Secretary of Environmental Protection may appoint his or her deputy secretary, the director of the Division of State Lands, or the director of the Division of Recreation and Parks to serve in his or her absence. The Secretary of Environmental Protection shall be the chair of the governing body of the trust. The Governor shall make his or her~~

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~~appointments upon the expiration of any current terms or within 60 days after the effective date of the resignation of any member~~.

(2) The purpose of the trust is to assist local governments in bringing into compliance and implementing the conservation, recreation and open space, and coastal elements of their comprehensive plans or in conserving natural resources and resolving land use conflicts by providing financial assistance to local governments and nonprofit environmental organizations to carry out projects and activities authorized by this part ~~Of the initial governing body members, two of the Governor's appointees shall serve for a term of 2 years and the remaining one shall serve for a term of 4 years from the date of appointment. Thereafter, governing body members whom the Governor appoints shall serve for terms of 4 years. The Governor may fill any vacancy for an unexpired term~~.

~~(3) Governing body members shall receive no compensation for their services, but shall be entitled to the necessary expenses, including per diem and travel expenses, incurred in the discharge of their duties pursuant to this part, as provided by law.~~

Section 10. Subsections (6), (7), (9) through (12), and (14) of section 380.507, Florida Statutes, are amended to read:

380.507 Powers of the trust.—The trust shall have all the powers necessary or convenient to carry out the purposes and provisions of this part, including:

(6) To award grants ~~and make loans~~ to local governments and nonprofit organizations for the purposes listed in subsection (2) and for acquiring fee title and less than fee title, such as

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conservation easements or other interests in land, for the purposes of this part.

(7) To provide by grant ~~or loan~~ up to the total cost of any project approved according to this part, including the local share of federally supported projects. The trust may require local funding participation in projects. The trust shall determine the funding it will provide by considering the total amount of funding available for the project, the fiscal resources of other project participants, the urgency of the project relative to other eligible projects, and other factors which the trust shall have prescribed by rule. The trust may fund up to 100 percent of any local government land acquisition costs, if part of an approved project.

(9) To review project recommendations and funding priorities and provide acquisition decisions ~~To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be authorized for trust funds under s. 215.47, and in any other authorized investments, if such investments are made on behalf of the trust by the State Board of Administration~~.

(10) To contract for and to accept donations ~~gifts~~, grants, loans, or other aid from the United States Government or any person or corporation, including donations ~~gifts~~ of real property or any interest in real property.

(11) To submit project recommendations, funding priorities, and acquisition decisions to the Acquisition and Restoration Council, which shall have final approval authority over trust expenditures and acquisitions ~~to make rules necessary to carry out the purposes of this part and to exercise any power granted~~

~~in this part, pursuant to chapter 120. The trust shall adopt rules governing the acquisition of lands with proceeds from the Florida Forever Trust Fund, consistent with the intent expressed in the Florida Forever Act. Such rules for land acquisition must include, but are not limited to, procedures for appraisals and confidentiality consistent with ss. 125.355(1)(a) and (b) and 166.045(1)(a) and (b), a method of determining a maximum purchase price, and procedures to assure that the land is acquired in a voluntarily negotiated transaction, surveyed, conveyed with marketable title, and examined for hazardous materials contamination. Land acquisition procedures of a local land authority created pursuant to s. 380.0663 may be used for the land acquisition programs described in former s. 259.101(3)(c), Florida Statutes 2014, and in s. 259.105 if within areas of critical state concern designated pursuant to s. 380.05, subject to approval of the trust~~.

(12) To develop, in conjunction with the council, rules, policies, and guidelines for the administration of the trust consistent with this part and ss. 259.035 and 259.105 ~~to contract with private consultants and nonprofit organizations for professional and technical assistance and advice~~.

~~(14) To conduct promotional campaigns, including advertising, for the sale of communities trust license plates authorized in s. 320.08058.~~

Section 11. Section 380.512, Florida Statutes, is repealed.

Section 12. Section 380.513, Florida Statutes, is repealed.

Section 13. Section 380.514, Florida Statutes, is repealed.

Section 14. Paragraph (n) of subsection (3), and subsections (4) and (9) of section 381.0065, Florida Statutes,

are amended, and subsection (7) of that section is reenacted, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

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

(n) Regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems. To ensure systems are maintained and operated according to manufacturer's specifications and designs, the department shall establish by rule minimum qualifying criteria for maintenance entities. The criteria shall include training, access to approved spare parts and components, access to manufacturer's maintenance and operation manuals, and service response time. The maintenance entity shall employ a contractor licensed under s. 489.105(3)(m), or part III of chapter 489, or a state-licensed wastewater plant operator, who is responsible for maintenance and repair of all systems under contract. The department may annually review and audit up to 25 percent of all inspection and maintenance reports submitted by such maintenance entities for performance-based treatment systems and aerobic treatment unit systems. The department may adopt rules to establish procedures for such audits.

(4) PERMITS; INSTALLATION; CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, except that the issuance of a permit for work seaward of the coastal construction control line

established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the department. A construction permit is valid for 18 months after the date of issuance and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days after the date of issuance. When a person jointly applies for a construction permit and an operating permit for the same onsite sewage treatment and disposal system, the department shall concurrently process the operating permit with the construction permit. An operating permit must be obtained before the use of any aerobic treatment unit or engineer-designed performance-based system, or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to ensure ~~assure~~ compliance with the terms of the operating permit. The operating permit for a residential or other non-commercial onsite sewage treatment and disposal system or aerobic treatment unit is valid for the lifetime of the installation; however, any subsequent change in occupancy of the property or any modification of the wastewater system requires an operating permit modification upon such change. When an onsite sewage treatment and disposal system that requires an operating permit is sold or transferred, the subsequent owner with a controlling interest shall provide written notice and proof of ownership to the department to amend the operating permit information within 60 days of such property sale or transfer ~~commercial wastewater system is valid for 1 year after the date of issuance and must be renewed annually. The operating~~

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~~permit for an aerobic treatment unit is valid for 2 years after the date of issuance and must be renewed every 2 years~~. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. A fee is not associated with the processing of this supplemental information <u>if only ownership information is updated to reflect a permit transfer for a construction, repair, or an operating permit</u>. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and

disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991,

when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the department, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed-upon densities are reached. In a subdivision regulated by this paragraph, the average daily sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewage treatment system is available. This paragraph does not allow development of additional proposed subdivisions in order to evade the requirements of this paragraph.

(e) The department shall adopt rules relating to the location of onsite sewage treatment and disposal systems, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rules must consider conventional and enhanced nutrient-reducing onsite sewage treatment and disposal system designs, impaired or degraded water bodies, domestic wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the onsite sewage treatment and disposal system remediation plans developed

pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to former s. 381.00652. The rules must also allow a person to apply for and receive a variance from a rule requirement upon demonstration that the requirement would cause an undue hardship and granting the variance would not cause or contribute to the exceedance of a total maximum daily load.

(f) Onsite sewage treatment and disposal systems that are permitted before June 21, 2022, may not be placed closer than:

1. Seventy-five feet from a private potable well.

2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.

3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.

4. Fifty feet from any nonpotable well.

5. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.

6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body.

7. Seventy-five feet from the mean annual flood line of a permanent nontidal surface water body.

8. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage

ditches or normally dry individual lot stormwater retention areas.

(g) This section and rules adopted under this section relating to soil condition, water table elevation, distance, and other setback requirements must be equally applied to all lots, with the following exceptions:

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and recorded or approved on or after January 1, 1972, shall, to the maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

2. Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for onsite sewage treatment and disposal systems for lots platted before 1972 may not exceed:

a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(h)1. The department may grant variances in hardship cases which may be less restrictive than the provisions specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. A fee is not associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. A reasonable alternative, taking into consideration factors such as cost, does not exist for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and

disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance requests and shall also strive to allow property owners the full use of their land where possible.

a. The committee is composed of the following:

(I) The Secretary of Environmental Protection or his or her designee.

(II) A representative from the county health departments.

(III) A representative from the home building industry recommended by the Florida Home Builders Association.

(IV) A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

(V) A representative from the Department of Health.

(VI) A representative from the real estate industry who is

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.

(VII) A representative from the engineering profession recommended by the Florida Engineering Society.

b. Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

3. The variance review and advisory committee is not responsible for reviewing water well permitting. However, the committee shall consider all requirements of law related to onsite sewage treatment and disposal systems when making recommendations on variance requests for onsite sewage treatment and disposal system permits.

(i) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewage treatment system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department may not grant approval when the proposed use of the system is to dispose of toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, does not need to obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the

department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(j) An onsite sewage treatment and disposal system designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the performance of a system and not a system’s design.

2. A person electing to use an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may use an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant.

Within 5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under the provisions of chapter 120.

3. The owner of an engineer-designed performance-based system must maintain a current maintenance service agreement with a maintenance entity permitted by the department. The maintenance entity shall inspect each system at least twice each year and shall submit an inspection report to the department each time the system is inspected which states ~~report quarterly to the department on~~ the number of systems inspected and serviced. The reports may be submitted electronically, and the fee for such submittals may not exceed an inflation-adjusted cost that would have otherwise been required for biennial operating permit renewals prior to July 1, 2026.

4. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own performance-based

treatment system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

5. ~~The property owner shall obtain a biennial system operating permit from the department for each system.~~ The department may ~~shall~~ inspect the system at least annually, or on such periodic basis as the fee collected permits, and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit must ~~shall~~ be collected beginning with the second year of system operation.

6. If an engineer-designed system fails to properly function or fails to meet performance standards, the system must ~~shall~~ be re-engineered, if necessary, to bring the system into compliance with the provisions of this section.

(k) An innovative system may be approved in conjunction with an engineer-designed site-specific system that is certified by the engineer to meet the performance-based criteria adopted by the department.

(l) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil

conditions and water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The following additional requirements apply to onsite sewage treatment and disposal systems in Monroe County:

1. The county, each municipality, and those special districts established for the purpose of the collection, transmission, treatment, or disposal of sewage shall ensure, in accordance with the specific schedules adopted by the Administration Commission under s. 380.0552, the completion of onsite sewage treatment and disposal system upgrades to meet the requirements of this paragraph.

2. Onsite sewage treatment and disposal systems must cease discharge by December 31, 2015, or must comply with department rules and provide the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:

a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

b. Suspended Solids of 10 mg/l.

c. Total Nitrogen, expressed as N, of 10 mg/l or a reduction in nitrogen of at least 70 percent. A system that has been tested and certified to reduce nitrogen concentrations by at least 70 percent shall be deemed to be in compliance with this standard.

d. Total Phosphorus, expressed as P, of 1 mg/l.

In addition, onsite sewage treatment and disposal systems discharging to an injection well must provide basic disinfection as defined by department rule.

3. In areas not scheduled to be served by a central sewerage system, onsite sewage treatment and disposal systems must, by December 31, 2015, comply with department rules and provide the level of treatment described in subparagraph 2.

4. In areas scheduled to be served by a central sewerage system by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewerage system, the property owner may install a holding tank with a high water alarm or an onsite sewage treatment and disposal system that meets the following minimum standards:

a. The existing tanks must be pumped and inspected and certified as being watertight and free of defects in accordance with department rule; and

b. A sand-lined drainfield or injection well in accordance with department rule must be installed.

5. Onsite sewage treatment and disposal systems must be monitored for total nitrogen and total phosphorus concentrations as required by department rule.

6. The department shall enforce proper installation, operation, and maintenance of onsite sewage treatment and disposal systems pursuant to this chapter, including ensuring that the appropriate level of treatment described in subparagraph 2. is met.

7. The authority of a local government, including a special district, to mandate connection of an onsite sewage treatment and disposal system is governed by s. 4, chapter 99-395, Laws of

Florida.

8. Notwithstanding any other law, an onsite sewage treatment and disposal system installed after July 1, 2010, in unincorporated Monroe County, excluding special wastewater districts, that complies with the standards in subparagraph 2. is not required to connect to a central sewerage system until December 31, 2020.

(m) A product sold in the state for use in onsite sewage treatment and disposal systems may not contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. If a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(l). The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the

evaluation.

(o) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. Specific documentation of property ownership is not required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(p) The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider before submission of an application for an onsite sewage treatment and disposal system.

(q) This section does not limit the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(r) In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering may not be required on single-family residential dwelling units for systems located greater than 5 feet from the roof drip line of the house. If guttering is used on residential dwelling units, the downspouts shall be directed away from the drainfield.

(s) Notwithstanding subparagraph (g)1., onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the following requirements:

1. The absorption surface of the drainfield may not be

subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations before January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:

a. The lot is at least one-half acre in size;

b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and

c. The applicant installs a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system that is capable of reducing effluent nitrate by at least 50 percent in accordance with department rules; or a system other than a system using alternative drainfield materials in accordance with department rules. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.

2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water may not be permitted if such a system lies within a regulatory floodway of the Suwannee and

Aucilla Rivers. In cases where the 10-year flood elevation does not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

(t)1. The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. The maintenance entity shall inspect each aerobic treatment unit system at least twice each year and shall submit an inspection report to the department each time the system is inspected stating ~~report quarterly to the department on~~ the number of aerobic treatment unit systems inspected and serviced. The reports may be submitted electronically, and the fee for such submittals may not exceed an inflation-adjusted cost that would have otherwise been required for biennial operating permit renewals prior to July 1, 2026.

2. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own aerobic treatment unit system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance entity service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

3. A septic tank contractor licensed under part III of chapter 489, if approved by the manufacturer, may not be denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities. After the original warranty period, component parts for an aerobic treatment unit system may be replaced with parts that meet manufacturer's specifications but are manufactured by others. The maintenance entity shall maintain documentation of the substitute part's equivalency for 2 years and shall provide such documentation to the department upon request.

4. The owner of an aerobic treatment unit system shall obtain a system operating permit from the department and allow the department to inspect during reasonable hours each aerobic treatment unit system at least annually, and such inspection may include collection and analysis of system-effluent samples for performance criteria established by rule of the department.

(u) The department may require the submission of detailed system construction plans that are prepared by a professional engineer registered in this state. The department shall establish by rule criteria for determining when such a submission is required.

(v) Any permit issued and approved by the department for the installation, modification, or repair of an onsite sewage treatment and disposal system transfers ~~shall transfer~~ with the title to the property in a real estate transaction. For any such transfer of title to a property that has an onsite sewage treatment and disposal system that has not been abandoned in accordance with the section, or which is subject to a permit for the installation, modification, repair, or operation of such a

system, the real estate transaction is subject to the following requirements:

1. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired.

2. An inspection of a system may not be mandated by a governmental entity at the point of sale in a real estate transaction.

3. At or before the time of such real estate transaction, the following notifications must be provided to the persons receiving ownership of the property:

a. A disclosure statement clearly identifying that the property is subject to regulations for an onsite sewage treatment and disposal system;

b. Information indicating the nature and location of any existing onsite sewage treatment and disposal system components;

c. If applicable, a statement that the property is subject to an onsite sewage treatment and disposal system operating permit and that one or more of the persons receiving a controlling interest in the property are required pursuant to this subsection to provide written notice and proof of ownership to update the operating permit information within 60 days of such real estate transaction; and

d. A copy of any valid permit for the installation, modification, repair, or operation of an onsite sewage treatment and disposal system which will transfer pursuant to this paragraph.

This paragraph does not affect a septic tank phase-out deferral program implemented by a consolidated government as defined in s. 9, Art. VIII of the State Constitution of 1885.

(w) A governmental entity, including a municipality, county, or statutorily created commission, may not require an engineer-designed performance-based treatment system, excluding a passive engineer-designed performance-based treatment system, before the completion of the Florida Onsite Sewage Nitrogen Reduction Strategies Project. This paragraph does not apply to a governmental entity, including a municipality, county, or statutorily created commission, which adopted a local law, ordinance, or regulation on or before January 31, 2012. Notwithstanding this paragraph, an engineer-designed performance-based treatment system may be used to meet the requirements of the variance review and advisory committee recommendations.

(x)1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and if the system was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, if the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that existed before the disaster;

b. The system is not a sanitary nuisance; and

c. The system has not been altered without prior authorization.

2. An onsite sewage treatment and disposal system that serves a property that is foreclosed upon is not considered abandoned.

(y) If an onsite sewage treatment and disposal system permittee receives, relies upon, and undertakes construction of a system based upon a validly issued construction permit under rules applicable at the time of construction but a change to a rule occurs within 5 years after the approval of the system for construction but before the final approval of the system, the rules applicable and in effect at the time of construction approval apply at the time of final approval if fundamental site conditions have not changed between the time of construction approval and final approval.

(z) An existing-system inspection or evaluation and assessment, or a modification, replacement, or upgrade of an onsite sewage treatment and disposal system is not required for a remodeling addition or modification to a single-family home if a bedroom is not added. However, a remodeling addition or modification to a single-family home may not cover any part of the existing system or encroach upon a required setback or the unobstructed area. To determine if a setback or the unobstructed area is impacted, the local health department shall review and verify a floor plan and site plan of the proposed remodeling addition or modification to the home submitted by a remodeler which shows the location of the system, including the distance of the remodeling addition or modification to the home from the

onsite sewage treatment and disposal system. The local health department may visit the site or otherwise determine the best means of verifying the information submitted. A verification of the location of a system is not an inspection or evaluation and assessment of the system. The review and verification must be completed within 7 business days after receipt by the local health department of a floor plan and site plan. If the review and verification is not completed within such time, the remodeling addition or modification to the single-family home, for the purposes of this paragraph, is approved.

(7) USE OF ENHANCED NUTRIENT-REDUCING ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS.—To meet the requirements of a total maximum daily load, the department shall implement a fast-track approval process of no longer than 6 months for the determination of the use of American National Standards Institute 245 systems approved by NSF International before July 1, 2020. The department shall also establish an enhanced nutrient-reducing onsite sewage treatment and disposal system approval program that will expeditiously evaluate and approve such systems for use in this state to comply with ss. 403.067(7)(a)10. and 373.469(3)(d).

(9) CONTRACT OR DELEGATION AUTHORITY.—The department may contract with or delegate its powers and duties under this section ~~to a county~~ as provided in s. 403.061 or s. 403.182.

Section 15. Paragraph (c) of subsection (6) and paragraph (a) of subsection (7) of section 403.067, Florida Statutes, are amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(6) CALCULATION AND ALLOCATION.—

(c) Adoption of rules. The total maximum daily load calculations and allocations established under this subsection for each water body or water body segment shall be adopted by rule by the secretary pursuant to ss. 120.536(1), 120.54, and 403.805. Where additional data collection and analysis are needed to increase the scientific precision and accuracy of the total maximum daily load, the department is authorized to adopt phased total maximum daily loads that are subject to change as additional data becomes available. Where phased total maximum daily loads are proposed, the department shall, in the detailed statement of facts and circumstances justifying the rule, explain why the data are inadequate so as to justify a phased total maximum daily load. The rules adopted pursuant to this paragraph are not ~~subject to approval by the Environmental Regulation Commission and are not~~ subject to ~~the provisions of~~ s. 120.541(3). As part of the rule development process, the department shall hold at least one public workshop in the vicinity of the water body or water body segment for which the total maximum daily load is being developed. Notice of the public workshop shall be published not less than 5 days nor more than 15 days before the public workshop in a newspaper of general circulation in the county or counties containing the water bodies or water body segments for which the total maximum daily load calculation and allocation are being developed.

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily

load for a waterbody, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the waterbody. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, when appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future

increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least 5 days, but not more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan must include all of the following:

a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s.

403.151.

b. A description of best management practices adopted by rule.

c. For the applicable 5-year implementation milestone, a list of projects that will achieve the pollutant load reductions needed to meet the total maximum daily load or the load allocations established pursuant to subsection (6). Each project must include a planning-level cost estimate and an estimated date of completion.

d. A list of projects developed pursuant to paragraph (e), if applicable.

e. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable.

f. A planning-level estimate of each listed project's expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement this section. A basin management action plan and any amendment to such plan become effective 60 days after the date the secretarial order is filed.

6. The basin management action plan must include 5-year milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate.

Any entity with a specific pollutant load reduction requirement established in a basin management action plan shall identify the projects or strategies that such entity will undertake to meet current 5-year pollution reduction milestones, beginning with the first 5-year milestone for new basin management action plans, and submit such projects to the department for inclusion in the appropriate basin management action plan. Each project identified must include an estimated amount of nutrient reduction that is reasonably expected to be achieved based on the best scientific information available. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the

credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or waterbody segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A domestic wastewater treatment plan developed by each local government, in cooperation with the department, the water management district, and the public and private domestic wastewater treatment facilities providing services or located within the jurisdiction of the local government, which addresses domestic wastewater. Private domestic wastewater facilities and special districts providing domestic wastewater services must provide the required wastewater facility information to the applicable local governments. The domestic wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The domestic wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a domestic wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially

feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. The following activities are prohibited within a basin management action plan adopted under this section, a reasonable assurance plan, or a pollution reduction plan:

a. The installation of new onsite sewage treatment and disposal systems ~~constructed within a basin management action plan area adopted under this section, a reasonable assurance~~

~~plan, or a pollution reduction plan is prohibited~~ where connection to a publicly owned or investor-owned sewerage system is available as defined in s. 381.0065(2)(a). On lots of 1 acre or less ~~within a basin management action plan adopted under this section, a reasonable assurance plan, or a pollution reduction plan~~ where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems, distributed wastewater treatment systems as defined in s. 403.814(13), or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction is required.

b. The construction or installation of new domestic wastewater disposal facilities, including rapid infiltration basins, with permitted capacities of 100,000 or more gallons per day, except for those facilities that meet an advanced wastewater treatment standard of no more than 3 mg/l total nitrogen and 1 mg/l total phosphorus on an annual permitted basis, or a more stringent treatment standard if the department determines the more stringent standard is necessary to attain a total maximum daily load.

c. The construction or installation of new facilities for the disposal of hazardous waste.

11. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant reduction requirements of an adopted total maximum daily load and meets or exceeds the pollution reduction requirement of the

original project.

12. Annually, local governments subject to a basin management action plan or located within the basin of a waterbody not attaining nutrient or nutrient-related standards must provide to the department an update on the status of construction of sanitary sewers to serve such areas, in a manner prescribed by the department.

Section 16. Paragraph (e) of subsection (1) of section 403.0671, Florida Statutes, is amended to read:

403.0671 Basin management action plan wastewater reports.—

(1) By July 1, 2021, the department, in coordination with the county health departments, wastewater treatment facilities, and other governmental entities, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives evaluating the costs of wastewater projects identified in the basin management action plans developed pursuant to ss. 373.807 and 403.067(7) and the onsite sewage treatment and disposal system remediation plans and other restoration plans developed to meet the total maximum daily loads required under s. 403.067. The report must include all of the following:

(e) The projected costs of installing enhanced nutrient-reducing onsite sewage treatment and disposal systems on buildable lots in priority focus areas ~~to comply with s. 373.811~~.

Section 17. Subsection (11) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program

approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section. This operation permit is the only department operation permit for a major source of air pollution required for such source; provided, at the applicant's request, the department shall issue a separate acid rain permit for a major source of air pollution that is an affected source within the meaning of 42 U.S.C. s. 7651a(1). Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the procedures contained in this section and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with this section, the procedures contained in this section prevail.

(11) Each major source of air pollution permitted to operate in this state must pay by June 30 ~~between January 15 and April 1~~ of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States Environmental Protection Agency imposes annual fees solely to implement and administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

(a) The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the

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tons of each regulated air pollutant actually emitted, as calculated in accordance with the department's emissions computation and reporting rules. The annual fee shall only apply to those regulated pollutants, except carbon monoxide and greenhouse gases, for which an allowable numeric emission limiting standard is specified in the source's most recent construction or operation permit; provided, however, that:

1. The license fee factor is $25 or another amount determined by department rule which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond $25 only if the secretary of the department affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed $35.

2. The amount of each regulated air pollutant in excess of 4,000 tons per year emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources, which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.

3. If the department has not received the fee ~~by March 1 of~~

~~the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by April 1. If the fee is not postmarked~~ by June 30 ~~April 1~~ of the calendar year, the department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and may not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to $50. The department may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.

4. Notwithstanding the computational provisions of this subsection, the annual operation license fee for any source subject to this section may not be less than $250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814 may not exceed $50 per year.

5. Notwithstanding s. 403.087(7)(a)5.a., which authorizes air pollution construction permit fees, the department may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-

7514a. ~~Costs to issue and administer such permits shall be considered direct and indirect costs of the major stationary source air-operation permit program under s. 403.0873.~~ The department shall, however, require fees pursuant to s. 403.087(7)(a)5.a. for the construction of a new major source of air pollution that will be subject to the permitting requirements of this section once constructed and for activities triggering permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

(b) Annual operation license fees collected by the department must be sufficient to cover all reasonable direct and indirect costs required to develop and administer the major stationary source air-operation permit program, which shall consist of the following elements to the extent that they are reasonably related to the regulation of major stationary air pollution sources, in accordance with United States Environmental Protection Agency regulations and guidelines:

1. Reviewing and acting upon any application for such a permit.

2. Implementing and enforcing the terms and conditions of any such permit, excluding court costs or other costs associated with any enforcement action.

3. Emissions and ambient monitoring.

4. Preparing generally applicable regulations or guidance.

5. Modeling, analyses, and demonstrations.

6. Preparing inventories and tracking emissions.

7. Implementing the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

8. Any audits conducted under paragraph (c).

(c) An audit of the major stationary source air-operation permit program must be conducted 2 years after the United States Environmental Protection Agency has given full approval of the program to ascertain whether the annual operation license fees collected by the department are used solely to support any reasonable direct and indirect costs as listed in paragraph (b). A program audit must be performed biennially after the first audit.

Section 18. Paragraphs (a) and (b) of subsection (3) of section 403.1838, Florida Statutes, are amended to read:

403.1838 Small Community Sewer Construction Assistance Act.—

(3)(a) In accordance with rules adopted by the department ~~Environmental Regulation Commission under this section~~, the department may provide grants, from funds specifically appropriated for this purpose, to financially disadvantaged small communities for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses.

(b) The rules of the department ~~Environmental Regulation Commission~~ must:

1. Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable.

2. Require appropriate user charges, connection fees, and other charges sufficient to ensure the long-term operation,

maintenance, and replacement of the facilities constructed under each grant.

3. Require grant applications to be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained.

4. Establish a system to determine eligibility of grant applications.

5. Establish a system to determine the relative priority of grant applications. The system must consider public health protection and water pollution prevention or abatement and must prioritize projects that plan for the installation of wastewater transmission facilities to be constructed concurrently with other construction projects occurring within or along a transportation facility right-of-way.

6. Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.

7. Provide for termination of grants when program requirements are not met.

Section 19. Section 403.804, Florida Statutes, is repealed.

Section 20. Paragraph (d) of subsection (2) and paragraph (a) of subsection (3) of section 403.9301, Florida Statutes, are amended to read:

403.9301 Wastewater services projections.—

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

(d) "Wastewater services" means service to a sewerage system, as defined in s. 403.031, or service to domestic wastewater treatment works, including services to manage domestic septage from residences and establishments served by onsite treatment and disposal systems.

(3) By June 30, 2022, and every 5 years thereafter, each county, municipality, or special district providing wastewater services shall develop a needs analysis for its jurisdiction over the subsequent 20 years. In projecting such needs, each local government shall include the following:

(a) A detailed description of the facilities used to provide wastewater services, including analysis of domestic biosolids and septage generation, treatment, management, use, and disposal in the corresponding service area.

Section 21. Subsection (1) of section 576.041, Florida Statutes, is amended to read:

576.041 Inspection fees; records.—

(1) Every licensee must ~~shall~~ pay to the department an inspection fee in the amount of $1 per ton for fertilizer sold in this ~~the~~ state, except fertilizer products containing or composed of Class AA biosolids produced by a domestic wastewater or biosolids treatment facility in this state, raw ground phosphate rock, soft phosphate, colloidal phosphate, phosphatic clays and all other untreated phosphatic materials, gypsum, hydrated lime, limestone, and dolomite when sold or used for agricultural purposes, for ~~on~~ which the inspection fee is ~~shall be~~ 30 cents per ton. The inspection fees paid for Class AA biosolids-composed fertilizers must be based on the equivalent dry tons of material sold. All fees paid to the department under this section shall be deposited into the State Treasury to be placed in the General Inspection Trust Fund to be used for the sole purpose of funding the fertilizer inspection program.

Section 22. Paragraph (a) of subsection (2) of section 576.045, Florida Statutes, is amended to read:

576.045 Nitrogen and phosphorus; findings and intent; fees; purpose; best management practices; waiver of liability; compliance; rules; exclusions; expiration.—

(2) FEES.—

(a) In addition to the fees imposed under ss. 576.021 and 576.041, the following supplemental fees shall be collected and paid by licensees for the sole purpose of implementing this section:

1. One hundred dollars for each license to distribute fertilizer.

2. One hundred dollars for each specialty fertilizer registration.

3. Fifty cents per ton for all fertilizer that contains nitrogen or phosphorus and that is sold in this state.

4. Twenty-five cents per ton for Class AA biosolids produced by a domestic wastewater facility, calculated based on equivalent dry tons of the Class AA biosolids-derived product.

Section 23. Subsection (6) of section 120.81, Florida Statutes, is amended to read:

120.81 Exceptions and special requirements; general areas.—

(6) RISK IMPACT STATEMENT.—The Department of Environmental Protection shall prepare a risk impact statement for any rule that is proposed for adoption which ~~approval by the Environmental Regulation Commission and that~~ establishes or changes standards or criteria based on impacts to or effects upon human health. The Department of Agriculture and Consumer Services shall prepare a risk impact statement for any rule that is proposed for adoption that establishes standards or criteria based on impacts to or effects upon human health.

(a) This subsection does not apply to rules adopted pursuant to federally delegated or mandated programs where such rules are identical or substantially identical to the federal regulations or laws being adopted or implemented by the Department of Environmental Protection or Department of Agriculture and Consumer Services, as applicable. However, the Department of Environmental Protection and the Department of Agriculture and Consumer Services shall identify any risk analysis information available to them from the Federal Government that has formed the basis of such a rule.

(b) This subsection does not apply to emergency rules adopted pursuant to this chapter.

(c) The Department of Environmental Protection and the Department of Agriculture and Consumer Services shall prepare and publish notice of the availability of a clear and concise risk impact statement for all applicable rules. The risk impact statement must explain the risk to the public health addressed by the rule and shall identify and summarize the source of the scientific information used in evaluating that risk.

(d) Nothing in this subsection shall be construed to create a new cause of action or basis for challenging a rule nor diminish any existing cause of action or basis for challenging a rule.

Section 24. Subsection (1) of section 373.421, Florida Statutes, is amended, and paragraph (b) of subsection (7) of that section is reenacted, to read:

373.421 Delineation methods; formal determinations.—

(1) The department's ~~Environmental Regulation Commission shall adopt a~~ unified statewide methodology for the delineation

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of the extent of wetlands as defined in s. 373.019(27)~~.This methodology~~ shall consider regional differences in the types of soils and vegetation that may serve as indicators of the extent of wetlands. This methodology shall also include provisions for determining the extent of surface waters other than wetlands for the purposes of regulation under s. 373.414. This methodology shall not become effective until ratified by the Legislature. Subsequent to legislative ratification, the wetland definition in s. 373.019(27) and the adopted wetland methodology shall be binding on the department, the water management districts, local governments, and any other governmental entities. Upon ratification of such wetland methodology, the Legislature preempts the authority of any water management district, state or regional agency, or local government to define wetlands or develop a delineation methodology to implement the definition and determines that the exclusive definition and delineation methodology for wetlands shall be that established pursuant to s. 373.019(27) and this section. Upon such legislative ratification, any existing wetlands definition or wetland delineation methodology shall be superseded by the wetland definition and delineation methodology established pursuant to this chapter. Subsequent to legislative ratification, a delineation of the extent of a surface water or wetland by the department or a water management district, pursuant to a formal determination under subsection (2), or pursuant to a permit issued under this part in which the delineation was field-verified by the permitting agency and specifically approved in the permit, shall be binding on all other governmental entities for the duration of the formal determination or permit. All

existing rules and methodologies of the department, the water management districts, and local governments, regarding surface water or wetland definition and delineation shall remain in full force and effect until the common methodology rule becomes effective. However, this shall not be construed to limit any power of the department, the water management districts, and local governments to amend or adopt a surface water or wetland definition or delineation methodology until the common methodology rule becomes effective.

(7)

(b) Wetlands contiguous to surface waters of the state as defined in s. 403.031(13), Florida Statutes (1991), shall be delineated pursuant to the department's rules as such rules existed prior to January 24, 1984, while wetlands not contiguous to surface waters of the state as defined in s. 403.031(13), Florida Statutes (1991), shall be delineated pursuant to the applicable methodology ratified by s. 373.4211 for any development which obtains an individual permit from the United States Army Corps of Engineers under 33 U.S.C. s. 1344:

1. Where a jurisdictional determination validated by the department pursuant to rule 17-301.400(8), Florida Administrative Code, as it existed in rule 17-4.022, Florida Administrative Code, on April 1, 1985, is revalidated pursuant to s. 373.414(13) and the affected lands are part of a project for which a vested rights determination has been issued pursuant to s. 380.06, or

2. Where the lands affected were grandfathered pursuant to s. 403.913(6), Florida Statutes (1991), and proof of prior notification pursuant to s. 403.913(6), Florida Statutes (1991),

is submitted to the department within 180 days of the publication of a notice by the department of the existence of this provision. Failure to timely submit the proof of prior notification to the department serves as a waiver of the benefits conferred by this subsection.

3. This subsection shall not be applicable to lands:

a. Within the geographical area to which an individual or general permit issued prior to June 1, 1994, under rules adopted pursuant to this part applies; or

b. Within the geographical area to which a conceptual permit issued prior to June 1, 1994, under rules adopted pursuant to this part applies if wetland delineations were identified and approved by the conceptual permit as set forth in s. 373.414(12)(b)1. or 2.; or

c. Where no development activity as defined in s. 380.01(1) or (2)(a)-(d) and (f) has occurred within the project boundaries since October 1, 1986; or

d. Of a project which is not in compliance with this part or the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended.

4. The wetland delineation methodology required in this subsection shall only apply within the geographical area of an individual permit issued by the United States Army Corps of Engineers under 33 U.S.C. s. 1344. The requirement to obtain such individual permit to secure the benefit of this subsection shall not apply to any activities exempt or not subject to regulation under 33 U.S.C. s. 1344.

5. Notwithstanding subsection (1), the wetland delineation methodology required in this subsection and any wetland

delineation pursuant thereto, shall only apply to agency action under this part and shall not be binding on local governments except in their implementation of this part.

Section 25. Paragraph (b) of subsection (23) of section 403.031, Florida Statutes, is amended to read:

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

(23) "Waters" include, but are not limited to, rivers, lakes, streams, springs, impoundments, wetlands, and all other waters or bodies of water, including fresh, brackish, saline, tidal, surface, or underground waters. Waters owned entirely by one person other than the state are included only in regard to possible discharge on other property or water. Underground waters include, but are not limited to, all underground waters passing through pores of rock or soils or flowing through in channels, whether manmade or natural. Solely for purposes of s. 403.0885, waters of the state also include navigable waters or waters of the contiguous zone as used in s. 502 of the Clean Water Act, as amended, 33 U.S.C. ss. 1251 et seq., as in existence on January 1, 1993, except for those navigable waters seaward of the boundaries of the state set forth in s. 1, Art. II of the State Constitution. Solely for purposes of this chapter, waters of the state also include the area bounded by the following:

(b) The area bounded by the line described in paragraph (a) generally includes those waters to be known as waters of the state. The landward extent of these waters shall be determined

by the delineation methodology ratified in s. 373.4211. Any waters which are outside the general boundary line described in paragraph (a) but which are contiguous thereto by virtue of the presence of a wetland, watercourse, or other surface water, as determined by the delineation methodology ratified in s. 373.4211, shall be a part of this waterbody. Any areas within the line described in paragraph (a) which are neither a wetland nor surface water, as determined by the delineation methodology ratified in s. 373.4211, shall be excluded therefrom. ~~If the Florida Environmental Regulation Commission designates the waters within the boundaries an Outstanding Florida Water, waters outside the boundaries may not be included as part of such designation unless a hearing is held pursuant to notice in each appropriate county and the boundaries of such lands are specifically considered and described for such designation.~~

Section 26. Subsections (7) and (32) of section 403.061, Florida Statutes, are 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:

(7) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this act. Any rule adopted pursuant to this act must be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. A county, municipality, or political subdivision may not adopt or enforce any local ordinance, special law, or local regulation requiring the installation of Stage II vapor

recovery systems, as currently defined by department rule, unless such county, municipality, or political subdivision is or has been in the past designated by federal regulation as a moderate, serious, or severe ozone nonattainment area. Rules adopted pursuant to this act may not require dischargers of waste into waters of the state to improve natural background conditions. The department shall adopt rules to reasonably limit, reduce, and eliminate domestic wastewater collection and transmission system pipe leakages and inflow and infiltration. Discharges from steam electric generating plants existing or licensed under this chapter on July 1, 1984, may not be required to be treated to a greater extent than may be necessary to assure that the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the makeup waters; that the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or that the quality of noncooling system discharges which receive makeup water from a receiving body of water which does not meet applicable department water quality standards is as high as the quality of the receiving body of water. ~~The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.~~

(32) Adopt rules necessary to obtain approval from the United States Environmental Protection Agency to administer the Federal National Pollution Discharge Elimination System (NPDES) permitting program in Florida under ss. 318, 402, and 405 of the federal Clean Water Act, Pub. L. No. 92-500, as amended. This authority shall be implemented consistent with the provisions of

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part II, which shall be applicable to facilities certified thereunder. The department shall establish all rules, standards, and requirements that regulate the discharge of pollutants into waters of the United States as defined by and in a manner consistent with federal regulations; provided, however, that the department may adopt a standard that is stricter or more stringent than one set by the United States Environmental Protection Agency ~~if approved by the Governor and Cabinet in accordance with the procedures of s. 403.804(2)~~.

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 27. Subsection (9) of section 403.704, Florida Statutes, is amended to read:

403.704 Powers and duties of the department.—The department shall have responsibility for the implementation and enforcement of this act. In addition to other powers and duties, the department shall:

(9) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce this act, including requirements for the classification, construction, operation, maintenance, and closure of solid waste management facilities and requirements for, and conditions on, solid waste disposal in this state, whether such solid waste is generated within this state or outside this state as long as such requirements and conditions are not based on the out-of-state origin of the waste and are consistent with applicable law. When classifying solid waste

management facilities, the department shall consider the hydrogeology of the site for the facility, the types of wastes to be handled by the facility, and methods used to control the types of waste to be handled by the facility and shall seek to minimize the adverse effects of solid waste management on the environment. ~~Whenever the department adopts any rule stricter or more stringent than one that has been set by the United States Environmental Protection Agency, the procedures set forth in s. 403.804(2) shall be followed.~~ The department may ~~shall~~ not~~,~~ ~~however,~~ adopt hazardous waste rules for solid waste for which special studies were required before ~~prior to~~ October 1, 1988, under s. 8002 of the Resource Conservation and Recovery Act, 42 U.S.C. s. 6982, as amended, until the studies are completed by the United States Environmental Protection Agency and the information is available to the department for consideration in adopting its own rule.

Section 28. Paragraph (d) of subsection (3) and paragraph (h) of subsection (9) of section 403.707, Florida Statutes, are amended to read:

403.707 Permits.—

(3)

(d) The department may adopt rules to administer this subsection. ~~However, the department is not required to submit such rules to the Environmental Regulation Commission for approval.~~ Notwithstanding the limitations of s. 403.087(7)(a), permit fee caps for solid waste management facilities must ~~shall~~ be prorated to reflect the extended permit term authorized by this subsection.

(9) The department shall establish a separate category for

solid waste management facilities that accept only construction and demolition debris for disposal or recycling. The department shall establish a reasonable schedule for existing facilities to comply with this section to avoid undue hardship to such facilities. However, a permitted solid waste disposal unit that receives a significant amount of waste prior to the compliance deadline established in this schedule shall not be required to be retrofitted with liners or leachate control systems.

(h) The department shall ensure that the requirements of this section are applied and interpreted consistently throughout this ~~the~~ state. ~~In accordance with s. 20.255,~~ The Division of Waste Management shall direct the district offices and bureaus on matters relating to the interpretation and applicability of this section.

Section 29. Subsection (3) of section 403.7222, Florida Statutes, is amended to read:

403.7222 Prohibition of hazardous waste landfills.—

(3) This section does not prohibit the department from banning the disposal of hazardous waste in other types of waste management units in a manner consistent with federal requirements~~, except as provided under s. 403.804(2)~~.

Section 30. Subsection (4) of section 403.7234, Florida Statutes, is amended to read:

403.7234 Small quantity generator notification and verification program.—

(4) Within 30 days of receipt of a notification, which includes a survey form, a small quantity generator shall disclose its management practices and the types and quantities of waste to the county government. Annually, each county shall

verify the management practices of at least 20 percent of its small quantity generators. The procedure for verification used by the county must ~~shall~~ be developed as part of the guidance established by the department under s. 403.7226. The department may also regulate the waste management practices of small quantity generators in order to ensure proper management of hazardous waste in a manner consistent with federal requirements~~, except as provided under s. 403.804(2)~~.

Section 31. Section 403.803, Florida Statutes, is amended to read:

403.803 Definitions.—When used in this part ~~act~~, the term, phrase, or word:

(1) "Branch office" means a geographical area, the boundaries of which may be established as a part of a district.

(2) "Canal" is a manmade trench, the bottom of which is normally covered by water with the upper edges of its sides normally above water.

(3) "Channel" is a trench, the bottom of which is normally covered entirely by water, with the upper edges of its sides normally below water.

(4) ~~"Commission" means the Environmental Regulation Commission.~~

~~(5)~~ "Department" means the Department of Environmental Protection.

(5)~~(6)~~ "District" or "environmental district" means one of the geographical areas, the boundaries of which are established pursuant to this act.

(6)~~(7)~~ "Drainage ditch" or "irrigation ditch" is a manmade trench dug for the purpose of draining water from the land or

for transporting water for use on the land and is not built for navigational purposes.

(7)~~(8)~~ "Environmental district center" means the facilities and personnel which are centralized in each district for the purposes of carrying out the provisions of this act.

(8)~~(9)~~ "Headquarters" means the physical location of the offices of the secretary and the division directors of the department.

(9)~~(10)~~ "Insect control impoundment dikes" means artificial structures, including earthen berms, constructed and used to impound waters for the purpose of insect control.

(10)~~(11)~~ "Manager" means the head of an environmental district or branch office who shall supervise all environmental functions of the department within such environmental district or branch office.

(11)~~(12)~~ "Secretary" means the Secretary of Environmental Protection.

(12)~~(13)~~ "Standard" means any rule of the Department of Environmental Protection relating to air and water quality, noise, solid-waste management, and electric and magnetic fields associated with electrical transmission and distribution lines and substation facilities. The term "standard" does not include rules of the department which relate exclusively to the internal management of the department, the procedural processing of applications, the administration of rulemaking or adjudicatory proceedings, the publication of notices, the conduct of hearings, or other procedural matters.

(13)~~(14)~~ "Swale" means a manmade trench which:

(a) Has a top width-to-depth ratio of the cross-section

equal to or greater than 6:1, or side slopes equal to or greater than 3 feet horizontal to 1 foot vertical;

(b) Contains contiguous areas of standing or flowing water only following a rainfall event;

(c) Is planted with or has stabilized vegetation suitable for soil stabilization, stormwater treatment, and nutrient uptake; and

(d) Is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge.

Section 32. Subsections (1) and (3) of section 403.805, Florida Statutes, are amended to read:

403.805 Secretary; powers and duties; review of specified rules.—

(1) The secretary shall have the powers and duties of heads of departments set forth in chapter 20, including the authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this chapter and ~~the provisions of~~ chapters 161, 253, 258, 260, 369, 373, 376, 377, 378, and 380 ~~253, 373, and 376 and this chapter~~. ~~The secretary shall have rulemaking responsibility under chapter 120, but shall submit any proposed rule containing standards to the Environmental Regulation Commission for approval, modification, or disapproval pursuant to s. 403.804, except for total maximum daily load calculations and allocations developed pursuant to s. 403.067(6).~~ The secretary shall have responsibility for final agency action regarding total maximum daily load calculations and allocations developed pursuant to s. 403.067(6). The secretary shall employ legal counsel to

represent the department in matters affecting the department. Except for appeals on permits specifically assigned by this act to the Governor and Cabinet, and unless otherwise prohibited by law, the secretary may delegate the authority assigned to the department by this act to the assistant secretary, division directors, and district and branch office managers and to the water management districts.

(3) After adoption of proposed rule 62-302.531(9), Florida Administrative Code, a nonseverability and effective date provision approved by the commission on December 8, 2011, ~~in accordance with the commission's legislative authority under s. 403.804,~~ notice of which was published by the department on December 22, 2011, in the Florida Administrative Register, Vol. 37, No. 51, page 4446, any subsequent rule or amendment altering the effect of such rule must ~~shall~~ be submitted to the President of the Senate and the Speaker of the House of Representatives no later than 30 days before the next regular legislative session, and such amendment may not take effect until it is ratified by the Legislature.

Section 33. Section 403.8055, Florida Statutes, is amended to read:

403.8055 Department adoption of federal standards.—Notwithstanding s. 120.54 ~~ss. 120.54 and 403.804~~, the secretary is empowered to adopt rules substantively identical to regulations adopted in the Federal Register by the United States Environmental Protection Agency pursuant to federal law, in accordance with the following procedures:

(1) The secretary shall publish notice of intent to adopt a rule pursuant to this section in the Florida Administrative

Register at least 21 days before ~~prior to~~ filing the rule with the Department of State. The secretary shall mail a copy of the notice of intent to adopt a rule to the Administrative Procedures Committee at least 21 days before ~~prior to~~ the date of filing with the Department of State. Before ~~Prior to~~ filing the rule with the Department of State, the secretary shall consider any written comments received within 21 days after the date of publication of the notice of intent to adopt a rule. The rule must ~~shall~~ be adopted upon filing with the Department of State. Substantive changes from the rules as noticed ~~shall~~ require republishing of notice as required in this section.

(2) Any rule adopted pursuant to this section becomes ~~shall become~~ effective upon the date designated in the rule by the secretary; however, ~~no~~ such a rule may not ~~shall~~ become effective earlier than the effective date of the substantively identical United States Environmental Protection Agency regulation.

(3) The secretary shall stay any terms or conditions of a permit implementing department rules adopted pursuant to this section if the substantively identical provisions of a United States Environmental Protection Agency regulation have been stayed under federal judicial review. A stay issued pursuant to this subsection shall terminate upon completion of federal judicial review.

(4) Any domestic for-profit or nonprofit corporation or association formed, in whole or in part:

(a) To promote conservation or natural beauty;

(b) To protect the environment, personal health, or other biological values;

(c) To preserve historical sites;

(d) To promote consumer interests;

(e) To represent labor, commercial, or industrial groups; or

(f) To promote orderly development;

and any other substantially affected person may, within 14 days after the date of publication of the notice of intent to adopt a rule, file an objection to rulemaking with the department ~~Environmental Regulation Commission~~. The objection shall specify the portions of the proposed rule to which the person objects and the reasons for the objection. The secretary shall not have the authority under this section to adopt those portions of a proposed rule specified in such objection. Objections which are frivolous shall not be considered sufficient to prohibit the secretary from adopting rules under this section.

(5) Whenever all or part of any rule proposed for adoption by the department is substantively identical to a regulation adopted in the Federal Register by the United States Environmental Protection Agency pursuant to federal law, such rule shall be written in a manner so that the rule specifically references such regulation whenever possible.

Section 34. Subsection (1) of section 403.814, Florida Statutes, is amended to read:

403.814 General permits; delegation.—

(1) The secretary is authorized to adopt rules establishing and providing for a program of general permits under this chapter and chapter 253 ~~and this chapter~~ for projects, or categories of projects, which have, either singly or

cumulatively, a minimal adverse environmental effect. Such rules must ~~shall~~ specify design or performance criteria that ~~which~~, if applied, would result in compliance with appropriate standards ~~adopted by the commission~~. Except as provided for in subsection (3), any person complying with the requirements of a general permit may use the permit 30 days after giving notice to the department without any agency action by the department.

Section 35. Paragraph (a) of subsection (1) of section 376.302, Florida Statutes, is amended to read:

376.302 Prohibited acts; penalties.—

(1) It shall be a violation of this chapter and it shall be prohibited for any reason:

(a) To discharge pollutants or hazardous substances into or upon the surface or ground waters of the state or lands, which discharge violates any departmental "standard" as defined in s. 403.803 ~~s. 403.803(13)~~.

Section 36. Paragraph (b) of subsection (1) of section 380.5105, Florida Statutes, is amended to read:

380.5105 The Stan Mayfield Working Waterfronts; Florida Forever program.—

(1) Notwithstanding any other provision of this chapter, it is the intent of the Legislature that the trust shall administer the working waterfronts land acquisition program as set forth in this section.

(b) For projects that will require more than the grant amount awarded for completion, the applicant must identify in their project application funding sources that will provide the difference between the grant award and the estimated project completion cost. Such rules may be incorporated into those

developed pursuant to s. 380.507(12) ~~s. 380.507(11)~~.

Section 37. For the purpose of incorporating the amendment made by this act to section 381.0065, Florida Statutes, in a reference thereto, paragraph (k) of subsection (2) of section 381.0066, Florida Statutes, is reenacted to read:

381.0066 Onsite sewage treatment and disposal systems; fees.—

(2) The minimum fees in the following fee schedule apply until changed by rule by the department within the following limits:

(k) Research: An additional $5 fee shall be added to each new system construction permit issued to be used to fund onsite sewage treatment and disposal system research, demonstration, and training projects. Five dollars from any repair permit fee collected under this section shall be used for funding the hands-on training centers described in s. 381.0065(3)(j).

The funds collected pursuant to this subsection for the implementation of onsite sewage treatment and disposal system regulation and for the purposes of ss. 381.00655 and 381.0067, subsequent to any phased transfer of implementation from the Department of Health to the department within any county pursuant to s. 381.0065, must be deposited in the Florida Permit Fee Trust Fund under s. 403.0871, to be administered by the department.

Section 38. For the purpose of incorporating the amendment made by this act to section 403.067, Florida Statutes, in a reference thereto, section 373.4595, Florida Statutes, is reenacted to read:

373.4595 Northern Everglades and Estuaries Protection Program.—

(1) FINDINGS AND INTENT.—

(a) The Legislature finds that the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed are critical water resources of the state, providing many economic, natural habitat, and biodiversity functions benefiting the public interest, including agricultural, public, and environmental water supply; flood control; fishing; navigation and recreation; and habitat to endangered and threatened species and other flora and fauna.

(b) The Legislature finds that changes in land uses, the construction of the Central and Southern Florida Project, and the loss of surface water storage have resulted in adverse changes to the hydrology and water quality of Lake Okeechobee and the Caloosahatchee and St. Lucie Rivers and their estuaries.

(c) The Legislature finds that improvement to the hydrology, water quality, and associated aquatic habitats within the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, is essential to the protection of the greater Everglades ecosystem.

(d) The Legislature also finds that it is imperative for the state, local governments, and agricultural and environmental communities to commit to restoring and protecting the surface water resources of the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, and that a watershed-based approach to address these issues must be developed and implemented immediately.

(e) The Legislature finds that phosphorus loads from the

Lake Okeechobee watershed have contributed to excessive phosphorus levels throughout the Lake Okeechobee watershed and downstream receiving waters and that a reduction in levels of phosphorus will benefit the ecology of these systems. The excessive levels of phosphorus have also resulted in an accumulation of phosphorus in the sediments of Lake Okeechobee. If not removed, internal phosphorus loads from the sediments are expected to delay responses of the lake to external phosphorus reductions.

(f) The Legislature finds that the Lake Okeechobee phosphorus loads set forth in the total maximum daily loads established in accordance with s. 403.067 represent an appropriate basis for restoration of the Lake Okeechobee watershed.

(g) The Legislature finds that, in addition to phosphorus, other pollutants are contributing to water quality problems in the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, and that the total maximum daily load requirements of s. 403.067 provide a means of identifying and addressing these problems.

(h) The Legislature finds that the expeditious implementation of the Lake Okeechobee Watershed Protection Program, the Caloosahatchee River Watershed Protection Program, and the St. Lucie River Watershed Protection Program is needed to improve the quality, quantity, timing, and distribution of water in the northern Everglades ecosystem and that this section, in conjunction with s. 403.067, including the implementation of the plans developed and approved pursuant to subsections (3) and (4), and any related basin management action

plan developed and implemented pursuant to s. 403.067(7)(a), provide a reasonable means of achieving the total maximum daily load requirements and achieving and maintaining compliance with state water quality standards.

(i) The Legislature finds that the implementation of the programs contained in this section is for the benefit of the public health, safety, and welfare and is in the public interest.

(j) The Legislature finds that sufficient research has been conducted and sufficient plans developed to immediately expand and accelerate programs to address the hydrology and water quality in the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed.

(k) The Legislature finds that a continuing source of funding is needed to effectively implement the programs developed and approved under this section which are needed to address the hydrology and water quality problems within the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed.

(l) It is the intent of the Legislature to protect and restore surface water resources and achieve and maintain compliance with water quality standards in the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, and downstream receiving waters, through the phased, comprehensive, and innovative protection program set forth in this section which includes long-term solutions based upon the total maximum daily loads established in accordance with s. 403.067. This program shall be watershed-based, shall provide for consideration of all water quality issues needed to

meet the total maximum daily load, and shall include research and monitoring, development and implementation of best management practices, refinement of existing regulations, and structural and nonstructural projects, including public works.

(m) It is the intent of the Legislature that this section be implemented in coordination with the Comprehensive Everglades Restoration Plan project components and other federal programs in order to maximize opportunities for the most efficient and timely expenditures of public funds.

(n) It is the intent of the Legislature that the coordinating agencies encourage and support the development of creative public-private partnerships and programs, including opportunities for water storage and quality improvement on private lands and water quality credit trading, to facilitate or further the restoration of the surface water resources of the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed, consistent with s. 403.067.

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

(a) "Best management practice" means a practice or combination of practices determined by the coordinating agencies, based on research, field-testing, and expert review, to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality in agricultural and urban discharges. Best management practices for agricultural discharges shall reflect a balance between water quality improvements and agricultural productivity.

(b) "Biosolids" means the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

a domestic wastewater treatment facility, formerly known as "domestic wastewater residuals" or "residuals," and includes products and treated material from biosolids treatment facilities and septage management facilities regulated by the department. The term does not include the treated effluent or reclaimed water from a domestic wastewater treatment facility, solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, or ash generated during the incineration of biosolids.

(c) "Caloosahatchee River watershed" means the Caloosahatchee River, its tributaries, its estuary, and the area within Charlotte, Glades, Hendry, and Lee Counties from which surface water flow is directed or drains, naturally or by constructed works, to the river, its tributaries, or its estuary.

(d) "Coordinating agencies" means the Department of Agriculture and Consumer Services, the Department of Environmental Protection, and the South Florida Water Management District.

(e) "Corps of Engineers" means the United States Army Corps of Engineers.

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

(g) "District" means the South Florida Water Management District.

(h) "Lake Okeechobee Watershed Construction Project" means the construction project developed pursuant to this section.

(i) "Lake Okeechobee Watershed Protection Plan" means the

Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program.

(j) "Lake Okeechobee watershed" means Lake Okeechobee, its tributaries, and the area within which surface water flow is directed or drains, naturally or by constructed works, to the lake or its tributaries.

(k) "Northern Everglades" means the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed.

(l) "Project component" means any structural or operational change, resulting from the Restudy, to the Central and Southern Florida Project as it existed and was operated as of January 1, 1999.

(m) "Restudy" means the Comprehensive Review Study of the Central and Southern Florida Project, for which federal participation was authorized by the Federal Water Resources Development Acts of 1992 and 1996 together with related congressional resolutions and for which participation by the South Florida Water Management District is authorized by s. 373.1501. The term includes all actions undertaken pursuant to the aforementioned authorizations which will result in recommendations for modifications or additions to the Central and Southern Florida Project.

(n) "River Watershed Protection Plans" means the Caloosahatchee River Watershed Protection Plan and the St. Lucie River Watershed Protection Plan developed pursuant to this section.

(o) "Soil amendment" means any substance or mixture of

substances sold or offered for sale for soil enriching or corrective purposes, intended or claimed to be effective in promoting or stimulating plant growth, increasing soil or plant productivity, improving the quality of crops, or producing any chemical or physical change in the soil, except amendments, conditioners, additives, and related products that are derived solely from inorganic sources and that contain no recognized plant nutrients.

(p) "St. Lucie River watershed" means the St. Lucie River, its tributaries, its estuary, and the area within Martin, Okeechobee, and St. Lucie Counties from which surface water flow is directed or drains, naturally or by constructed works, to the river, its tributaries, or its estuary.

(q) "Total maximum daily load" means the sum of the individual wasteload allocations for point sources and the load allocations for nonpoint sources and natural background adopted pursuant to s. 403.067. Before determining individual wasteload allocations and load allocations, the maximum amount of a pollutant that a water body or water segment can assimilate from all sources without exceeding water quality standards must first be calculated.

(3) LAKE OKEECHOBEE WATERSHED PROTECTION PROGRAM.—The Lake Okeechobee Watershed Protection Program shall consist of the Lake Okeechobee Watershed Protection Plan, the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067, the Lake Okeechobee Exotic Species Control Program, and the Lake Okeechobee Internal Phosphorus Management Program. The Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 shall be the component of the Lake Okeechobee Watershed

Protection Program that achieves phosphorus load reductions for Lake Okeechobee. The Lake Okeechobee Watershed Protection Program shall address the reduction of phosphorus loading to the lake from both internal and external sources. Phosphorus load reductions shall be achieved through a phased program of implementation. In the development and administration of the Lake Okeechobee Watershed Protection Program, the coordinating agencies shall maximize opportunities provided by federal cost-sharing programs and opportunities for partnerships with the private sector.

(a) *Lake Okeechobee Watershed Protection Plan.*—To protect and restore surface water resources, the district, in cooperation with the other coordinating agencies, shall complete a Lake Okeechobee Watershed Protection Plan in accordance with this section and ss. 373.451-373.459. Beginning March 1, 2020, and every 5 years thereafter, the district shall update the Lake Okeechobee Watershed Protection Plan to ensure that it is consistent with the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. The Lake Okeechobee Watershed Protection Plan shall identify the geographic extent of the watershed, be coordinated with the plans developed pursuant to paragraphs (4)(a) and (c), and include the Lake Okeechobee Watershed Construction Project and the Lake Okeechobee Watershed Research and Water Quality Monitoring Program. The plan shall consider and build upon a review and analysis of the performance of projects constructed during Phase I and Phase II of the Lake Okeechobee Watershed Construction Project, pursuant to subparagraph 1.; relevant information resulting from the Lake Okeechobee Basin Management Action Plan, pursuant to paragraph

(b); relevant information resulting from the Lake Okeechobee Watershed Research and Water Quality Monitoring Program, pursuant to subparagraph 2.; relevant information resulting from the Lake Okeechobee Exotic Species Control Program, pursuant to paragraph (c); and relevant information resulting from the Lake Okeechobee Internal Phosphorus Management Program, pursuant to paragraph (d).

1. Lake Okeechobee Watershed Construction Project.—To improve the hydrology and water quality of Lake Okeechobee and downstream receiving waters, including the Caloosahatchee and St. Lucie Rivers and their estuaries, the district, in cooperation with the other coordinating agencies, shall design and construct the Lake Okeechobee Watershed Construction Project. The project shall include:

a. Phase I.—Phase I of the Lake Okeechobee Watershed Construction Project shall consist of a series of project features consistent with the recommendations of the South Florida Ecosystem Restoration Working Group's Lake Okeechobee Action Plan. Priority basins for such projects include S-191, S-154, and Pools D and E in the Lower Kissimmee River. To obtain phosphorus load reductions to Lake Okeechobee as soon as possible, the following actions shall be implemented:

(I) The district shall serve as a full partner with the Corps of Engineers in the design and construction of the Grassy Island Ranch and New Palm Dairy stormwater treatment facilities as components of the Lake Okeechobee Water Retention/Phosphorus Removal Critical Project. The Corps of Engineers shall have the lead in design and construction of these facilities. Should delays be encountered in the implementation of either of these

facilities, the district shall notify the department and recommend corrective actions.

(II) The district shall obtain permits and complete construction of two of the isolated wetland restoration projects that are part of the Lake Okeechobee Water Retention/Phosphorus Removal Critical Project. The additional isolated wetland projects included in this critical project shall further reduce phosphorus loading to Lake Okeechobee.

(III) The district shall work with the Corps of Engineers to expedite initiation of the design process for the Taylor Creek/Nubbins Slough Reservoir Assisted Stormwater Treatment Area, a project component of the Comprehensive Everglades Restoration Plan. The district shall propose to the Corps of Engineers that the district take the lead in the design and construction of the Reservoir Assisted Stormwater Treatment Area and receive credit towards the local share of the total cost of the Comprehensive Everglades Restoration Plan.

b. Phase II technical plan and construction.—The district, in cooperation with the other coordinating agencies, shall develop a detailed technical plan for Phase II of the Lake Okeechobee Watershed Construction Project which provides the basis for the Lake Okeechobee Basin Management Action Plan adopted by the department pursuant to s. 403.067. The detailed technical plan shall include measures for the improvement of the quality, quantity, timing, and distribution of water in the northern Everglades ecosystem, including the Lake Okeechobee watershed and the estuaries, and for facilitating the achievement of water quality standards. Use of cost-effective biologically based, hybrid wetland/chemical and other innovative

nutrient control technologies shall be incorporated in the plan where appropriate. The detailed technical plan shall also include a Process Development and Engineering component to finalize the detail and design of Phase II projects and identify additional measures needed to increase the certainty that the overall objectives for improving water quality and quantity can be met. Based on information and recommendations from the Process Development and Engineering component, the Phase II detailed technical plan shall be periodically updated. Phase II shall include construction of additional facilities in the priority basins identified in sub-subparagraph a., as well as facilities for other basins in the Lake Okeechobee watershed. The technical plan shall:

(I) Identify Lake Okeechobee Watershed Construction Project facilities designed to contribute to achieving all applicable total maximum daily loads established pursuant to s. 403.067 within the Lake Okeechobee watershed.

(II) Identify the size and location of all such Lake Okeechobee Watershed Construction Project facilities.

(III) Provide a construction schedule for all such Lake Okeechobee Watershed Construction Project facilities, including the sequencing and specific timeframe for construction of each Lake Okeechobee Watershed Construction Project facility.

(IV) Provide a schedule for the acquisition of lands or sufficient interests necessary to achieve the construction schedule.

(V) Provide a detailed schedule of costs associated with the construction schedule.

(VI) Identify, to the maximum extent practicable, impacts

on wetlands and state-listed species expected to be associated with construction of such facilities, including potential alternatives to minimize and mitigate such impacts, as appropriate.

(VII) Provide for additional measures, including voluntary water storage and quality improvements on private land, to increase water storage and reduce excess water levels in Lake Okeechobee and to reduce excess discharges to the estuaries.

(VIII) Develop the appropriate water quantity storage goal to achieve the desired Lake Okeechobee range of lake levels and inflow volumes to the Caloosahatchee and St. Lucie estuaries while meeting the other water-related needs of the region, including water supply and flood protection.

(IX) Provide for additional source controls needed to enhance performance of the Lake Okeechobee Watershed Construction Project facilities. Such additional source controls shall be incorporated into the Lake Okeechobee Basin Management Action Plan pursuant to paragraph (b).

c. Evaluation.—Within 5 years after the adoption of the Lake Okeechobee Basin Management Action Plan pursuant to s. 403.067 and every 5 years thereafter, the department, in cooperation with the other coordinating agencies, shall conduct an evaluation of the Lake Okeechobee Watershed Construction Project and identify any further load reductions necessary to achieve compliance with the Lake Okeechobee total maximum daily loads established pursuant to s. 403.067. The district shall identify modifications to facilities of the Lake Okeechobee Watershed Construction Project as appropriate to meet the total maximum daily loads. Modifications to the Lake Okeechobee

Watershed Construction Project resulting from this evaluation shall be incorporated into the Lake Okeechobee Basin Management Action Plan and included in the applicable annual progress report submitted pursuant to subsection (6).

d. Coordination and review.—To ensure the timely implementation of the Lake Okeechobee Watershed Construction Project, the design of project facilities shall be coordinated with the department and other interested parties, including affected local governments, to the maximum extent practicable. Lake Okeechobee Watershed Construction Project facilities shall be reviewed and commented upon by the department before the execution of a construction contract by the district for that facility.

2. Lake Okeechobee Watershed Research and Water Quality Monitoring Program.—The coordinating agencies shall implement a Lake Okeechobee Watershed Research and Water Quality Monitoring Program. Results from the program shall be used by the department, in cooperation with the other coordinating agencies, to make modifications to the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067, as appropriate. The program shall:

a. Evaluate all available existing water quality data concerning total phosphorus in the Lake Okeechobee watershed, develop a water quality baseline to represent existing conditions for total phosphorus, monitor long-term ecological changes, including water quality for total phosphorus, and measure compliance with water quality standards for total phosphorus, including any applicable total maximum daily load for the Lake Okeechobee watershed as established pursuant to s.

403.067. Beginning March 1, 2020, and every 5 years thereafter, the department shall reevaluate water quality and quantity data to ensure that the appropriate projects are being designated and incorporated into the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. The district shall implement a total phosphorus monitoring program at appropriate structures owned or operated by the district and within the Lake Okeechobee watershed.

b. Develop a Lake Okeechobee water quality model that reasonably represents the phosphorus dynamics of Lake Okeechobee and incorporates an uncertainty analysis associated with model predictions.

c. Determine the relative contribution of phosphorus from all identifiable sources and all primary and secondary land uses.

d. Conduct an assessment of the sources of phosphorus from the Upper Kissimmee Chain of Lakes and Lake Istokpoga and their relative contribution to the water quality of Lake Okeechobee. The results of this assessment shall be used by the coordinating agencies as part of the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 to develop interim measures, best management practices, or regulations, as applicable.

e. Assess current water management practices within the Lake Okeechobee watershed and develop recommendations for structural and operational improvements. Such recommendations shall balance water supply, flood control, estuarine salinity, maintenance of a healthy lake littoral zone, and water quality considerations.

f. Evaluate the feasibility of alternative nutrient

reduction technologies, including sediment traps, canal and ditch maintenance, fish production or other aquaculture, bioenergy conversion processes, and algal or other biological treatment technologies and include any alternative nutrient reduction technologies determined to be feasible in the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067.

g. Conduct an assessment of the water volumes and timing from the Lake Okeechobee watershed and their relative contribution to the water level changes in Lake Okeechobee and to the timing and volume of water delivered to the estuaries.

(b) *Lake Okeechobee Basin Management Action Plan.*—The Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 shall be the watershed phosphorus control component for Lake Okeechobee. The Lake Okeechobee Basin Management Action Plan shall be a multifaceted approach designed to achieve the total maximum daily load by improving the management of phosphorus sources within the Lake Okeechobee watershed through implementation of regulations and best management practices, continued development and continued implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and use of alternative technologies for nutrient reduction. As provided in s. 403.067(7)(a)6., the Lake Okeechobee Basin Management Action Plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be

conducted every 5 years and shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Revisions to the plan shall be made, as appropriate, as a result of each 5-year review. Revisions to the basin management action plan shall be made by the department in cooperation with the basin stakeholders. Revisions to best management practices or other measures must follow the procedures set forth in s. 403.067(7)(c)4. Revised basin management action plans must be adopted pursuant to s. 403.067(7)(a)5. The department shall develop an implementation schedule establishing 5-year, 10-year, and 15-year measurable milestones and targets to achieve the total maximum daily load no more than 20 years after adoption of the plan. The initial implementation schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120. Upon the first 5-year review, the implementation schedule shall be adopted as part of the plan. If achieving the total maximum daily load within 20 years is not practicable, the implementation schedule must contain an explanation of the constraints that prevent achievement of the total maximum daily load within 20 years, an estimate of the time needed to achieve the total maximum daily load, and additional 5-year measurable milestones, as necessary. The coordinating agencies shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) which is consistent with the department taking the lead on water quality protection measures through the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067; the district taking the lead on hydrologic improvements pursuant to paragraph (a); and the Department of Agriculture and

Consumer Services taking the lead on agricultural interim measures, best management practices, and other measures adopted pursuant to s. 403.067. The interagency agreement must specify how best management practices for nonagricultural nonpoint sources are developed and how all best management practices are implemented and verified consistent with s. 403.067 and this section and must address measures to be taken by the coordinating agencies during any best management practice reevaluation performed pursuant to subparagraphs 5. and 10. The department shall use best professional judgment in making the initial determination of best management practice effectiveness. The coordinating agencies may develop an intergovernmental agreement with local governments to implement nonagricultural nonpoint source best management practices within their respective geographic boundaries. The coordinating agencies shall facilitate the application of federal programs that offer opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

1. Agricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Watershed Protection Program as part of a phased approach of management strategies within the Lake Okeechobee Basin Management Action Plan, shall be implemented on an expedited basis.

2. As provided in s. 403.067, the Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall initiate rule development for interim measures, best management practices, conservation

plans, nutrient management plans, or other measures necessary for Lake Okeechobee watershed total maximum daily load reduction. The rule shall include thresholds for requiring conservation and nutrient management plans and criteria for the contents of such plans. Development of agricultural nonpoint source best management practices shall initially focus on those priority basins listed in sub-subparagraph (a)1.a. The Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall conduct an ongoing program for improvement of existing and development of new agricultural nonpoint source interim measures and best management practices. The Department of Agriculture and Consumer Services shall adopt such practices by rule. The Department of Agriculture and Consumer Services shall work with the University of Florida Institute of Food and Agriculture Sciences to review and, where appropriate, develop revised nutrient application rates for all agricultural soil amendments in the watershed.

3. As provided in s. 403.067, where agricultural nonpoint source best management practices or interim measures have been adopted by rule of the Department of Agriculture and Consumer Services, the owner or operator of an agricultural nonpoint source addressed by such rule shall either implement interim measures or best management practices or demonstrate compliance with state water quality standards addressed by the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067 by conducting monitoring prescribed by the department or the district. Owners or operators of agricultural nonpoint sources who implement interim measures or best management

practices adopted by rule of the Department of Agriculture and Consumer Services shall be subject to s. 403.067.

4. The district or department shall conduct monitoring at representative sites to verify the effectiveness of agricultural nonpoint source best management practices.

5. Where water quality problems are detected for agricultural nonpoint sources despite the appropriate implementation of adopted best management practices, a reevaluation of the best management practices shall be conducted pursuant to s. 403.067(7)(c)4. If the reevaluation determines that the best management practices or other measures require modification, the rule shall be revised to require implementation of the modified practice within a reasonable period as specified in the rule.

6. As provided in s. 403.067, nonagricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Watershed Protection Program as part of a phased approach of management strategies within the Lake Okeechobee Basin Management Action Plan, shall be implemented on an expedited basis.

7. The department and the district are directed to work with the University of Florida Institute of Food and Agricultural Sciences to develop appropriate nutrient application rates for all nonagricultural soil amendments in the watershed. As provided in s. 403.067, the department, in consultation with the district and affected parties, shall develop nonagricultural nonpoint source interim measures, best management practices, or other measures necessary for Lake

Okeechobee watershed total maximum daily load reduction. Development of nonagricultural nonpoint source best management practices shall initially focus on those priority basins listed in sub-subparagraph (a)1.a. The department, the district, and affected parties shall conduct an ongoing program for improvement of existing and development of new interim measures and best management practices. The department or the district shall adopt such practices by rule.

8. Where nonagricultural nonpoint source best management practices or interim measures have been developed by the department and adopted by the district, the owner or operator of a nonagricultural nonpoint source shall implement interim measures or best management practices and be subject to s. 403.067.

9. As provided in s. 403.067, the district or the department shall conduct monitoring at representative sites to verify the effectiveness of nonagricultural nonpoint source best management practices.

10. Where water quality problems are detected for nonagricultural nonpoint sources despite the appropriate implementation of adopted best management practices, a reevaluation of the best management practices shall be conducted pursuant to s. 403.067(7)(c)4. If the reevaluation determines that the best management practices or other measures require modification, the rule shall be revised to require implementation of the modified practice within a reasonable time period as specified in the rule.

11. Subparagraphs 2. and 7. do not preclude the department or the district from requiring compliance with water quality

standards or with current best management practices requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Subparagraphs 2. and 7. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to maintain a federally delegated or approved program.

12. The program of agricultural best management practices set forth in the Everglades Program of the district meets the requirements of this paragraph and s. 403.067(7) for the Lake Okeechobee watershed. An entity in compliance with the best management practices set forth in the Everglades Program of the district may elect to use that permit in lieu of the requirements of this paragraph. The provisions of subparagraph 5. apply to this subparagraph. This subparagraph does not alter any requirement of s. 373.4592.

13. The Department of Agriculture and Consumer Services, in cooperation with the department and the district, shall provide technical and financial assistance for implementation of agricultural best management practices, subject to the availability of funds. The department and district shall provide technical and financial assistance for implementation of nonagricultural nonpoint source best management practices, subject to the availability of funds.

14. Projects that reduce the phosphorus load originating from domestic wastewater systems within the Lake Okeechobee watershed shall be given funding priority in the department’s revolving loan program under s. 403.1835. The department shall coordinate and provide assistance to those local governments seeking financial assistance for such priority projects.

15. Projects that make use of private lands, or lands held in trust for Indian tribes, to reduce nutrient loadings or concentrations within a basin by one or more of the following methods: restoring the natural hydrology of the basin, restoring wildlife habitat or impacted wetlands, reducing peak flows after storm events, increasing aquifer recharge, or protecting range and timberland from conversion to development, are eligible for grants available under this section from the coordinating agencies. For projects of otherwise equal priority, special funding priority will be given to those projects that make best use of the methods outlined above that involve public-private partnerships or that obtain federal match money. Preference ranking above the special funding priority will be given to projects located in a rural area of opportunity designated by the Governor. Grant applications may be submitted by any person or tribal entity, and eligible projects may include, but are not limited to, the purchase of conservation and flowage easements, hydrologic restoration of wetlands, creating treatment wetlands, development of a management plan for natural resources, and financial support to implement a management plan.

16. The department shall require all entities disposing of domestic wastewater biosolids within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades, and Hendry Counties to develop and submit to the department an agricultural use plan that limits applications based upon phosphorus loading consistent with the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067. The department may not authorize the disposal of domestic wastewater biosolids within the Lake Okeechobee watershed unless the

applicant can affirmatively demonstrate that the phosphorus in the biosolids will not add to phosphorus loadings in Lake Okeechobee or its tributaries. This demonstration shall be based on achieving a net balance between phosphorus imports relative to exports on the permitted application site. Exports shall include only phosphorus removed from the Lake Okeechobee watershed through products generated on the permitted application site. This prohibition does not apply to Class AA biosolids that are marketed and distributed as fertilizer products in accordance with department rule.

17. Private and government-owned utilities within Monroe, Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Okeechobee, Highlands, Hendry, and Glades Counties that dispose of wastewater biosolids sludge from utility operations and septic removal by land spreading in the Lake Okeechobee watershed may use a line item on local sewer rates to cover wastewater biosolids treatment and disposal if such disposal and treatment is done by approved alternative treatment methodology at a facility located within the areas designated by the Governor as rural areas of opportunity pursuant to s. 288.0656. This additional line item is an environmental protection disposal fee above the present sewer rate and may not be considered a part of the present sewer rate to customers, notwithstanding provisions to the contrary in chapter 367. The fee shall be established by the county commission or its designated assignee in the county in which the alternative method treatment facility is located. The fee shall be calculated to be no higher than that necessary to recover the facility's prudent cost of providing the service. Upon request

by an affected county commission, the Florida Public Service Commission will provide assistance in establishing the fee. Further, for utilities and utility authorities that use the additional line item environmental protection disposal fee, such fee may not be considered a rate increase under the rules of the Public Service Commission and shall be exempt from such rules. Utilities using this section may immediately include in their sewer invoicing the new environmental protection disposal fee. Proceeds from this environmental protection disposal fee shall be used for treatment and disposal of wastewater biosolids, including any treatment technology that helps reduce the volume of biosolids that require final disposal, but such proceeds may not be used for transportation or shipment costs for disposal or any costs relating to the land application of biosolids in the Lake Okeechobee watershed.

18. No less frequently than once every 3 years, the Florida Public Service Commission or the county commission through the services of an independent auditor shall perform a financial audit of all facilities receiving compensation from an environmental protection disposal fee. The Florida Public Service Commission or the county commission through the services of an independent auditor shall also perform an audit of the methodology used in establishing the environmental protection disposal fee. The Florida Public Service Commission or the county commission shall, within 120 days after completion of an audit, file the audit report with the President of the Senate and the Speaker of the House of Representatives and shall provide copies to the county commissions of the counties set forth in subparagraph 17. The books and records of any

facilities receiving compensation from an environmental protection disposal fee shall be open to the Florida Public Service Commission and the Auditor General for review upon request.

19. The Department of Health shall require all entities disposing of septage within the Lake Okeechobee watershed to develop and submit to that agency an agricultural use plan that limits applications based upon phosphorus loading consistent with the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067.

20. The Department of Agriculture and Consumer Services shall initiate rulemaking requiring entities within the Lake Okeechobee watershed which land-apply animal manure to develop resource management system level conservation plans, according to United States Department of Agriculture criteria, which limit such application. Such rules must include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, site inspection requirements, and recordkeeping requirements.

21. The district shall revise chapter 40E-61, Florida Administrative Code, to be consistent with this section and s. 403.067; provide for a monitoring program for nonpoint source dischargers required to monitor water quality by s. 403.067; and provide for the results of such monitoring to be reported to the coordinating agencies.

(c) *Lake Okeechobee Exotic Species Control Program.*—The coordinating agencies shall identify the exotic species that threaten the native flora and fauna within the Lake Okeechobee watershed and develop and implement measures to protect the

native flora and fauna.

(d) *Lake Okeechobee Internal Phosphorus Management Program.*—The district, in cooperation with the other coordinating agencies and interested parties, shall evaluate the feasibility of Lake Okeechobee internal phosphorus load removal projects. The evaluation shall be based on technical feasibility, as well as economic considerations, and shall consider all reasonable methods of phosphorus removal. If projects are found to be feasible, the district shall immediately pursue the design, funding, and permitting for implementing such projects.

(e) *Lake Okeechobee Watershed Protection Program implementation.*—The coordinating agencies shall be jointly responsible for implementing the Lake Okeechobee Watershed Protection Program, consistent with the statutory authority and responsibility of each agency. Annual funding priorities shall be jointly established, and the highest priority shall be assigned to programs and projects that address sources that have the highest relative contribution to loading and the greatest potential for reductions needed to meet the total maximum daily loads. In determining funding priorities, the coordinating agencies shall also consider the need for regulatory compliance, the extent to which the program or project is ready to proceed, and the availability of federal matching funds or other nonstate funding, including public-private partnerships. Federal and other nonstate funding shall be maximized to the greatest extent practicable.

(f) *Priorities and implementation schedules.*—The coordinating agencies are authorized and directed to establish

priorities and implementation schedules for the achievement of total maximum daily loads, compliance with the requirements of s. 403.067, and compliance with applicable water quality standards within the waters and watersheds subject to this section.

(4) CALOOSAHATCHEE RIVER WATERSHED PROTECTION PROGRAM AND ST. LUCIE RIVER WATERSHED PROTECTION PROGRAM.—A protection program shall be developed and implemented as specified in this subsection. To protect and restore surface water resources, the program shall address the reduction of pollutant loadings, restoration of natural hydrology, and compliance with applicable state water quality standards. The program shall be achieved through a phased program of implementation. In addition, pollutant load reductions based upon adopted total maximum daily loads established in accordance with s. 403.067 shall serve as a program objective. In the development and administration of the program, the coordinating agencies shall maximize opportunities provided by federal and local government cost-sharing programs and opportunities for partnerships with the private sector and local government. The program shall include a goal for salinity envelopes and freshwater inflow targets for the estuaries based upon existing research and documentation. The goal may be revised as new information is available. This goal shall seek to reduce the frequency and duration of undesirable salinity ranges while meeting the other water-related needs of the region, including water supply and flood protection, while recognizing the extent to which water inflows are within the control and jurisdiction of the district.

(a) *Caloosahatchee River Watershed Protection Plan.*—The

district, in cooperation with the other coordinating agencies, Lee County, and affected counties and municipalities, shall complete a River Watershed Protection Plan in accordance with this subsection. The Caloosahatchee River Watershed Protection Plan shall identify the geographic extent of the watershed, be coordinated as needed with the plans developed pursuant to paragraph (3)(a) and paragraph (c) of this subsection, and include the Caloosahatchee River Watershed Construction Project and the Caloosahatchee River Watershed Research and Water Quality Monitoring Program.

1. Caloosahatchee River Watershed Construction Project.—To improve the hydrology, water quality, and aquatic habitats within the watershed, the district shall, no later than January 1, 2012, plan, design, and construct the initial phase of the Watershed Construction Project. In doing so, the district shall:

a. Develop and designate the facilities to be constructed to achieve stated goals and objectives of the Caloosahatchee River Watershed Protection Plan.

b. Conduct scientific studies that are necessary to support the design of the Caloosahatchee River Watershed Construction Project facilities.

c. Identify the size and location of all such facilities.

d. Provide a construction schedule for all such facilities, including the sequencing and specific timeframe for construction of each facility.

e. Provide a schedule for the acquisition of lands or sufficient interests necessary to achieve the construction schedule.

f. Provide a schedule of costs and benefits associated with

each construction project and identify funding sources.

g. To ensure timely implementation, coordinate the design, scheduling, and sequencing of project facilities with the coordinating agencies, Lee County, other affected counties and municipalities, and other affected parties.

2. Caloosahatchee River Watershed Research and Water Quality Monitoring Program.—The district, in cooperation with the other coordinating agencies and local governments, shall implement a Caloosahatchee River Watershed Research and Water Quality Monitoring Program that builds upon the district's existing research program and that is sufficient to carry out, comply with, or assess the plans, programs, and other responsibilities created by this subsection. The program shall also conduct an assessment of the water volumes and timing from Lake Okeechobee and the Caloosahatchee River watershed and their relative contributions to the timing and volume of water delivered to the estuary.

(b) *Caloosahatchee River Watershed Basin Management Action Plans*.—The basin management action plans adopted pursuant to s. 403.067 for the Caloosahatchee River watershed shall be the Caloosahatchee River Watershed Pollutant Control Program. The plans shall be designed to be a multifaceted approach to reducing pollutant loads by improving the management of pollutant sources within the Caloosahatchee River watershed through implementation of regulations and best management practices, development and implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and utilization of alternative technologies for pollutant reduction,

such as cost-effective biologically based, hybrid wetland/chemical and other innovative nutrient control technologies. As provided in s. 403.067(7)(a)6., the Caloosahatchee River Watershed Basin Management Action Plans must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years and shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Revisions to the plans shall be made, as appropriate, as a result of each 5-year review. Revisions to the basin management action plans shall be made by the department in cooperation with the basin stakeholders. Revisions to best management practices or other measures must follow the procedures set forth in s. 403.067(7)(c)4. Revised basin management action plans must be adopted pursuant to s. 403.067(7)(a)5. The department shall develop an implementation schedule establishing 5-year, 10-year, and 15-year measurable milestones and targets to achieve the total maximum daily load no more than 20 years after adoption of the plan. The initial implementation schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120. Upon the first 5-year review, the implementation schedule shall be adopted as part of the plans. If achieving the total maximum daily load within 20 years is not practicable, the implementation schedule must contain an explanation of the constraints that prevent achievement of the total maximum daily

load within 20 years, an estimate of the time needed to achieve the total maximum daily load, and additional 5-year measurable milestones, as necessary. The coordinating agencies shall facilitate the use of federal programs that offer opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

1. Nonpoint source best management practices consistent with s. 403.067, designed to achieve the objectives of the Caloosahatchee River Watershed Protection Program, shall be implemented on an expedited basis. The coordinating agencies may develop an intergovernmental agreement with local governments to implement the nonagricultural, nonpoint source best management practices within their respective geographic boundaries.

2. This subsection does not preclude the department or the district from requiring compliance with water quality standards, adopted total maximum daily loads, or current best management practices requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. This subsection applies only to the extent that it does not conflict with any rules adopted by the department or district which are necessary to maintain a federally delegated or approved program.

3. Projects that make use of private lands, or lands held in trust for Indian tribes, to reduce pollutant loadings or concentrations within a basin, or that reduce the volume of harmful discharges by one or more of the following methods: restoring the natural hydrology of the basin, restoring wildlife habitat or impacted wetlands, reducing peak flows after storm events, or increasing aquifer recharge, are eligible for grants

available under this section from the coordinating agencies.

4. The Caloosahatchee River Watershed Basin Management Action Plans shall require assessment of current water management practices within the watershed and shall require development of recommendations for structural, nonstructural, and operational improvements. Such recommendations shall consider and balance water supply, flood control, estuarine salinity, aquatic habitat, and water quality considerations.

5. The department may not authorize the disposal of domestic wastewater biosolids within the Caloosahatchee River watershed unless the applicant can affirmatively demonstrate that the nutrients in the biosolids will not add to nutrient loadings in the watershed. This demonstration shall be based on achieving a net balance between nutrient imports relative to exports on the permitted application site. Exports shall include only nutrients removed from the watershed through products generated on the permitted application site. This prohibition does not apply to Class AA biosolids that are marketed and distributed as fertilizer products in accordance with department rule.

6. The Department of Health shall require all entities disposing of septage within the Caloosahatchee River watershed to develop and submit to that agency an agricultural use plan that limits applications based upon nutrient loading consistent with any basin management action plan adopted pursuant to s. 403.067.

7. The Department of Agriculture and Consumer Services shall require entities within the Caloosahatchee River watershed which land-apply animal manure to develop a resource management

system level conservation plan, according to United States Department of Agriculture criteria, which limit such application. Such rules shall include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, site inspection requirements, and recordkeeping requirements.

8. The district shall initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to monitor water quality pursuant to s. 403.067(7)(b)2.g. or (c)3. The results of such monitoring must be reported to the coordinating agencies.

(c) *St. Lucie River Watershed Protection Plan.*—The district, in cooperation with the other coordinating agencies, Martin County, and affected counties and municipalities shall complete a plan in accordance with this subsection. The St. Lucie River Watershed Protection Plan shall identify the geographic extent of the watershed, be coordinated as needed with the plans developed pursuant to paragraph (3)(a) and paragraph (a) of this subsection, and include the St. Lucie River Watershed Construction Project and St. Lucie River Watershed Research and Water Quality Monitoring Program.

1. St. Lucie River Watershed Construction Project.—To improve the hydrology, water quality, and aquatic habitats within the watershed, the district shall, no later than January 1, 2012, plan, design, and construct the initial phase of the Watershed Construction Project. In doing so, the district shall:

a. Develop and designate the facilities to be constructed to achieve stated goals and objectives of the St. Lucie River Watershed Protection Plan.

b. Identify the size and location of all such facilities.

c. Provide a construction schedule for all such facilities, including the sequencing and specific timeframe for construction of each facility.

d. Provide a schedule for the acquisition of lands or sufficient interests necessary to achieve the construction schedule.

e. Provide a schedule of costs and benefits associated with each construction project and identify funding sources.

f. To ensure timely implementation, coordinate the design, scheduling, and sequencing of project facilities with the coordinating agencies, Martin County, St. Lucie County, other interested parties, and other affected local governments.

2. St. Lucie River Watershed Research and Water Quality Monitoring Program.—The district, in cooperation with the other coordinating agencies and local governments, shall establish a St. Lucie River Watershed Research and Water Quality Monitoring Program that builds upon the district's existing research program and that is sufficient to carry out, comply with, or assess the plans, programs, and other responsibilities created by this subsection. The district shall also conduct an assessment of the water volumes and timing from Lake Okeechobee and the St. Lucie River watershed and their relative contributions to the timing and volume of water delivered to the estuary.

(d) *St. Lucie River Watershed Basin Management Action Plan.*—The basin management action plan for the St. Lucie River watershed adopted pursuant to s. 403.067 shall be the St. Lucie River Watershed Pollutant Control Program and shall be designed

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to be a multifaceted approach to reducing pollutant loads by improving the management of pollutant sources within the St. Lucie River watershed through implementation of regulations and best management practices, development and implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and use of alternative technologies for pollutant reduction, such as cost-effective biologically based, hybrid wetland/chemical and other innovative nutrient control technologies. As provided in s. 403.067(7)(a)6., the St. Lucie River Watershed Basin Management Action Plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years and shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Revisions to the plan shall be made, as appropriate, as a result of each 5-year review. Revisions to the basin management action plan shall be made by the department in cooperation with the basin stakeholders. Revisions to best management practices or other measures must follow the procedures set forth in s. 403.067(7)(c)4. Revised basin management action plans must be adopted pursuant to s. 403.067(7)(a)5. The department shall develop an implementation schedule establishing 5-year, 10-year, and 15-year measurable milestones and targets to achieve the total maximum daily load no more than 20 years after adoption of the plan. The initial implementation schedule shall be used to

provide guidance for planning and funding purposes and is exempt from chapter 120. Upon the first 5-year review, the implementation schedule shall be adopted as part of the plan. If achieving the total maximum daily load within 20 years is not practicable, the implementation schedule must contain an explanation of the constraints that prevent achievement of the total maximum daily load within 20 years, an estimate of the time needed to achieve the total maximum daily load, and additional 5-year measurable milestones, as necessary. The coordinating agencies shall facilitate the use of federal programs that offer opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

1. Nonpoint source best management practices consistent with s. 403.067, designed to achieve the objectives of the St. Lucie River Watershed Protection Program, shall be implemented on an expedited basis. The coordinating agencies may develop an intergovernmental agreement with local governments to implement the nonagricultural nonpoint source best management practices within their respective geographic boundaries.

2. This subsection does not preclude the department or the district from requiring compliance with water quality standards, adopted total maximum daily loads, or current best management practices requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. This subsection applies only to the extent that it does not conflict with any rules adopted by the department or district which are necessary to maintain a federally delegated or approved program.

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3. Projects that make use of private lands, or lands held in trust for Indian tribes, to reduce pollutant loadings or concentrations within a basin, or that reduce the volume of harmful discharges by one or more of the following methods: restoring the natural hydrology of the basin, restoring wildlife habitat or impacted wetlands, reducing peak flows after storm events, or increasing aquifer recharge, are eligible for grants available under this section from the coordinating agencies.

4. The St. Lucie River Watershed Basin Management Action Plan shall require assessment of current water management practices within the watershed and shall require development of recommendations for structural, nonstructural, and operational improvements. Such recommendations shall consider and balance water supply, flood control, estuarine salinity, aquatic habitat, and water quality considerations.

5. The department may not authorize the disposal of domestic wastewater biosolids within the St. Lucie River watershed unless the applicant can affirmatively demonstrate that the nutrients in the biosolids will not add to nutrient loadings in the watershed. This demonstration shall be based on achieving a net balance between nutrient imports relative to exports on the permitted application site. Exports shall include only nutrients removed from the St. Lucie River watershed through products generated on the permitted application site. This prohibition does not apply to Class AA biosolids that are marketed and distributed as fertilizer products in accordance with department rule.

6. The Department of Health shall require all entities disposing of septage within the St. Lucie River watershed to

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develop and submit to that agency an agricultural use plan that limits applications based upon nutrient loading consistent with any basin management action plan adopted pursuant to s. 403.067.

7. The Department of Agriculture and Consumer Services shall initiate rulemaking requiring entities within the St. Lucie River watershed which land-apply animal manure to develop a resource management system level conservation plan, according to United States Department of Agriculture criteria, which limit such application. Such rules shall include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, site inspection requirements, and recordkeeping requirements.

8. The district shall initiate rulemaking to provide for a monitoring program for nonpoint source dischargers required to monitor water quality pursuant to s. 403.067(7)(b)2.g. or (c)3. The results of such monitoring must be reported to the coordinating agencies.

(e) *River Watershed Protection Plan implementation.*—The coordinating agencies shall be jointly responsible for implementing the River Watershed Protection Plans, consistent with the statutory authority and responsibility of each agency. Annual funding priorities shall be jointly established, and the highest priority shall be assigned to programs and projects that have the greatest potential for achieving the goals and objectives of the plans. In determining funding priorities, the coordinating agencies shall also consider the need for regulatory compliance, the extent to which the program or project is ready to proceed, and the availability of federal or local government matching funds. Federal and other nonstate

funding shall be maximized to the greatest extent practicable.

(f) *Evaluation.*—Beginning March 1, 2020, and every 5 years thereafter, concurrent with the updates of the basin management action plans adopted pursuant to s. 403.067, the department, in cooperation with the other coordinating agencies, shall conduct an evaluation of any pollutant load reduction goals, as well as any other specific objectives and goals, as stated in the River Watershed Protection Programs. The district shall identify modifications to facilities of the River Watershed Construction Projects, as appropriate, or any other elements of the River Watershed Protection Programs. The evaluation shall be included in the annual progress report submitted pursuant to this section.

(g) *Priorities and implementation schedules.*—The coordinating agencies are authorized and directed to establish priorities and implementation schedules for the achievement of total maximum daily loads, the requirements of s. 403.067, and compliance with applicable water quality standards within the waters and watersheds subject to this section.

(5) ADOPTION AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS AND DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS.—The department is directed to expedite development and adoption of total maximum daily loads for the Caloosahatchee River and estuary. The department is further directed to propose for final agency action total maximum daily loads for nutrients in the tidal portions of the Caloosahatchee River and estuary. The department shall initiate development of basin management action plans for Lake Okeechobee, the Caloosahatchee River watershed and estuary, and the St. Lucie River watershed and estuary as

provided in s. 403.067 as follows:

(a) Basin management action plans shall be developed as soon as practicable as determined necessary by the department to achieve the total maximum daily loads established for the Lake Okeechobee watershed and the estuaries.

(b) The Phase II technical plan development pursuant to paragraph (3)(a), and the River Watershed Protection Plans developed pursuant to paragraphs (4)(a) and (c), shall provide the basis for basin management action plans developed by the department.

(c) As determined necessary by the department to achieve the total maximum daily loads, additional or modified projects or programs that complement those in the legislatively ratified plans may be included during the development of the basin management action plan.

(d) As provided in s. 403.067, management strategies and pollution reduction requirements set forth in a basin management action plan subject to permitting by the department under subsection (7) must be completed pursuant to the schedule set forth in the basin management action plan, as amended. The implementation schedule may extend beyond the 5-year permit term.

(e) As provided in s. 403.067, management strategies and pollution reduction requirements set forth in a basin management action plan for a specific pollutant of concern are not subject to challenge under chapter 120 at the time they are incorporated, in an identical form, into a department or district issued permit or a permit modification issued in accordance with subsection (7).

(6) ANNUAL PROGRESS REPORT.—Each March 1, the district, in cooperation with the other coordinating agencies, shall report on implementation of this section as part of the consolidated annual report required in s. 373.036(7). The annual report shall include a summary of the conditions of the hydrology, water quality, and aquatic habitat in the northern Everglades based on the results of the Research and Water Quality Monitoring Programs, the status of the Lake Okeechobee Watershed Construction Project, the status of the Caloosahatchee River Watershed Construction Project, and the status of the St. Lucie River Watershed Construction Project. In addition, the report shall contain an annual accounting of the expenditure of funds from the Save Our Everglades Trust Fund. At a minimum, the annual report shall provide detail by program and plan, including specific information concerning the amount and use of funds from federal, state, or local government sources. In detailing the use of these funds, the district shall indicate those designated to meet requirements for matching funds. The district shall prepare the report in cooperation with the other coordinating agencies and affected local governments. The department shall report on the status of the Lake Okeechobee Basin Management Action Plan, the Caloosahatchee River Watershed Basin Management Action Plan, and the St. Lucie River Watershed Basin Management Action Plan. The Department of Agriculture and Consumer Services shall report on the status of the implementation of the agricultural nonpoint source best management practices, including an implementation assurance report summarizing survey responses and response rates, site inspections, and other methods used to verify implementation of

and compliance with best management practices in the Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds.

(7) LAKE OKEECHOBEE PROTECTION PERMITS.—

(a) The Legislature finds that the Lake Okeechobee Watershed Protection Program will benefit Lake Okeechobee and downstream receiving waters and is in the public interest. The Lake Okeechobee Watershed Construction Project and structures discharging into or from Lake Okeechobee shall be constructed, operated, and maintained in accordance with this section.

(b) Permits obtained pursuant to this section are in lieu of all other permits under this chapter or chapter 403, except those issued under s. 403.0885, if applicable. Additional permits are not required for the Lake Okeechobee Watershed Construction Project, or structures discharging into or from Lake Okeechobee, if such project or structures are permitted under this section. Construction activities related to implementation of the Lake Okeechobee Watershed Construction Project may be initiated before final agency action, or notice of intended agency action, on any permit from the department under this section.

(c)1. Owners or operators of existing structures which discharge into or from Lake Okeechobee that were subject to Department Consent Orders 91-0694, 91-0705, 91-0706, 91-0707, and RT50-205564 and that are subject to s. 373.4592(4)(a) do not require a permit under this section and shall be governed by permits issued under ss. 373.413 and 373.416 and the Lake Okeechobee Basin Management Action Plan adopted pursuant to s. 403.067.

2. For the purposes of this paragraph, owners and operators of existing structures which are subject to s. 373.4592(4)(a) and which discharge into or from Lake Okeechobee shall be deemed in compliance with this paragraph if they are in full compliance with the conditions of permits under chapter 40E-63, Florida Administrative Code.

3. By January 1, 2017, the district shall submit to the department a complete application for a permit modification to the Lake Okeechobee structure permits to incorporate proposed changes necessary to ensure that discharges through the structures covered by this permit are consistent with the basin management action plan adopted pursuant to s. 403.067.

(d) The department shall require permits for district regional projects that are part of the Lake Okeechobee Watershed Construction Project. However, projects that qualify as exempt pursuant to s. 373.406 do not require permits under this section. Such permits shall be issued for a term of 5 years upon the demonstration of reasonable assurances that:

1. District regional projects that are part of the Lake Okeechobee Watershed Construction Project shall achieve the design objectives for phosphorus required in subparagraph (3)(a)1.;

2. For water quality standards other than phosphorus, the quality of water discharged from the facility is of equal or better quality than the inflows;

3. Discharges from the facility do not pose a serious danger to public health, safety, or welfare; and

4. Any impacts on wetlands or state-listed species resulting from implementation of that facility of the Lake

Okeechobee Construction Project are minimized and mitigated, as appropriate.

(e) At least 60 days before the expiration of any permit issued under this section, the permittee may apply for a renewal thereof for a period of 5 years.

(f) Permits issued under this section may include any standard conditions provided by department rule which are appropriate and consistent with this section.

(g) Permits issued under this section may be modified, as appropriate, upon review and approval by the department.

(8) RESTRICTIONS ON WATER DIVERSIONS.—The South Florida Water Management District shall not divert waters to the St. Lucie River, the Indian River estuary, the Caloosahatchee River or its estuary, or the Everglades National Park, in such a way that the state water quality standards are violated, that the nutrients in such diverted waters adversely affect indigenous vegetation communities or wildlife, or that fresh waters diverted to the St. Lucie River or the Caloosahatchee or Indian River estuaries adversely affect the estuarine vegetation or wildlife, unless the receiving waters will biologically benefit by the diversion. However, diversion is permitted when an emergency is declared by the water management district, if the Secretary of Environmental Protection concurs.

(9) PRESERVATION OF PROVISIONS RELATING TO THE EVERGLADES.—Nothing in this section shall be construed to modify any provision of s. 373.4592.

(10) RIGHTS OF SEMINOLE TRIBE OF FLORIDA.—Nothing in this section is intended to diminish or alter the governmental authority and powers of the Seminole Tribe of Florida, or

diminish or alter the rights of that tribe, including, but not limited to, rights under the water rights compact among the Seminole Tribe of Florida, the state, and the South Florida Water Management District as enacted by Pub. L. No. 100-228, 101 Stat. 1556, and chapter 87-292, Laws of Florida, and codified in s. 285.165, and rights under any other agreement between the Seminole Tribe of Florida and the state or its agencies. No land of the Seminole Tribe of Florida shall be used for water storage or stormwater treatment without the consent of the tribe.

(11) RELATIONSHIP TO STATE WATER QUALITY STANDARDS.—Nothing in this section shall be construed to modify any existing state water quality standard or to modify the provisions of s. 403.067(6) and (7)(a).

(12) RULES.—The governing board of the district is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(13) PRESERVATION OF AUTHORITY.—Nothing in this section shall be construed to restrict the authority otherwise granted to agencies pursuant to this chapter and chapter 403, and provisions of this section shall be deemed supplemental to the authority granted to agencies pursuant to this chapter and chapter 403.

Section 39. For the purpose of incorporating the amendment made by this act to section 403.0872, Florida Statutes, in a reference thereto, section 403.0873, Florida Statutes, is reenacted to read:

403.0873 Florida Air-Operation License Fee Account.—The "Florida Air-Operation License Fee Account" is established as a nonlapsing account within the Department of Environmental

Protection's Air Pollution Control Trust Fund. All license fees paid pursuant to s. 403.0872(11) shall be deposited in such account and must be used solely by the department and approved local programs under the advice and consent of the Legislature to pay the direct and indirect costs required to develop and administer the major stationary source air-operation permit program. Any approved local pollution control program that accepts funds from the department as reimbursement for services it performs in the implementation of the major source air-operation permit program, receives delegation from the department or the United States Environmental Protection Agency for implementation of the major source air-operation permit program, or performs functions, duties, or activities substantially similar to or duplicative of the services performed by the department or the United States Environmental Protection Agency in the implementation of the major source air-operation permit program is prohibited from collecting additional fees attributable to such services from any source permitted under s. 403.0872.

Section 40. For the purpose of incorporating the amendment made by this act to section 403.1838, Florida Statutes, in a reference thereto, paragraph (d) of subsection (3) of section 403.1835, Florida Statutes, is reenacted to read:

403.1835 Water pollution control financial assistance.—

(3) The department may provide financial assistance through any program authorized under 33 U.S.C. s. 1383, as amended, including, but not limited to, making grants and loans, providing loan guarantees, purchasing loan insurance or other credit enhancements, and buying or refinancing local debt. This

financial assistance must be administered in accordance with this section and applicable federal authorities.

(d) The department may make grants to financially disadvantaged small communities, as defined in s. 403.1838, using funds made available from grant allocations on loans authorized under subsection (4). The grants must be administered in accordance with s. 403.1838.

Section 41. This act shall take effect July 1, 2026.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2/3/26
Meeting Date

ENR
Committee

SB 1510
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ryan Smart

Phone 561-358-7191

Address 209 Tallwal Rd
Street

Email smart@floridaspringscouncil.org

Jax Beach FL 32250
City State Zip

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida Springs Council

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2/3/26
Meeting Date

SB 1510
Bill Number or Topic

S Environment and Natural Resources
Committee

Amendment Barcode (if applicable)

Name Alex Cronin

Phone 850-245-2092

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Email alex.cronin@FloridaDEP.gov

Tallahassee FL 32399
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: FL Dept. of Environmental Protection

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

2/3/2026
Meeting Date

ENV & NAT RESOURCES
Committee

SB 1510
Bill Number or Topic

Amendment Barcode (if applicable)

Name ROXANNE GROOVER

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Street

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LAKE ALFRED FL 33850
City State Zip

Speaking: ☐ For ☐ Against ☒ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL:	SB 7034
INTRODUCER:	Environment and Natural Resources Committee
SUBJECT:	Ratification of Rules of the Department of Environmental Protection
DATE:	February 3, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	**EN Submitted as Comm. Bill/Fav**
2.				
3.				

I. Summary:

SB 7034 ratifies the Department of Environmental Protection's (DEP) revisions to the minimum flows and levels (MFLs) for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs within rule 62-42.300 of the Florida Administrative Code. MFLs are established at the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area. The proposed rule relies on conservation practices, monitoring, and offsets to protect the continued health and ecological value of the Lower Santa Fe and Itchetucknee Rivers and Priority Springs.

The Statement of Estimated Regulatory Costs developed by DEP concluded that the proposed rules will likely increase costs to regulated entities by $158,450,588 to $163,836,003 in the aggregate within five years after the rules' implementation. Additionally, an estimated $1,975,050 to $11,712,476 in indirect costs are expected to be incurred by the Suwannee River Water Management District. This amount triggers the statutory requirement for the rule to be ratified by the Legislature before it may go into effect.

II. Present Situation:

Minimum Flow and Minimum Water Levels (MFLs)

MFLs are established for waterbodies to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals.[1] MFLs are typically determined based on evaluations of natural seasonal fluctuations in water flows or levels, nonconsumptive uses, and

[1] *See* section 373.042, F.S.; *see also* DEP, *Minimum Flows and Minimum Water Levels and Reservations*, https://floridadep.gov/owper/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations (last visited Jan. 26, 2026).

environmental values associated with coastal, estuarine, riverine, spring, aquatic, wetlands ecology, and other pertinent information associated with the water resource.[2]

While the Department of Environmental Protection (DEP) has the authority to adopt MFLs, the state's five water management districts (WMDs) have the primary responsibility for MFL adoption. WMDs submit annual MFL priority lists and schedules to DEP for the establishment of MFLs for surface watercourses, aquifers, and surface waters within the district.[3] MFLs are calculated using the best information available[4] and are considered rules by the WMDs, which are subject to chapter 120, F.S., challenges.[5] MFLs are subject to independent scientific peer review at the election of DEP, a WMD, or, if requested, by a third party.[6] MFLs must be reevaluated periodically and revised as needed.[7]

MFLs must be established for each Outstanding Florida Spring (OFS).[8] For OFSs identified on a WMD's priority list which have the potential to be affected by withdrawals in an adjacent district, the adjacent district and DEP must collaboratively develop and implement a recovery or prevention strategy for an OFS not meeting an adopted MFL.[9]

For OFSs that fall below the adopted MFL or are projected to fall below the MFL within 20 years, DEP or WMDs must implement a recovery or prevention strategy to ensure the MFL is maintained over the long-term.[10] The recovery or prevention strategy must include:

- A listing of all specific projects identified for implementation of the plan;
- A priority listing of each project;
- The estimated cost and date of completion for each listed project;
- The source and amount of financial assistance to be made available by the WMD for each listed project, which may not be less than 25 percent of the total project cost unless a specific funding source or sources are identified which will provide more than 75 percent of the total project cost;[11]
- An estimate of each listed project's benefit to an OFS; and
- An implementation plan designed with a target to achieve the adopted MFL no more than 20 years after the adoption of the recovery or prevention strategy.[12]

Agricultural producers who implement best management practices are presumed to be in compliance with the recovery or prevention strategy.[13]

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[2] Fla. Admin. Code R. 62-40.473(1).
[3] Section 373.042(3), F.S.
[4] Section 373.042(1), F.S.
[5] Section 373.042(5) and (7), F.S.
[6] Section 373.042(6)(a), F.S.
[7] Section 373.0421(5), F.S.
[8] Section 373.042(2), F.S.
[9] Section 373.042(2)(b), F.S.
[10] DEP, *Minimum Flows and Minimum Water Levels and Reservations*, https://floridadep.gov/owper/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations (last visited Jan. 29, 2026); section 373.805(1), F.S.
[11] The Northwest Florida Water Management District and SRWMD are not required to meet the minimum financial assistance requirement. Section 373.805(4)(d), F.S.
[12] Section 373.805(4), F.S
[13] Section 373.0421(2), F.S.

Lower Santa Fe and Ichetucknee Rivers and Priority Springs

The Santa Fe River in north-central Florida is a second-order tributary to the Suwannee River.[14] It is naturally divided into two sections: the Upper Santa Fe River, extending from its headwaters in Lake Santa Fe and the Santa Fe Swamp, and the Lower Santa Fe River, extending from the River Rise north of High Springs to its confluence with the Suwannee River.[15] The Lower Santa Fe River is fed by the flow of at least 36 different named springs.[16] With a discharge of over 200 million gallons per day, the Ichetucknee River is the largest tributary to the Santa Fe River.[17]

The Santa Fe River Basin is approximately 1,380 square miles and is underlain by limestone formations that comprise the Floridan aquifer or aquifer system.[18] The area features several popular recreational areas containing springs, swallets, and river rises, including Ichetucknee Springs State Park, O'Leno State Park, River Rise State Park, and private venues.[19] The river and its springs are important to the economy of at least seven counties in north-central Florida and serve as a significant natural resource through the ecosystem services they provide, including the maintenance of habitat for fish and wildlife.[20]

Six springs within the basin have been designated as OFSs, including the Ichetucknee Springs Group and Columbia, Devil's Ear, Hornsby, Poe, and Treehouse Springs along the Santa Fe River.[21] The Ichetucknee Springs Group is a first-magnitude spring complex, comprised of nine named and many unnamed springs that discharge into the Ichetucknee River. All but two of the nine springs are identified as Priority Springs.[22]

Maintaining flows from the Priority Springs is essential to protecting water resource conditions and the ecological values of the springs, as well as the Lower Santa Fe River and Ichetucknee River downstream.[23] However, historical flow records over more than 90 years have shown a decline in flow for the Ichetucknee River and springs of roughly 10-20 percent. Additionally, nitrate-nitrogen concentrations have increased over the past two decades, and while the Ichetucknee River and springs continue to be well-vegetated with native plant species, there has been a marked decrease in the diversity of those species over time.[24]

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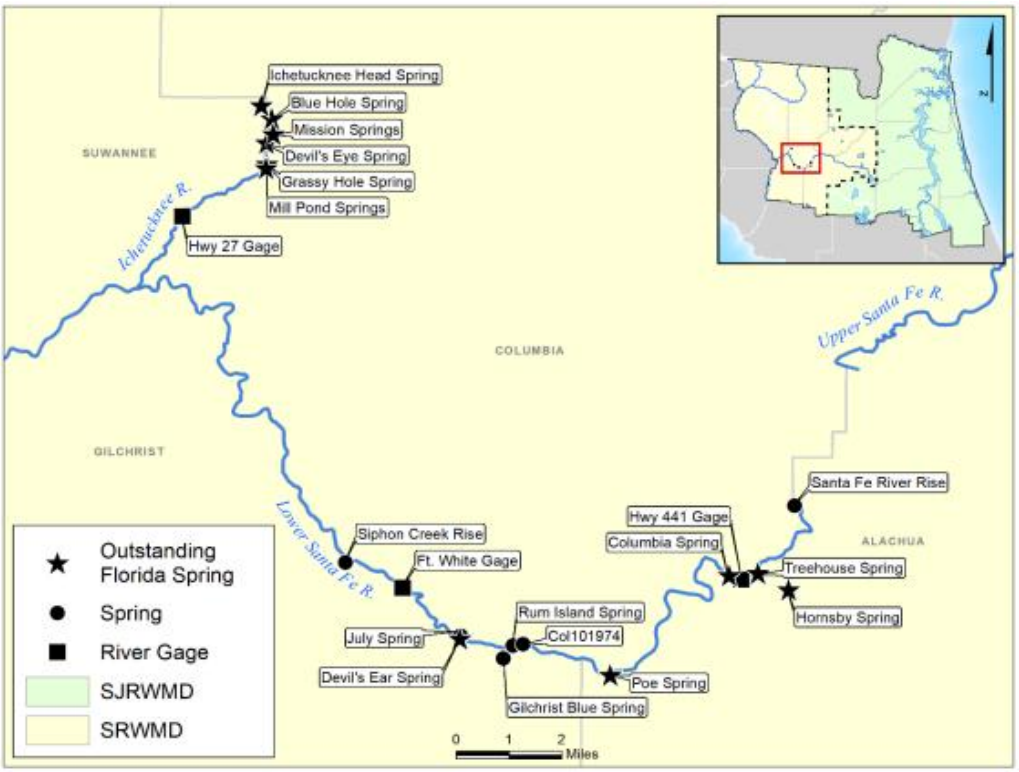
[14] Santa Fe River Basin Springs Working Group and the Howard T. Odum Florida Springs Institute, *Santa Fe Springs Restoration Plan*, 7 (2012), *available at* https://floridaspringsinstitute.org/wp-content/uploads/2018/07/SFS-RAP.pdf.
[15] *Id.*
[16] *Id.* at 8.
[17] DEP, *Florida State Park: When the masses meet the grasses*, https://www.floridastateparks.org/learn/when-masses-meet-grasses (last visited Jan. 30, 2026); Florida Springs Institute, *Santa Fe River and Springs: Environmental Analysis*, 5 (2021), *available at* https://floridaspringsinstitute.org/wp-content/uploads/2021/03/Santa-Fe-River-and-Springs-Environmental-Analysis_Final-rev1-ZH-Update.pdf.
[18] Florida Springs Institute, *Santa Fe Springs Restoration Plan*, at 8; SRWMD, *Minimum flows and minimum water levels re-evaluation for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs*, 2 (2021), *available at* https://www.mysuwanneeriver.com/DocumentCenter/View/17834/LSFIR-MFL-Report-Final.
[19] SRWMD, *MFLs re-evaluation for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs* at 3.
[20] *See* Florida Springs Institute, *Santa Fe Springs Restoration Plan* at 2.
[21] SRWMD, *MFLs re-evaluation for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs* at 3.
[22] *Id.*
[23] *Id.* at 119.
[24] Florida Springs Institute, *Santa Fe River and Springs: Environmental Analysis* at 5.

In 2013, SRWMD concluded that excessive flow reductions in the Lower Santa Fe and Ichetucknee Rivers and associated Priority Springs (LSFIR) were beyond the point of "significant harm" and that these waterbodies required a recovery strategy.[25] Accordingly, the SRWMD governing board requested that DEP adopt MFLs for the LSFIR due to the potential for impacts associated with water withdrawals in both the SRWMD and the St. Johns River Water Management District (SJRWMD).[26] At that time, the LSFIR was determined to be in recovery at both of the two MFL compliance points, and a recovery strategy was approved by the SRWMD and SJRWMD governing boards with regulatory components adopted by rule by DEP in June 2015.[27]



Santa Fe and Ichetucknee Rivers and Priority Springs[28]

On December 2, 2019, DEP published a Notice of Rule Development to reevaluate the 2015 LSFIR MFLs.[29] The most recent status assessment determined that the reevaluated MFLs in the proposed rule are not being met at two of the three identified compliance points. Accordingly, development of a prevention or recovery strategy was necessary.[30] The revised rules and implementation strategy are discussed in the Effect of Proposed Changes section below.

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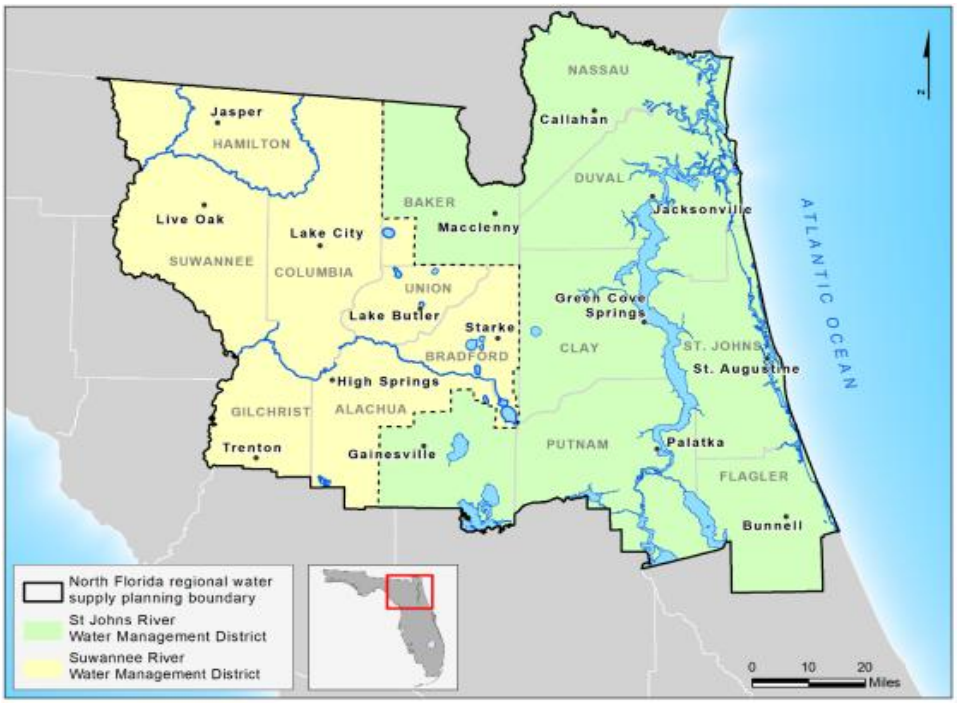
[25] *Id.*; SRWMD, *Recovery Strategy: Lower Santa Fe River Basin*, 1 (2014), *available at* https://srwmd.org/DocumentCenter/View/9116/Lower-Santa-Fe-and-Ichetucknee-River-Recovery-Strategy?bidId=.
[26] DEP, *SERC: Rule 62-42.300, F.A.C.: Attachment A*, 6 (2025), *available at* https://floridadep.gov/owper/water-policy/documents/attachment-lsfir-serc-summary-serc-economic-assessment.
[27] *Id.*
[28] North Florida Regional Water Supply Partnership, *2025 Implementation Strategy for the Lower Santa Fe and Ichetucknee Rivers and priority springs*, 5 (2025), *available at* https://www.northfloridawater.com/2025implementationstrategy.html (depicting map).
[29] *Id.* at 7.
[30] Section 373.0421(2), F.S.

North Florida Regional Water Supply Partnership (NFRWSP)

The NFRWSP was established in 2011 through a formal interagency agreement executed by DEP, SJRWMD, and SRWMD.[31] The NFRWSP planning area covers more than 8,000 square miles and includes 14 counties: Alachua, Baker, Bradford, Clay, Columbia, Duval, Flagler, Gilchrist, Hamilton, Nassau, Putnam, St. Johns, Suwannee, and Union.[32]



NFRWSP Area[33]

The purpose of the NFRWSP is to protect natural resources and water supplies in North Florida through collaborative planning, scientific-tool development, and related efforts.[34] A central product of the NFRWSP is the North Florida Regional Water Supply Plan, which assesses current and projected water demands and identifies projects, water conservation measures, and other strategies to meet future demands while avoiding unacceptable water resource impacts.[35] Such projects include the use of reclaimed water to offset potable use or groundwater recharge to increase the amount of water in an aquifer to help offset declines caused by withdrawals.[36]

[31] SJRWMD and SRWMD, *2023 North Florida Regional Water Supply Plan (2020-2045)*, 18 (2023), *available at* https://aws.sjrwmd.com/NFWSP/watersupplyplan/documents/final/2023_NFRWSP_and_Associated_Appendices_Final_20230212.pdf
[32] *Id.*
[33] NFRWSP, *2025 Implementation Strategy for the Lower Santa Fe and Ichetucknee Rivers and priority springs*, 6 (2025), *available at* https://www.northfloridawater.com/2025implementationstrategy.html (depicting map).
[34] SJRWMD and SRWMD, *2023 North Florida Regional Water Supply Plan* at 19.
[35] *Id.* at 22.
[36] *Id.* at 84, 87. For example, one project identified in the 2023 plan is the Black Creek Water Resource Development Project in Clay County, which is designed to recharge of the Upper Floridan aquifer and has the potential to increase flows in the Lower Santa Fe and Ichetucknee Rivers. *Id.* at 84.

According to the latest water supply plan published in 2023, total water demand within the NFRWSP area is projected to increase from 530 million gallons per day (mgd) in 2015 to 698 mgd by 2045, a 32 percent increase.[37] The NFRWSP concluded that fresh groundwater alone cannot meet this projected increase in demand without causing unacceptable impacts to water resources.[38]

Since approval of the previous regional water supply plan in 2017, participating agencies and stakeholders have implemented approximately 1,294 cost-share water supply and conservation projects through 2022, an investment of about $146 million that contributed to the availability or conservation of approximately 89.1 mgd of water within the NFRWSP area.[39] The 2023 plan identifies 160 mgd of estimated benefit from water supply development, water resource development, and water conservation project options to offset the projected increase in groundwater demand of approximately 135 mgd by 2045.[40]

Legislative Ratification

A rule is subject to legislative ratification if it:

- Has an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within five years after the implementation of the rule;
- Has an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of $1 million in the aggregate within five years after the implementation of the rule; or
- Increases regulatory costs, including any transactional costs, in excess of $1 million in the aggregate within five years after the implementation of the rule.[41]

If a rule requires ratification by the Legislature, the rule must be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the regular legislative session. The rule may not go into effect until it is ratified by the Legislature.[42]

Statement of Estimated Regulatory Costs Requirements

A statement of estimated regulatory costs (SERC) is an analysis prepared by an agency before the adoption, amendment, or repeal of a rule other than an emergency rule. A SERC must be prepared by an agency for a proposed rule that:

- Will have an adverse impact on small businesses; or

[37] *Id.* at 26. This includes groundwater, surface water, and alternative water sources. *Id.* at 2.
[38] *Id.* at 2.
[39] *Id.* at 75.
[40] *Id.* at 4, 101.
[41] Section 120.541(2)(a), F.S. "Transactional costs" re direct costs that are readily ascertainable by the agency based upon standard business practices, and may include, among other things: filing fees; necessary equipment, operations, or procedures; labor and benefits; capital expenditures; professional services; monitoring and reporting; reduced sales or other revenue. Section 120.541(2)(d), F.S.
[42] Section 120.541(3), F.S.

- Is likely to directly or indirectly increase regulatory costs in excess of $200,000 in the aggregate in the state within one year after the implementation of the rule.[43]

A SERC must include:

- An economic analysis showing whether the rule exceeds the thresholds requiring legislative ratification;
- A good faith estimate of the number and types of individuals and entities likely to be required to comply with the rule, and a general description of the types of individuals likely to be affected by the rule;
- A good faith estimate of the cost to the agency, and to other state and local government entities, of implementing and enforcing the proposed rule, including anticipated effects on state or local revenues;
- A good faith estimate of the transactional costs (direct business costs) likely to be incurred by individuals and entities required to comply with the requirements of the rule;
- An analysis of the impact on small businesses, small counties, and small cities; and
- A description of regulatory alternatives submitted to the agency and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.[44]

SERC for Rule 62-300, F.A.C.

DEP determined that a SERC was required for the revisions to rule 62-42.300 of the Florida Administrative Code and prepared one in advance of rule adoption.[45] DEP estimates the revised rule will increase regulatory costs, including transactional costs, by up to $163.8 million in the aggregate within five years of implementation.[46] A summary of these costs is provided in the table below.[47]

Summary of Costs to Regulated Entities[48]

Rule Citation	Topic	SERC Total Estimated Cost
62-42.300(4), F.A.C.	Private residential landscape irrigation well water uses	$2,540,806–$4,393,906
62-42.300(5), F.A.C.	Metering and Monitoring Requirements	$1,136,818–$4,669,133
62-42.300(6), F.A.C.	Water Conservation Requirements	$12,772,964
62-42.300(7), F.A.C.	Offset Requirements[49]	$142,000,000
TOTAL		**$158,450,588–$163,836,003**

[43] Section 120.541(3)(b)1., F.S.
[44] Section 120.541(2), F.S.
[45] *See* DEP, *SERC: Rule 62-42.300, F.A.C.* (2025), *available at* https://floridadep.gov/owper/water-policy/documents/office-fiscal-accountability-regulatory-reform-serc-form-rule-62-42300.
[46] *Id.* at 4.
[47] *See id.* at 4-5.
[48] For agricultural producers, section 373.0421, F.S. (2025), provides an alternative means for compliance. The costs associated with that statutorily-established alternative are not included in this SERC. *Id.* at 4.
[49] The total estimated cost for the "Offset Requirements" includes the completion of a large-scale regional water recharge project, which will take place over an estimated 13-year time period. In the first five years following rule adoption, $142 million is the estimated expenditure for the project, which includes preconstruction activities, such as permitting and design and land acquisition, and some initial construction activities. The total estimated project cost is $1.1 billion. *Id.*

Additionally, an estimated $1,975,050 to $11,712,476 in indirect costs are expected to be incurred by the Suwannee River Water Management District (SRWMD) within the first five years.[50]

The proposed rules and associated costs will be discussed in the Effect of Proposed Changes section below.

III. Effect of Proposed Changes:

Section 1 ratifies the revised minimum flows and level (MFL) rule 62-42.300 of the Florida Administrative Code, titled "The Lower Santa Fe and Ichetucknee Rivers and Priority Springs," as filed for adoption with the Department of State pursuant to the certification package dated December 31, 2025. The bill provides that this section serves no other purpose and may not be codified in the Florida Statutes. After this act becomes a law, its enactment and effective dates must be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate. This section does not alter rulemaking authority delegated by prior law, does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rule cited, and is intended to preserve the status of any cited rule as a rule under chapter 120, Florida Statutes. This section does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing adoption of any rule cited.

The costs associated with the revised rule stem from revisions to the MFLs for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs and the implementation strategy to comply with those MFLs. The key components of the proposed rule and implementation strategy are discussed below. In total, the proposed rule may increase regulatory costs, including transactional costs, by $158,450,588 to $163,836,003.[51]

Proposed MFLs for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs

The proposed revisions to rule 62-42.300 of the Florida Administrative Code replace the existing 2015 MFLs and establish the regulatory components of an implementation strategy to achieve the new limits.[52] The implementation strategy will be administered by the St. Johns River Water Management District (SJRWMD) and the Suwannee River Water Management District (SRWMD) in the North Florida Regional Water Supply Partnership (NFRWSP) planning area.

As discussed in further detail below, the proposed rule provides new requirements related to private residential landscape irrigation, monitoring and reporting, water conservation, and offsetting impacts.

[50] DEP, *SERC: Rule 62-42.300, F.A.C.: Attachment A*, 4 (2025), *available at* https://floridadep.gov/owper/water-policy/documents/attachment-lsfir-serc-summary-serc-economic-assessment.
[51] DEP, *SERC: Rule 62-42.300, F.A.C.: Attachment A* at 4.
[52] *Id.* at 8. If the revised rules are not ratified, the 2015 MFL and recovery strategy will remain in place.

Private Residential Landscape Irrigation Requirements

Currently, private residential irrigation water use is authorized by a general permit. Uses authorized under such permits generally must abide by days of the week restrictions and other watering restrictions.[53]

The proposed rule supersedes existing rules for certain users. If a residential home is supplied potable water by a utility, a general permit will not be authorized within the NFRWSP for a new well from the Floridan aquifer for irrigation after the effective date of the rule.[54] The use of water may be authorized through a No-Fee Noticed General Permit, which has a duration of 10 years and requires certification that the applicant has an irrigation system that includes leak detection and water conservation devices.[55]

The estimated costs for the proposed private residential landscape irrigation requirements are between $2,540,806 and $4,393,906 ($1,200 to $2,100 per system).[56]

Monitoring and Reporting Requirements

The proposed rule provides supplemental requirements for monitoring and reporting activities where they are not already in place.[57] Monitoring and reporting requirements are currently in effect in both SJRWMD and SRWMD.[58] In SJRWMD, the proposed rule does not impose any additional monitoring or reporting requirements beyond those already in effect. However, in SRWMD, the proposed rule supplements existing district rules and would result in additional regulatory requirements for monitoring and reporting water use.[59]

Currently, SRWMD rules require monthly monitoring of wells eight inches or greater and surface water pumps with a cumulative intake diameter of six inches or greater, regardless of total permit allocation.[60] The proposed rule requires monitoring of all permitted wells and pumps authorized by an individual consumptive use permit.[61] The timeline and type of monitoring required is handled differently based on permit allocation and when the authorized use began.[62]

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[53] *See* Fla. Admin. Code R. 40B-2.041(9)(d) and 40C-2.042(2)(a).
[54] DEP, *SERC: Rule 62-42.300, F.A.C.: Attachment A* at 9.
[55] *Id.*
[56] *Id.* at 24. These costs are incurred by homeowners who have public supply available but choose to install a well for irrigation and ensure that water conservation measures are implemented. The cost savings from not paying for water from the public supplier are presumed to be offset by the well installation. *Id.*
[57] *Id.* at 9.
[58] *Id.* at 10.
[59] *Id.*
[60] *Id.*
[61] A consumptive use permit allows the holder to withdraw a specified amount of water from surface water and groundwater sources for reasonable and beneficial use. Consumptive use permits require water conservation to prevent wasteful uses, require the reuse of reclaimed water instead of higher-quality groundwater where appropriate, and set limits on the amount of water that can be withdrawn. South Florida Water Management District, *Consumptive Water Use Permits*, https://www.sfwmd.gov/doing-business-with-us/permits/water-use-permits (last visited Jan. 27, 2026).
[62] DEP, *SERC: Rule 62-42.300, F.A.C.: Attachment A* at 10. New individual permits issued after the effective date of the proposed rule must comply with monitoring requirements before use begins. Existing individual permits issued prior to the effective date are generally required to comply within five years following a renewal or modification that does not increase allocation or add withdrawal points. Modifications or renewals of existing permits that add withdrawal points or increase authorized allocations earlier compliance timelines, depending on the nature of the modification.

Regarding reporting requirements, SRWMD currently requires permittees to submit monthly water use data every six months for withdrawal points that are subject to monitoring (i.e., wells eight inches or greater, surface water pumps with intakes six inches or greater).[63] SRWMD rules currently do not incorporate standardized forms for reporting. The proposed rule prescribes the format for reporting. Specifically, the proposed rule requires monthly recording and biannual reporting of all permitted wells for permittees with total allocations of 100,000 gallons per day (gpd) or greater and annual reporting for permittees with total allocations less than or equal to 100,000 gpd. Additionally, flow meters and alternative methods must be validated for accuracy every 10 years using proposed forms incorporated into the proposed rule. In SRWMD, this verification is a current requirement only for the withdrawal points currently requiring monitoring (i.e., wells 8 inches or greater, surface water pumps with intakes six inches or greater), and the SRWMD rules do not incorporate standardized forms for reporting.[64]

The total cost to permittees for this regulatory measure is estimated to be between $1,136,818 and $4,669,133, which includes the cost of equipment installation, monitoring, and reporting.[65]

Water Conservation Requirements

The proposed rule imposes different requirements for public water supply permittees, agricultural permittees, and permittees of other use types (i.e., landscape/recreation, commercial/industrial/institutional, and mining/dewatering). The total estimated cost of the proposed rule's water conservation requirements for all permittees is $12,772,964.[66] The requirements and associated costs for each type of permittee are discussed in more detail below.[67]

Public Water Supply: All public supply permittees are required to implement either a standard or goal-based water conservation plan, evaluate those plans, and provide the evaluations in the form of a report.[68] Water conservation plans are already required for permittees, but the proposed rule includes new components or minimum requirements that must be included.[69] The standard plan must include:

- A water conservation public education program;
- An outdoor water use reduction program;
- A rate structure promoting conservation;[70]
- A water loss reduction program; and

[63] *Id.* at 11.
[64] *Id.*
[65] *Id.* at 26. To develop the cost for the monitoring requirements, the cost to install in-line flow meters is estimated to be $5,000 per well, inclusive of the cost of equipment and installation. Based on SRWMD's current agricultural cost-share program, these devices are covered at 75 percent district cost share (which is funded by state grants), leaving the total estimated cost per well at $1,250 for the producer. *Id.* at 24-25.
[66] *Id.* at 32.
[67] The proposed rule also provides an alternative means of compliance for agricultural producers who implement statutorily adopted best management practices. *Id.* at 15. *See* section 373.0421(2), F.S.
[68] DEP, *SERC: Rule 62-42.300, F.A.C.: Attachment A* at 11.
[69] *Id.* at 11.
[70] There are no changes in these requirements. However, the proposed rule conforms this language in SRWMD to how it is currently expressed in the SJRWMD rule, including the details of how the districts will assist the permittee or applicant. These amendments in SRWMD are not expected to create an additional regulatory burden. *Id.* at 12.

- An indoor water use conservation program.[71]

The proposed rule also includes four new requirements for Public Supply Water Conservation Plans:

- A goal for reducing residential per capita water use;[72]
- For permittees with an allocation of 100,000 gpd or greater:
  - Annual verification of ongoing implementation of the water conservation plan and submittal of a Public Supply Annual Report; and
  - Submittal of an updated water conservation plan and a Public Supply Five-Year Water Conservation Report;
- For permittees with an allocation greater than 1 million gpd, include in the Public Supply Five-Year Water Conservation Report an analysis of the pre- and post-water use data to demonstrate the water savings associated with the implementation of the water conservation measures.[73]

Public Water Supply permittees are estimated to incur total costs of $10,769,636 to implement these water conservation requirements, including $4,061,448 for reporting and $6,708,188 for conservation measures.[74]

Agricultural: Currently, all agricultural permittees are required to implement a district-approved water conservation plan.[75] Consistent with existing rules, the proposed rule requires these permittees to implement the best available water conservation measures for all irrigation systems installed and take reasonable actions to maintain that efficiency throughout the term of the permit.[76] The specific requirements depend on the size of the permit, based on allocation, and include:

- Irrigation system maintenance and evaluation: For permittees with allocations of 100,000 gpd or greater, the proposed rule requires maintenance of minimum distribution uniformity standards and submission of a Mobile Irrigation Lab evaluation or its equivalent to verify compliance.[77]
- Water conservation measures: Consistent with existing rules, permittees with allocations exceeding 100,000 gpd must implement water conservation practices appropriate for field conditions. The proposed rule requires that this be accomplished to the maximum extent environmentally, economically, and technically feasible by using the highest efficiency options from a list of options provided in the proposed rule.[78]

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[71] *Id.* at 12.
[72] This is a new requirement. The proposed rule requires permittees or applicants to demonstrate achievement of, or progress toward, a residential per capita water use rate equal to the lower of 75 gallons per capita day or the permittee's five-year average prior to the rule's effective date, with interim per capita reduction targets as needed. Permittees must submit documentation explaining any failure to meet the goal or approved targets through the required five-year water conservation report. *Id.* at 13.
[73] *Id.* at 13.
[74] *Id.* at 30, 31.
[75] *Id.* at 14.
[76] *Id.*
[77] Evaluations must be submitted with permit renewals, certain modifications, or 10-year compliance reviews. Because Mobile Irrigation Labs are already required under current rules, this does not create a new regulatory cost. *Id.* at 14.
[78] *Id.*

- Reporting: Agricultural permittees with allocations greater than 100,000 gpd must verify ongoing implementation of conservation measures and submit an Agricultural Water Conservation Report with renewals, certain permit modifications, and 10-year compliance reviews. While existing rules require conservation information at renewal, the proposed rule expands reporting to additional permit actions and standardizes the reporting format.[79]
- Small agricultural uses: For agricultural uses with allocations of 100,000 gpd or less, excluding aquaculture, the proposed rule requires implementation of water conservation measures and consideration of a specified list of practices.[80]

Agricultural permittees are estimated to incur total costs of $256,620 to implement these water conservation requirements, including $81,120 for reporting and $175,500 for conservation measures.[81]

Other Use Types: The proposed rule requires permittees for other use types (i.e., landscape/recreation, commercial/industrial/institutional, and mining/dewatering) to consider implementation of water conservation practices for all processes and components of water use that are environmentally, technically, and economically feasible.[82] Although water conservation is already required under existing rules, the proposed rule adds specificity by identifying additional elements to be considered, including:

- For landscape/recreation: limiting daytime water use, leak detection and repair programs, and use of irrigation schedules and water-conserving devices;
- For commercial/industrial/institutional and mining/dewatering: water-efficient irrigation for drought-tolerant landscaping.[83]

The proposed rule also requires permittees in these use categories with allocations greater than 100,000 gpd to evaluate and update their water conservation plans and submit a standardized water conservation report upon permit renewal, certain permit modifications, and 10-year compliance reviews.[84]

These permittees are estimated to incur $1,746,708 in costs associated with reporting requirements within five years of rule implementation.[85] Implementation of other water conservation measures does not result in additional costs, as all permittees are already required to implement such measures and submit a water conservation plan.[86]

Offset Requirements

The proposed rule requires the offset of impacts as a permit condition for specific individual permit applicants.[87] These offset requirements are based on the quantity of water needed to meet

[79] *Id.* at 14-15.
[80] This builds on existing SJRWMD and SRWMD requirements and does not add new reporting obligations for small agricultural uses. *Id.* at 15.
[81] *Id.* at 30, 31.
[82] *Id.* at 15.
[83] *Id.*
[84] *Id.* at 15-16.
[85] *Id.* at 30.
[86] *Id.* at 32.
[87] *Id.* at 16.

demands in 2025, referred to the "Demonstrated 2025 Demand." For new permits, applicants whose requested withdrawals that may impact an MFL compliance point must continue to provide reasonable assurance that the potential impact will be eliminated or offset before withdrawals begin, consistent with existing rule requirements. For permit renewals or modifications, applications that may impact an MFL compliance point must include reasonable assurance of elimination or offset for the portion of the requested allocation that exceeds the applicant's Demonstrated 2025 Demand.[88] For existing permits, uses that do not exceed the Demonstrated 2025 Demand are considered consistent with the implementation strategy. Uses with projected demands above that level must, within five years of the proposed rule's effective date, identify a project to eliminate or offset the excess.[89] The proposed rule provides means by which permittees may participate in a regional project to offset their growth.[90]

For permittees whose demand is not calculated based on projected growth, such as agriculture, no offset is required and no action will be taken to reduce the permittee's allocation.[91] For permittees whose demand is calculated based on projected population growth, such as public supply, the permittee must address any future impacts associated with that growth.[92] Impacts may be offset by financial contribution, in-kind services, or assisting in cooperation and maintenance of a regional or local project.[93]

The cost of the proposed rule's offset requirements are estimated to be $142 million within the first five years of the rule's implementation, which includes completion of a large-scale regional water recharge project (Water First North Florida) over an estimated 13-year period.[94] While other projects may be implemented at the election of individual permittees, DEP included the Water First North Florida project cost as the sole offset cost as the project is anticipated to address the impacts associated with all water uses.[95]

Regulatory Cost to Agencies

The proposed rule will require SJRWMD and SRWMD to incorporate the proposed regulatory requirements into all water use permits issued in the NFRWSP area.[96] SJRWMD and SRWMD will provide financial assistance for projects and measures identified in the implementation

[88] Existing rules require offsets for amounts exceeding the current permitted allocation. Therefore, the requirement to eliminate or offset impacts for renewals or modifications is not entirely new, but the benchmark for determining the amount of offset that would be needed is a change from existing rule. *Id.*
[89] *Id.*
[90] *Id.* at 17.
[91] *Id.* at 16-17.
[92] *Id.* at 17.
[93] *Id.*
[94] *Id.* at 33. Water First North Florida is a planned 40 mgd project that will treat reclaimed water from JEA's Buckman and Southwest water reclamation facilities through wetland systems, provide regional recharge to the Floridan aquifer, and, when fully implemented, has the potential to increase flows to the Lower Santa Fe and Ichetucknee rivers. The project is in the planning phase, with wetland treatment and recharge site investigations underway. Total estimated construction costs are approximately $1.1 billion, excluding land acquisition, permitting, and operation and maintenance costs. *Id.* at 32-33.
[95] *Id.* at 33.
[96] *Id.*

strategy.[97] SJRWMD is required to provide at least 25 percent of total project costs unless other funding sources provide more than 75 percent.[98] SRWMD is not subject to this requirement.[99]

SJRWMD intends to implement the proposed rule with existing staff and meet its statutory requirements through participation in the Black Creek Water Resource Development Project, the Water First North Florida project, and the Florida Water Star Silver Plus water conservation project.[100] SJRWMD's financial contribution to Water First North Florida will be limited to the share of impacts to the MFL compliance points resulting from water withdrawals in the SJRWMD region, estimated at $100–125 million.[101]

SRWMD has identified the potential need to expand their workforce by one full-time equivalent position for the first five years of the proposed rule's implementation.[102] Additionally, SRWMD's existing cost-share programs are anticipated to assist agricultural producers in implementing monitoring cost. The funding for these programs comes from state grant programs. The total estimated indirect cost to SRWMD for the new position and cost-share programs is between $1,975,050 and $11,712,476.[103]

Regulatory Costs to Small Cities, Small Counties, and Small Businesses

Small cities are estimated to incur total costs between $1,545,415 and $1,608,996 within the first five years of rule implementation.[104] These estimates are based on a review of existing permits and 2020 Census population data identifying small city permittees in the NFRWSP planning area.[105] Costs to the small cities will vary based on the permit allocation and type, and include the cost to implement the conservation requirements, including achieving per capita goals (for Public Supply permittees), implementing specific elements required in their water conservation plans, and reporting on the effectiveness of their water conservation plans.[106] Most costs are attributable to water conservation requirements applicable to Public Supply permits with allocations exceeding 100,000 gpd.[107]

Small counties are estimated to incur total costs between $191,746 and $234,134 within the first five years of rule implementation.[108] Like small cities, these estimates are based on a review of existing permits and 2020 Census population data identifying small county permittees in the

[97] *Id. See* section 373.805(4)(d), F.S.
[98] *Id.*
[99] *Id.*
[100] DEP, *SERC: Rule 62-42.300, F.A.C.: Attachment A* at 33, 34. Regarding Water First North Florida, SJRWMD intends to participate by contributing to the planning, design, construction and/or operation and maintenance of the project. In addition to direct cost-share, SJRWMD may meet the financial assistance requirement through land acquisition or in-kind services. *Id.* at 34.
[101] *Id.*
[102] *Id.*
[103] *Id.*
[104] *Id.* at 37. "Small city" means any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. *Id.* at 35; section 120.52(18), F.S.
[105] DEP, *SERC: Rule 62-42.300, F.A.C.: Attachment A* at 36-37.
[106] *Id.* at 37.
[107] *Id.*
[108] *Id.* at 38. "Small county" means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census. *Id.* at 35; section 120.52(19), F.S.

NFRWSP planning area.[109] Only three small county Public Supply permits exceed 100,000 gpd and are subject to water conservation requirements, resulting in an estimated cost of $178,104.[110] Additional costs to small counties are attributable to monitoring and reporting requirements, based on their proportionate share of affected permittees.[111]

Small businesses are estimated to incur total costs between $3,272,885 and $6,628,584 within the first five years of rule implementation.[112] The proposed rule would only directly impact small businesses that are water use permittees or applicants in the NFRWSP planning area.[113] Below is a table summarizing the regulatory costs from the proposed water conservation requirements.

Estimated Number of Small Business Permittees by Use Type and Regulatory Costs from Conservation Requirements[114]

Water Use Type	Total Number of Permittees with a Regulatory Cost (a)	Water Conservation Reporting Cost per Permittee (b)	Total Regulatory Cost per Use Type (a x b)
Agricultural	669	$120	$80,280
Commercial/Industrial/Institutional	30	$12,388	$371,640
Landscape/Recreation	81	$12,388	$1,003,428
Mining/Dewatering	10	$12,388	$123,880
Public Supply[115]	10	$59,368	$613,680

In addition, small businesses are estimated to incur $1,079,977–$4,435,676 in costs related to the proposed rule's monitoring and reporting requirements.[116]

Other costs that could be incurred by small businesses, small cities, and small counties, such as participation in a water conservation project, are based on the needs and decisions of the permittees and are not known on an individual basis at this time.[117]

Section 2 provides that the bill takes effect upon becoming a law.

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[109] DEP, *SERC: Rule 62-42.300, F.A.C.: Attachment A* at 38.
[110] *Id.*
[111] *Id.*
[112] *Id.* at 36. "Small business" means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than $5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the $5 million net worth requirement includes both personal and business investments. *Id.* at 34-35; section 288.703(6), F.S.
[113] DEP, *SERC: Rule 62-42.300, F.A.C.: Attachment A* at 35.
[114] *Id.* at 36.
[115] The cost for Public Supply is the combined cost of the five-year cost for the Public Supply Annual Report ($46,980) and the one-time cost for the Public Supply Five-Year Water Conservation Report ($12,388). There is one small business Public Supply permit with an allocation greater than 1 mgd, which means it would also have an additional $20,000 reporting cost for implementing the data analytics requirements. This $20,000 is added to the total for Public Supply. *Id.* at 36.
[116] *Id.* at 36.
[117] *Id.* at 36, 38.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

See pages 7-8 of the analysis and the Effect of Proposed Changes section for a breakdown of estimated impacts. Grants may be available to offset some of these costs; however, such offsets were not considered in the Statement of Estimated Regulatory Cost.

C. Government Sector Impact:

See pages 7-8 of the analysis and the Effect of Proposed Changes section for a breakdown of estimated impacts. Impacts to St. Johns River Water Management District and Suwannee River Water Management District are discussed on pages 13-14 of this analysis. Impacts to small cities and counties are discussed on pages 14-15.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Environment and Natural Resources

592-02076A-26 20267034pb

A bill to be entitled

An act relating to ratification of rules of the Department of Environmental Protection; ratifying a specified rule relating to the Lower Santa Fe and Ichetucknee Rivers and Priority Springs minimum flows and recovery strategy for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding the specified thresholds for likely adverse impact or increase in regulatory costs; providing construction; providing an effective date.

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

Section 1. (1) The following rule is ratified for the sole and exclusive purpose of satisfying any condition on the effectiveness imposed under s. 120.541(3), Florida Statutes: Rule 62-42.300, Florida Administrative Code, titled "The Lower Santa Fe and Ichetucknee Rivers and Priority Springs," as filed for adoption with the Department of State pursuant to the certification package dated December 31, 2025.

(2) This act serves no other purpose and may not be codified in the Florida Statutes. After this act becomes a law, its enactment and effective dates must be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate. This act does not alter rulemaking authority delegated by prior law, does not constitute legislative preemption of or exception to any provision of law

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

governing adoption or enforcement of the rule cited, and is intended to preserve the status of any cited rule as a rule under chapter 120, Florida Statutes. This act does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

Section 2. This act shall take effect July 1, 2026.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2/3/26
Meeting Date

ENR
Committee

SB 7034
Bill Number or Topic

Amendment Barcode (if applicable)

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City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
JEA

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/3/26
Meeting Date

SB 7034
Bill Number or Topic

Environment and Natural Resources
Committee

Amendment Barcode (if applicable)

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PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: FL Dept. of Environmental Protection

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/3/26
Meeting Date

Env. & Nat'l. Resources
Committee

7034
Bill Number or Topic

Amendment Barcode (if applicable)

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City State Zip

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PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
Clay County Utility Authority

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-3-2026
Meeting Date

EN
Committee

SB 7034
Bill Number or Topic

Amendment Barcode (if applicable)

Name Merrillee Malwitz-Jipson

Phone 352-222-8893

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Fort White FL 32038
City State Zip

Speaking: ☐ For ☐ Against ☒ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-3-2026
Meeting Date

ENR
Committee

7034
Bill Number or Topic

Amendment Barcode (if applicable)

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PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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02-03-2026
Meeting Date

Environment and Natural Resources
Committee

SPB 7034
Bill Number or Topic

Amendment Barcode (if applicable)

Name Rick Lanese Phone 813-965-1983

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PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/3/22
Meeting Date

ENR
Committee

SPB 7034
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ryan Smart

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City State Zip

Speaking: ☐ For ☐ Against ☑ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida Springs Council

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

Read

Lower Santa Fe and Ichetucknee River and Priority Springs (LSFIR)
Minimum Flows and Levels (MFLs) - Summary of Adopted Rule 62-42.300, F.A.C.

The purpose of the adopted rule is to replace the previously-adopted MFLs for the LSFIR and associated implementation strategy that regulates water users in both the Suwannee River and St. Johns River Water Management Districts.

- Minimum flows and minimum water levels (MFLs) are "the **limit** at which further withdrawals would be significantly harmful to the water resources or the ecology of the area." (s. 373.042, F.S.)
- MFLs for Outstanding Florida Springs (OFS) must **be recovered within 20 years** (s. 373.805, F.S) and a recovery or prevention strategy must be adopted or modified concurrent with the adoption of the MFL.

The adopted Rule 62-42.300, F.A.C., provides new MFLs which are currently not being met (that is, they are in recovery). The adopted rule therefore additionally provides for **regulatory components** to recover the system, including six OFS (see Figure 1). These regulatory components are effective in the North Florida Regional Water Supply Partnership Area (see Figure 2).

What are the regulatory components of the adopted rule?

- **Water conservation** is a critical component of the rule, providing for clear milestones and accountability. This includes a 75-gallon per day residential per capita goal for public supply and reporting for larger users.
- Requirements for **monitoring and reporting** of water use provide better data to manage groundwater resources and monitor implementation of the strategy.
- The rule creates a No Fee Noticed General Permit for new **private residential irrigation wells** where public supply is available. The authorization is designed to ensure leak detection and water conservation devices will be installed on these irrigation systems.
- The rule requires water users to **offset their impacts** to the system for their growth. Specifically, new permits or water use above the Demonstrated 2025 Demand will need to eliminate or offset their impact; no offset by water users is required for water use continuing at the 2025 demand level. Offsets by water users may include a regional project or a local project. In total, the St. Johns River and Suwannee River Water Management Districts have identified 4 regional projects (one of which is **Water First North Florida**) and 115 additional local project options as part of the implementation of this strategy.

What is Water First North Florida?

- The Water First North Florida project was identified as the most cost-effective regional solution after a review of hundreds of different project options, including desalination. Combined with robust water conservation, it is anticipated to achieve recovery of the system well beyond the planning horizon of 2045.
- The Water First North Florida project will produce enough recharge to account for both the *recovery* of the MFL and its six OFS *and* allow for growth in the region.

What regulatory framework will be in place if the rule is not ratified?

- If not ratified, the Department's 2015 adopted MFL and Recovery Strategy remains in place.
- Under the 2015 rule, permits are limited to 5-year durations unless offsets are provided. The new rule eliminates that limitation for all water users. Users would be eligible for 20-year or longer permits, which, for utilities, can result in lower interest rates on borrowed funds.

Figure 1. Lower Santa Fe and Ichetucknee River and Springs

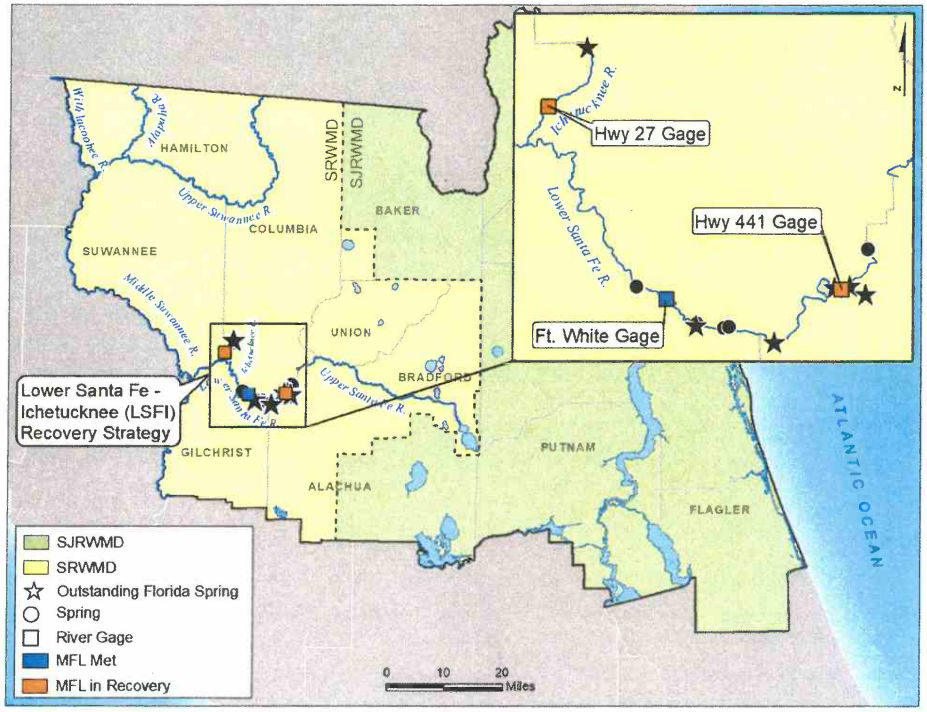
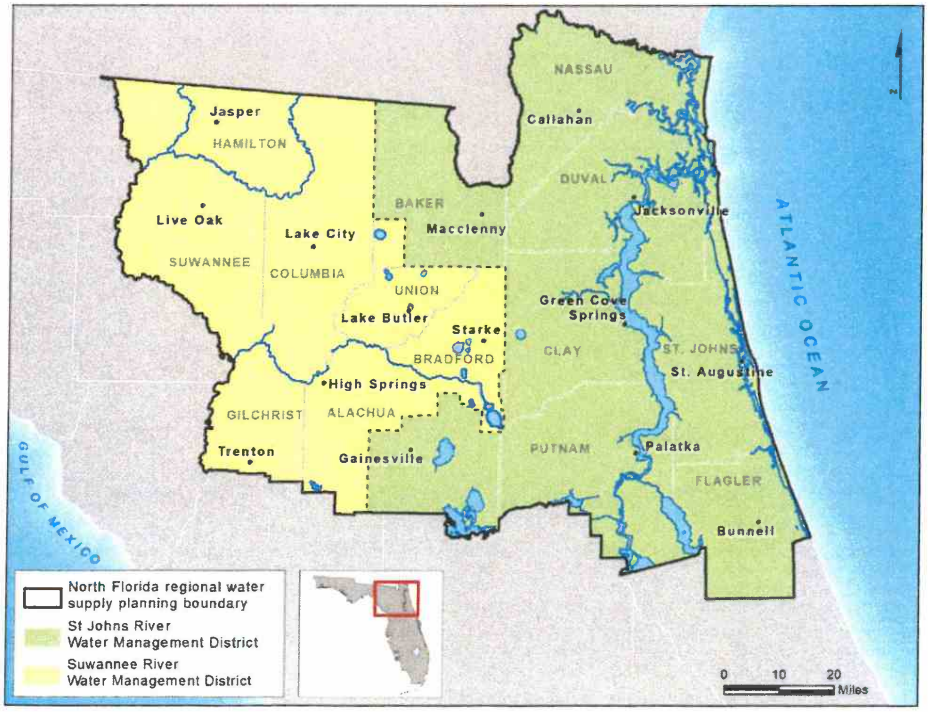


Figure 2. North Florida Regional Water Supply Partnership Area



Detailed Summary of the Rule's Regulatory Components

Applicability. This rule is applicable to water users in the North Florida Regional Water Supply Partnership Area (see Figure 2.)

Permit Duration

- Under the 2015 rule, permits are limited to 5-year durations unless offsets are provided. The new rule eliminates that limitation for all water users. Users would be eligible for 20-year or longer permits.

Public Supply Water Conservation

- Amends the existing requirements for standard and goal-based conservation plans for consumptive use permit holders. Includes a new requirement for those with allocations greater than 1 mgd to implement a landscape irrigation audit/evaluation program for the highest quartile of water use customers for targeted education and program implementation.
- Adds a residential per capita water use goal of 75 gallons per capita daily (or, if below that, to maintain the lower per capita). If a user does not meet the goal or milestone towards the goal, they must explain the reasons it has not met the per capita goal.
- For users with an allocation of 100,000 gallons per day (gpd) or greater:
    - Requires submittal of a Public Supply Annual Report (PSAR) to evaluate progress towards conservation objectives.
    - Requires submittal of a water conservation report every 5 years.

Agricultural Water Conservation

- Identifies implementation of water-saving practices appropriate for field conditions to the maximum extent environmentally, economically, and technically feasible consistent with existing requirements. Also identifies water conservation measures for small agricultural uses.
- For users with an allocation of 100,000 gpd or greater:
    - Establishes distribution uniformity provisions to ensure efficient use of water.
    - Continues the participation in the Mobile Irrigation Lab (MIL) program as established under the 2015 Rule. This rule adds additional flexibility in implementing this effort.
    - Includes water conservation reporting to verify ongoing implementation of their water conservation measures at renewal, modification, or statutory 10-year compliance review.

Other Water Conservation

- Applies to Commercial/Industrial/Institutional, Mining/Dewatering, and Landscape Recreation
- Includes utilization of the most water conserving practices in all processes and components of water use that are environmentally, technically and economically feasible, with additional consideration of outdoor irrigation efficiencies.
- For users with an allocation of 100,000 gpd or greater, includes conservation reporting at renewal, modification, or statutory 10-year compliance review.

Monitoring And Reporting

- These provisions bring consistency in monitoring and reporting between the two water management districts.
- In the SJRWMD, based on existing SJRWMD rules, there is no increased regulatory requirement for monitoring and reporting.
- In the SRWMD, the adopted rule supplements existing SRWMD rules, resulting in additional requirements such as:
    - Prescribing reporting format in incorporated forms.
    - Requiring monitoring based on allocation, giving time to implement, and providing for alternatives to flow meters where needed.
    - Requiring reporting of water use.

Private Residential Irrigation Wells

- Applies to water use from a new private residential irrigation well in the Floridan Aquifer where the residence is otherwise supplied by Public Supply (i.e., a utility).
- Requires a no-fee noticed general permit to require water conservation and leak detection devices.
- Permits have a duration of 10 years and carry forward to subsequent owners for the duration of the authorization.

Offsetting Impacts

- Existing users do not have to offset water use associated with their Demonstrated 2025 Demand (the quantity of water needed to meet demands in 2025).
- Water users seeking additional water for growth will have to offset their water use above the Demonstrated 2025 Demand. Additionally, new water users have to offset their water use, which is a current requirement based on the 2015 rule.
- The rule provides means by which permittees may participate in a Regional Project to offset their growth (including financial contribution, in-kind services, or assisting in cooperation and maintenance of the project) or complete a local project, such as water resource or water supply development projects, retirements, or any other project or strategy that provides the necessary offset.
- The adopted rule outlines how available offsets will be made available to permittees where funding is from state or district funding sources, unless otherwise provided by law.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL:	CS/SB 1422
INTRODUCER:	Environment and Natural Resources Committee and Senators Garcia and Jones
SUBJECT:	Coral Reefs
DATE:	February 3, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	**Fav/CS**
2.			AEG	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1422 provides legislative findings regarding coral reefs, including:

- Coral reefs can help mitigate the risks and damage from floods, climate change, and natural disasters and protect coastal properties from storms, high wave events, sea level rise, and flooding.
- Coral reef restoration for risk reduction is an active restoration strategy to increase the structural integrity and complexity of coral reef ecosystems to attenuate wave energy and reduce coastal flooding.
- The Federal Emergency Management Agency is responsible for responding to natural disasters and providing technical and financial hazard mitigation support.
- Legislative recognition of coral reefs as critical natural infrastructure and a nature-based solution demonstrates political support for nature-based solutions.

The bill designates coral reefs as critical natural infrastructure and as a nature-based solution that helps mitigate climate change-related risks and disaster events. The bill also designates the protection of corals, coral reefs, and coral reef-associated hardbottom in Broward, Martin, Miami-Dade, Monroe, and Palm Beach counties as being in the public interest.

II. Present Situation:

Coral Reefs

Coral reefs are valuable natural resources that contribute ecologically, aesthetically, and economically to the state.[1] They harbor significant biodiversity and provide important ecosystem services for people, including food provision, hazard mitigation, and recreation.[2] Coral reefs are home to more than 25 percent of known marine species and support fisheries by providing nursery habitat for many commercial species.[3] Coral reefs are also a major source of recreation and a significant source of income through tourism.[4] Florida's Coral Reef, which stretches approximately 350 linear miles from Dry Tortugas National Park west of the Florida Keys to the St. Lucie Inlet in Martin County, supports more than 71,000 jobs and generates over $6 billion annually.[5]

In recent years, coral reefs have experienced declines due to growing pressures from development and climate change,[6] including high ocean temperatures that cause more frequent bleaching events, coral disease, poor water quality from land-based sources of pollution, and planned and unplanned human activities that result in direct physical injury.[7] Impacts from vessels, such as ship strikes and groundings, also harm coral reefs by fragmenting or crushing coral colonies, destroying reef frameworks, and creating blowholes.[8] In Florida, 98 percent of coral reefs have been lost.[9]

Coral Reef Restoration

Coral restoration projects are designed to improve ecological functions of coral reef ecosystems through a variety of restoration methods,[10] including direct transplantation, coral gardening, micro-fragmentation, genetic diversity, larval enhancement, artificial reefs, and substratum stabilization and enhancement.[11]

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[1] Section 403.93345(4), F.S.
[2] Austin E. Stovall et al., *Coral Reef Restoration for Risk Reduction (CR4): A Guide to Project Design and Proposal Development*, University of California Santa Cruz, 5 (2022), *available at* https://zenodo.org/records/7268962#.Y5ufaXbMIuU.
[3] *Id.*
[4] *Id.*
[5] Fish and Wildlife Conservation Commission, *Presentation to the Florida Senate Committee on Environment and Natural Resource*, 59 (Dec. 9, 2025), *available at* https://www.flsenate.gov/Committees/DownloadMeetingDocument/7981; DEP, *Florida's Coral Reef*, https://floridadep.gov/rcp/coral-protection-restoration/content/floridas-coral-reef (last visited Jan. 28, 2026).
[6] *See* Filippo Ferrario et al, *The effectiveness of coral reefs for coastal hazard risk reduction and adaptation*, Nature Communications, 5 (2014), *available at* https://www.nature.com/articles/ncomms4794.
[7] DEP, *Florida's Coral Reef*.
[8] National Oceanic and Atmospheric Administration (NOAA), *National Marine Sanctuaries: Vessel Impacts*, https://sanctuaries.noaa.gov/science/sentinel-site-program/florida-keys/vessel-impacts.html (last visited Jan. 28, 2026).
[9] Mote Marine Laboratory, *Presentation to the Florida Senate Committee on Environment and Natural Resource*, 6 (Dec. 9, 2025), *available at* https://www.flsenate.gov/Committees/DownloadMeetingDocument/7981.
[10] Stovall, *Coral Reef Restoration for Risk Reduction (CR4): A Guide to Project Design and Proposal Development* at 4.
[11] *See* Lisa Boström-Einarsson et al., *Coral restoration: A systematic review of current methods, successes, failures and future directions*, PLOS One 10-12 (2020), *available at* https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0226631; Mote Marine Laboratory, *Presentation to the Florida Senate Committee on Environment and Natural Resource* at 10-31.

Most restoration efforts have focused on preserving reefs by reducing stressors, growing juvenile corals in nurseries and planting them on reefs, or providing fish habitat.[12] A smaller set of projects have used structural restoration of reefs to mitigate damage from ship groundings on reef crests.[13] A small but growing number of projects have focused directly on coral reef restoration for risk reduction (CR4).[14] CR4 projects differ from purely ecological coral restoration projects in that they are designed to achieve two distinct management objectives: environmental conservation and hazard mitigation.[15] As a result, CR4 projects often require more precise placement and planning, detailed hydrodynamic analyses, and, in some cases, larger project scales to meet both objectives.[16]

Coral reef conservation and restoration can be a cost-effective means of risk reduction and adaptation and can deliver wave attenuation benefits similar to or greater than artificial structures designed for coastal defense.[17]

Coral Reefs as Nature-Based Solutions

Nature-based solutions integrate natural features and processes into the built environment.[18] Coastal nature-based solutions can stabilize shorelines, reduce erosion, and buffer coastal areas from the impacts of storms, sea level rise, and flooding.[19] Examples of nature-based solutions

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[12] Stovall, *Coral Reef Restoration for Risk Reduction (CR4): A Guide to Project Design and Proposal Development* at 7-8. DEP and Mote Marine Laboratory, *Presentation to the Florida Senate Committee on Environment and Natural Resource*, 39, 65 (Dec. 9, 2025), *available at* https://www.flsenate.gov/Committees/DownloadMeetingDocument/7981 (pictures of coral restoration).

[13] Stovall, *Coral Reef Restoration for Risk Reduction (CR4): A Guide to Project Design and Proposal Development* at 8. *See* Ferrario, *The effectiveness of coral reefs for coastal hazard risk reduction and adaptation*.

[14] *Id.*

[15] Stovall, *Coral Reef Restoration for Risk Reduction (CR4): A Guide to Project Design and Proposal Development* at 4.

[16] *Id.*

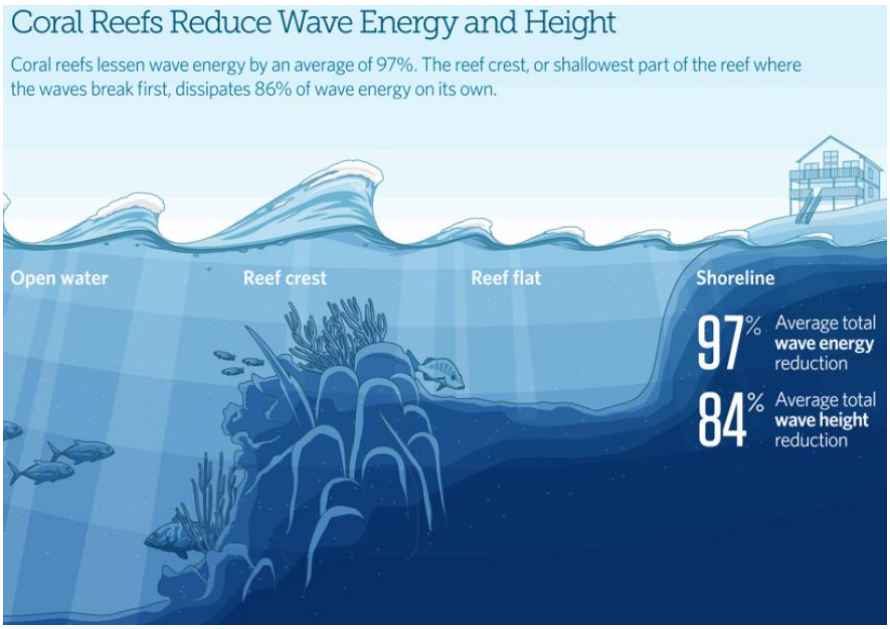
[17] Ferrario, *The effectiveness of coral reefs for coastal hazard risk reduction and adaptation* at 4-5.

[18] Federal Emergency Management Agency (FEMA), *Building Community Resilience with Nature-based Solutions*, 4 (2020), *available at* https://www.fema.gov/sites/default/files/2020-07/fema_bric_nature-based-solutions-guide_2020.pdf.

[19] FEMA, *Building Community Resilience with Nature-based Solutions* at 5. *See generally* Environmental Protection Agency (EPA), *Green Infrastructure and Extreme Weather*, https://www.epa.gov/green-infrastructure/climate-resiliency-and-green-

include floodplain and wetland restoration, land conservation, living shorelines, mangroves, and coral reefs.[20]

Coral reefs offer coastal protection services by reducing flooding and erosion through wave breaking and friction.[21] On average, coral reefs reduce wave height by 84 percent and dissipate 97 percent of wave energy that would otherwise reach shorelines.[22]



The value of the coastal protection services provided by reefs can be retained or enhanced through active coral restoration or CR4 projects.[23] Potential reef restoration across Florida has been valued at approximately $232 million in annual flood risk reduction benefits.[24]

In 2020, the Federal Emergency Management Agency (FEMA) acknowledged the mitigation value of nature-based solutions by updating its approach to how certain project benefits are evaluated.[25] This update allows for the easier inclusion of nature-based solutions into risk-based mitigation projects and creates the potential to pursue large-scale CR4 projects through hazard

infrastructure (last visited Jan. 28, 2026); EPA, *Green Infrastructure Opportunities that Arise During Municipal Operations*, 1 (2015), *available at* https://www.epa.gov/sites/default/files/2015-09/documents/green_infrastructure_roadshow.pdf.

[20] *See* FEMA, *Building Community Resilience with Nature-based Solutions* at 6-8; EPA, *Types of Green Infrastructure*, https://www.epa.gov/green-infrastructure/types-green-infrastructure (last visited Jan. 28, 2026); Stovall, *Coral Reef Restoration for Risk Reduction (CR4): A Guide to Project Design and Proposal Development* at 6.

[21] Stovall, *Coral Reef Restoration for Risk Reduction (CR4): A Guide to Project Design and Proposal Development* at 7.

[22] Ferrario, *The effectiveness of coral reefs for coastal hazard risk reduction and adaptation* at 2, 4.

[23] Stovall, *Coral Reef Restoration for Risk Reduction (CR4): A Guide to Project Design and Proposal Development* at 7.

[24] *Id.*; Curt Storlazzi et al., *Rigorously valuing the coastal hazard risks reduction provided by potential coral reef restoration in Florida and Puerto Rico*, U.S. Geological Survey, 15-24 (2021), *available at* https://repository.library.noaa.gov/view/noaa/32346.

[25] *See* FEMA, *Ecosystem Service Benefits in Benefit-Cost Analysis for FEMA's Mitigation Programs* (2020), *available at* Ecosystem Service Benefits in Benefit-Cost Analysis for FEMA's Mitigation Programs Policy.

mitigation funding programs, including FEMA's Hazard Mitigation Assistance and Public Assistance programs.[26]

Florida Coral Reef Protection Act

In 2009, the Legislature passed the Florida Coral Reef Protection Act to increase protection of coral reef resources off the coasts of Monroe, Miami-Dade, Broward, Palm Beach and Martin counties.[27] The act designated the Department of Environmental Protection (DEP) as the state's lead trustee for coral reef resources and authorized it to assess and recover damages resulting from vessel impacts to coral reefs.[28] Recoverable damages include compensation for the cost of replacing, restoring, or acquiring the equivalent of the injured coral reef; the value of lost use and services pending restoration or replacement; the costs of damage assessments, response actions to prevent further injury, and long-term monitoring; and the costs of enforcement actions, including court costs, attorney's fees, and expert witness fees.[29] DEP may use habitat equivalency analysis to calculate such compensation.[30]

In addition to this compensation, the act authorizes DEP to assess civil penalties based on the size of the coral reef area damaged, with increased penalties for aggravating circumstances, impacts within state parks or aquatic preserves, and repeat violations.[31] All damages recovered must be deposited into the Water Quality Assurance Trust Fund to be used for reef protection and restoration purposes.[32]

Environmental Resource Permitting (ERP)

Florida's ERP program regulates activities involving the alteration of surface water flows, including activities that generate stormwater runoff from upland construction, as well as dredging and filling in wetlands and other surface waters.[33] Specifically, the program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and other works such as docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters.[34] ERP permits are issued by DEP and the state's five water management districts.

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[26] Stovall, *Coral Reef Restoration for Risk Reduction (CR4): A Guide to Project Design and Proposal Development* at 11-13.
[27] DEP, *Florida's Coral Reef Protection Act*, 2 (2020), *available at* https://floridadep.gov/sites/default/files/CRPA%20Fact%20Sheet_July%202020%20Update_0.pdf; ch. 2009-86, s. 57, Laws of Fla.; section 403.93345, F.S.
[28] Section 403.93345(4), F.S.
[29] Section 403.93345(6), F.S.
[30] Section 403.93345(7), F.S.
[31] Section 403.93345(8), F.S. The total penalty may not exceed $375,000 per occurrence. Section 403.93345(8)(g), F.S.
[32] Section 403.93345(11), F.S.
[33] DEP, *Environmental Resource Permitting Coordination, Assistance, Portals*, https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/environmental-resource-permitting (last visited Jan. 28, 2026). *See* ch. 373, F.S.; Fla. Admin. Code R. 62-330.
[34] Fla. Admin. Code R. 62-330.010(2).

ERP applications are reviewed to ensure the permit will only authorize activities that are not harmful to the water resources.[35] Applicants must provide reasonable assurance that state water quality standards will not be violated and that the activity is not contrary to the public interest.[36] However, if the proposed activity significantly degrades or is within an Outstanding Florida Water,[37] the applicant must provide reasonable assurance that the proposed activity will be clearly in the public interest.[38] In determining whether an activity is not contrary to the public interest or is clearly in the public interest, the permitting agency must consider the following criteria:

- Whether the activity will adversely affect the public health, safety, or welfare or the property of others;
- Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
- Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;
- Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
- Whether the activity will be of a temporary or permanent nature;
- Whether the activity will adversely affect or will enhance significant historical and archaeological resources; and
- The current condition and relative value of functions being performed by areas affected by the proposed activity.[39]

If an ERP applicant cannot meet applicable criteria, the permitting agency must consider measures to mitigate adverse effects of the regulated activity.[40] Mitigation options may include, but are not limited to, onsite or offsite mitigation, regional offsite mitigation, and the purchase of mitigation credits from mitigation banks.[41] It is the applicant's responsibility to choose the form of mitigation.[42]

Mitigation must consider the environmental impact on habitats. For example, mitigation bank credits are based on the degree of improvement in ecological value[43] expected to result from the establishment and operation of the mitigation bank, which is determined by evaluating changes

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[35] Southwest Florida Water Management District, *Environmental Resource Permit*, https://www.swfwmd.state.fl.us/business/epermitting/environmental-resource-permit (last visited Dec. 29, 2025). *See* section 373.413(1), F.S.
[36] Section 373.414(1), F.S.
[37] An Outstanding Florida Water is a water designated worthy of special protection because of its natural attributes. DEP, *Outstanding Florida Waters*, https://floridadep.gov/dear/water-quality-standards/content/outstanding-florida-waters (last visited Nov. 20, 2025); *see* Fla. Admin. Code R. 62-302.700(2) and (9).
[38] Section 373.414(1), F.S.
[39] Section 373.414(1)(a), F.S.
[40] Section 373.414(1)(b), F.S.
[41] *Id.*
[42] *Id.*
[43] "Ecological value" means the value of functions performed by uplands, wetlands, and other surface waters to the abundance, diversity, and habitats of fish, wildlife, and listed species. These functions include, but are not limited to, providing cover and refuge; breeding, nesting, denning, and nursery areas; corridors for wildlife movement; food chain support; and natural water storage, natural flow attenuation, and water quality improvement, which enhances fish, wildlife, and listed species utilization. Section 373.403(18), F.S.

in habitat-related ecological functions of uplands, wetlands, and other surface waters.[44] Mitigation bank permittees must assess those changes by comparing current and anticipated fish and wildlife habitat conditions and by describing the expected ecological benefits to the regional watershed.[45] In addition, proposed mitigation for certain transportation projects must include an environmental impact inventory that evaluates habitat impacts and the anticipated mitigation needed to offset impacts.[46]

III. Effect of Proposed Changes:

Section 1 amends s. 403.93345, F.S., regarding coral reef protection. The bill provides the following legislative findings:

- Coral reefs can help mitigate the risks and related loss and damage from floods, climate change, and natural disasters.
- The Legislature recognizes that studies have shown that healthy coral reefs can protect coastal properties from climate change-related risks and disaster events, including storms, high wave events, sea level rise, and flooding.
- The Federal Emergency Management Agency (FEMA) is responsible for responding to natural disasters and providing technical and financial hazard mitigation support, primarily distributed as grant funding through FEMA's hazard mitigation assistance programs.
- Coral reef restoration for risk reduction, known as CR4, is an active restoration strategy with the aim of increasing the structural integrity and complexity of coral reef ecosystems to attenuate wave energy and reduce coastal flooding.
- Legislative recognition of coral reefs as critical natural infrastructure and a nature-based solution demonstrates political support for nature-based solutions.

The bill provides that the Legislature designates coral reefs as critical natural infrastructure and as a nature-based solution that helps mitigate climate change-related risks and disaster events, including storms, high wave events, sea level rise, and flooding. As such, the Legislature further designates the protection of corals, coral reefs, and coral reef-associated hardbottom in Broward, Martin, Miami-Dade, Monroe, and Palm Beach Counties as being in the public interest.

Section 2 provides an effective date of July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[44] *See* sections 373.414(18) and 373.4136(4), F.S.
[45] *See* Fla. Admin. Code R. 62-342.450(5)(b).
[46] Section 373.4137(2)(a), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.93345 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environment and Natural Resources on Feb. 3, 2026:
Changed the title of the bill to coral reefs and made the following changes:

- Removed the requirement that the uniform mitigation assessment method must incorporate habitat equivalency analysis;
- Removed the requirement that dredging and turbidity monitoring for dredge and fill permits must be performed by separate entities;

- Removed the provision making permittees responsible for the full cost of damages caused by dredging and filling; and
- Added a provision designating the protection of corals, coral reefs, and coral reef-associated hardbottom in Broward, Martin, Miami-Dade, Monroe, and Palm Beach counties as being in the public interest.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

316018

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/03/2026	.	
	.	
	.	
	.	

The Committee on Environment and Natural Resources (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsections (5) through (12) of section 403.93345, Florida Statutes, are redesignated as subsections (6) through (13), respectively, a new subsection (5) is added to that section, and subsection (4) and present subsections (7) and (8) of that section are amended, to read:

403.93345 Coral reef protection.—

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(4)(a) The Legislature finds that coral reefs are valuable natural resources that contribute ecologically, aesthetically, and economically to the state. Therefore, the Legislature declares it is in the best interest of the state to clarify the department's powers and authority to protect coral reefs through timely and efficient recovery of monetary damages resulting from vessel groundings and anchoring-related injuries.

(b) The Legislature further finds that coral reefs can help mitigate the risks and related loss and damage from floods, climate change, and natural disasters. The Legislature recognizes that studies have shown that healthy coral reefs can protect coastal properties from climate change-related risks and disaster events, including storms, high wave events, sea level rise, and flooding. The Federal Emergency Management Agency (FEMA) is responsible for responding to natural disasters and providing technical and financial hazard mitigation support, primarily distributed as grant funding through FEMA's hazard mitigation assistance programs. Coral reef restoration for risk reduction, known as CR4, is an active restoration strategy with the aim of increasing the structural integrity and complexity of coral reef ecosystems to attenuate wave energy and reduce coastal flooding. Legislative recognition of coral reefs as critical natural infrastructure and a nature-based solution demonstrates political support for nature-based solutions.

(c) It is the intent of the Legislature that the department be recognized as the state's lead trustee for coral reef resources located within waters of the state or on sovereignty submerged lands unless preempted by federal law. This section does not divest other state agencies and political subdivisions

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of the state of their interests in protecting coral reefs.

(5) The Legislature designates coral reefs as critical natural infrastructure and as a nature-based solution that helps mitigate climate change-related risks and disaster events, including storms, high wave events, sea level rise, and flooding. As such, the Legislature further designates the protection of corals, coral reefs, and coral reef-associated hardbottom in Broward, Martin, Miami-Dade, Monroe, and Palm Beach Counties as being in the public interest.

(8) ~~(7)~~ The department may use habitat equivalency analysis as the method by which the compensation described in subsection (6) ~~(5)~~ is calculated. The parameters for calculation by this method may be prescribed by rule adopted by the department.

(9) ~~(8)~~ In addition to the compensation described in subsection (6) ~~(5)~~, the department may assess, per occurrence, civil penalties according to the following schedule:

(a) For any anchoring of a vessel on a coral reef or for any other damage to a coral reef totaling less than or equal to an area of 1 square meter, $225, provided that a responsible party who has anchored a recreational vessel as defined in s. 327.02 which is lawfully registered or exempt from registration pursuant to chapter 328 is issued, at least once, a warning letter in lieu of penalty; with aggravating circumstances, an additional $225; occurring within a state park or aquatic preserve, an additional $225.

(b) For damage totaling more than an area of 1 square meter but less than or equal to an area of 10 square meters, $450 per square meter; with aggravating circumstances, an additional $450 per square meter; occurring within a state park or aquatic

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preserve, an additional $450 per square meter.

(c) For damage exceeding an area of 10 square meters, $1,500 per square meter; with aggravating circumstances, an additional $1,500 per square meter; occurring within a state park or aquatic preserve, an additional $1,500 per square meter.

(d) For a second violation, the total penalty may be doubled.

(e) For a third violation, the total penalty may be tripled.

(f) For any violation after a third violation, the total penalty may be quadrupled.

(g) The total of penalties levied may not exceed $375,000 per occurrence.

Section 2. This act shall take effect July 1, 2026.

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to coral reefs; amending s. 403.93345, F.S.; revising legislative findings; providing a legislative designation; providing an effective date.

By Senator Garcia

36-01104A-26 20261422__

A bill to be entitled

An act relating to surface waters; amending s. 373.414, F.S.; requiring the Department of Environmental Protection to incorporate habitat equivalency analysis in the uniform mitigation assessment method; defining the term "habitat equivalency analysis"; amending s. 403.811, F.S.; requiring that permits for dredging and filling include certain requirements; requiring the department to adopt rules; requiring permitted entities to bear the full cost and responsibility for any damage or destruction caused by dredging, filling, or related activities; amending s. 403.93345, F.S.; revising legislative findings; providing a legislative designation; reenacting s. 373.4137(2)(b) and (4), F.S., relating to mitigation requirements for specified transportation projects, to incorporate the amendment made to s. 373.414, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (a) of 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 and each water management district responsible for implementation of the environmental resource permitting program shall develop a uniform mitigation assessment

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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 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. 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

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other state agencies.

(a) In developing the uniform mitigation assessment method, the department shall:

1. 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.

2. Incorporate habitat equivalency analysis. As used in this paragraph, the term "habitat equivalency analysis" means a type of methodology used to determine how much restoration is necessary to compensate for adverse impacts.

Section 2. Section 403.811, Florida Statutes, is amended to read:

403.811 Dredge and fill permits issued pursuant to this chapter and s. 373.414.—

(1) Permits or other orders addressing dredging and filling in, on, or over waters of the state issued pursuant to this chapter or s. 373.414(9) before the effective date of rules adopted under s. 373.414(9) and permits or other orders issued in accordance with s. 373.414(13), (14), (15), or (16) shall remain valid through the duration specified in the permit or order, unless revoked by the agency issuing the permit. The agency issuing the permit or other order may seek to enjoin the violation of, or to enforce compliance with, the permit or other order as provided in ss. 403.121, 403.131, 403.141, and 403.161. A violation of a permit or other order addressing dredging or filling issued pursuant to this chapter is punishable by a civil penalty as provided in s. 403.141 or a criminal penalty as provided in s. 403.161.

(2) Permits for dredging and filling must include a requirement that dredging and turbidity monitoring be performed by separate and distinct entities. The department shall adopt rules to implement this subsection.

(3) Permitted entities shall bear the full cost of and responsibility for any damage or destruction caused by dredging, filling, or related activities.

Section 3. Present subsections (5) through (12) of section 403.93345, Florida Statutes, are redesignated as subsections (6) through (13), respectively, and a new subsection (5) is added, and present subsection (4) is amended to read:

403.93345 Coral reef protection.—

(4)(a) The Legislature finds that coral reefs are valuable natural resources that contribute ecologically, aesthetically, and economically to the state. Therefore, the Legislature declares it is in the best interest of the state to clarify the department's powers and authority to protect coral reefs through timely and efficient recovery of monetary damages resulting from vessel groundings and anchoring-related injuries.

(b) The Legislature further finds that coral reefs, if healthy and effectively managed, can help mitigate the risks and related loss and damage from floods, climate change, and natural disasters. The Legislature recognizes that studies have shown that healthy coral reefs can protect coastal properties from such climate change-related risks and disaster events, including storms, high wave events, sea level rise, and flooding. The Federal Emergency Management Agency (FEMA) is responsible for responding to natural disasters and providing technical and financial hazard mitigation support, primarily distributed as

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grant funding through FEMA's hazard mitigation assistance programs. Coral reef restoration for risk reduction, known as CR4, is an active restoration strategy with the aim of increasing the structural integrity and complexity of coral reef ecosystems to attenuate wave energy and reduce coastal flooding. Legislative recognition of coral reefs as critical natural infrastructure and a nature-based solution demonstrates political support for nature-based solutions.

(c) It is the intent of the Legislature that the department be recognized as the state's lead trustee for coral reef resources located within waters of the state or on sovereignty submerged lands unless preempted by federal law. This section does not divest other state agencies and political subdivisions of the state of their interests in protecting coral reefs.

(5) The Legislature designates coral reefs as critical natural infrastructure and as a nature-based solution that helps mitigate climate change-related risks and disaster events, including, exposure to storms, high wave events, sea level rise, and flooding.

Section 4. For the purpose of incorporating the amendment made by this act to section 373.414, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) and subsection (4) of section 373.4137, Florida Statutes, are reenacted to read:

373.4137 Mitigation requirements for specified transportation projects.—

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or

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chapter 349 shall be developed as follows:

(b) The environmental impact inventory must include a description of habitat impacts, including location, acreage, and type; the anticipated mitigation needed based on the functional loss as determined through the uniform mitigation assessment method adopted by the Department of Environmental Protection by rule pursuant to s. 373.414(18); identification of the proposed mitigation option; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a list of threatened species, endangered species, and species of special concern affected by the proposed project.

(4) Before March 1 of each year, each water management district shall develop a mitigation plan to offset only the impacts of transportation projects in the environmental impact inventory for which a water management district is implementing mitigation that meets the requirements of this section, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management district mitigation plan must be developed 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, other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks. In developing such plans, the water management districts shall use sound ecosystem management practices to address significant water resource needs and consider 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 the activities comply with the mitigation requirements adopted under this part, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management district mitigation plan must identify each site where the water management district will mitigate for a transportation project. For each mitigation site, the water management district shall provide the scope of the mitigation services; provide the functional gain as determined through the uniform mitigation assessment method adopted by the Department of Environmental Protection by rule pursuant to s. 373.414(18); describe how the mitigation offsets the impacts of each transportation project as permitted; and provide a schedule for the mitigation services. The water management districts shall maintain records of costs incurred and payments received for providing these services. Records must include, but are not limited to, planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332. To the extent moneys paid to a water management district by the Department of Transportation or a participating transportation authority are greater than the amount spent by the water management districts in providing the mitigation services to offset the permitted transportation project impacts, these moneys must be refunded to the Department of Transportation or participating transportation authority. The mitigation plan

shall be submitted to the water management district governing board or its designee for review and approval. At least 14 days before approval by the governing board, the water management district shall provide a copy of the draft mitigation plan to the Department of Environmental Protection and any person who has requested a copy. Subsequent to the governing board approval, the mitigation plan shall be submitted to the Department of Environmental Protection for approval. The plan may not be implemented until it is submitted to, and approved in part or in its entirety by, the Department of Environmental Protection.

(a) Specific projects may be excluded from the mitigation plan, in whole or in part, and are not subject to this section upon the election of the Department of Transportation, a transportation authority if applicable, or the appropriate water management district. The Department of Transportation or a participating transportation authority may not exclude a transportation project from the mitigation plan if mitigation is scheduled for implementation by the water management district in the current fiscal year unless the transportation project is removed from the Department of Transportation's work program or transportation authority funding plan, the mitigation cannot be timely permitted to offset the impacts of a Department of Transportation project identified in the environmental impact inventory, or the proposed mitigation does not meet state and federal requirements. If a project is removed from the work program or the mitigation plan, costs spent by the water management district before removal are eligible for reimbursement by the Department of Transportation or

participating transportation authority.

(b) When determining which projects to include in or exclude from the mitigation plan, the Department of Transportation shall investigate using credits from a permitted mitigation bank before those projects are submitted for inclusion in a water management district mitigation plan. The Department of Transportation shall exclude a project from the mitigation plan if the investigation undertaken pursuant to this paragraph results in the conclusion that the use of credits from a permitted mitigation bank promotes efficiency, timeliness in project delivery, cost-effectiveness, and transfer of liability for success and long-term maintenance.

Section 5. This act shall take effect July 1, 2026.

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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

2/3/2026	1422
Meeting Date	Bill Number or Topic
Environment and Natural Resources	
Committee	Amendment Barcode (if applicable)

Name Elizabeth Alvi

Phone 850-999-1028

Address 2001 Thomasville Road
Street

Email beth.alvi@audubon.org

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Audubon Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL:	CS/SB 1196
INTRODUCER:	Environment and Natural Resources Committee and Senator Sharief
SUBJECT:	Waste Facilities
DATE:	February 3, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	**Fav/CS**
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1196 prohibits local governments and the Department of Environmental Protection from issuing construction permits for new solid waste disposal facilities that use an ash-producing incinerator or for waste-to-energy facilities if the proposed location is sited within a 2-mile radius, as measured from the stack, of any impoundment area authorized by Congress with an effective interior storage of at least 100 acres for purposes of:

- Capturing, storing, and distributing surface water;
- Improving hydroperiods and hydropatterns in any water conservation area;
- Increasing the spatial extent of wetlands;
- Benefiting any federally listed threatened and endangered species;
- Flood mitigation; or
- Groundwater recharge.

The bill creates exceptions for (1) canals; (2) any existing construction, current operation, or modification to such structure or operation in existence as of July 1, 2026; and (3) any parcel located in a county with a population of less than 1.7 million according to the most recent decennial census.

II. Present Situation:

Incinerators and Waste-to-Energy Facilities

Energy recovery from waste is the conversion of non-recyclable waste materials into usable heat, electricity, or fuel through processes, including combustion, gasification, pyrolization, anaerobic digestion, and landfill gas recovery.[1] This process is often called waste-to-energy (WTE).[2]

Municipal solid waste (MSW) can be used to produce energy at WTE plants and landfills.[3] MSW can contain:

- Biomass, or biogenic (plant or animal products) materials such as paper, cardboard, food waste, grass clippings, leaves, wood, and leather products;
- Nonbiomass combustible materials such as plastics and other synthetic materials made from petroleum; and
- Noncombustible materials such as glass and metals.[4]

The process of MSW incineration is generally divided into three main parts: incineration, energy recovery, and air-pollution control.[5] Most modern incinerators are equipped with energy-recovery schemes, which produce WTE ash.[6] Three major classes of technologies are used to combust MSW: mass burn, refuse-derived fuel, and fluidized-bed combustion.[7] The most common WTE system in the United States is the mass-burn system.[8]

At an MSW combustion facility, MSW is unloaded from collection trucks and placed in a trash storage bunker.[9] An overhead crane sorts the waste and then lifts it into a combustion chamber to be burned. The heat released from burning converts water to steam, which is then sent to a turbine generator to produce electricity. The remaining ash is collected and taken to a landfill where a high-efficiency baghouse filtering system captures particulates. As the gas stream travels through these filters, more than 99 percent of particulate matter is removed. Captured fly ash particles fall into hoppers (funnel-shaped receptacles) and are transported by an enclosed conveyor system to the ash discharger. They are then wetted to prevent dust and mixed with the bottom ash from the grate. The facility transports the ash residue to an enclosed building where it is loaded into covered, leak-proof trucks and taken to a landfill designed to protect against groundwater contamination.[10]

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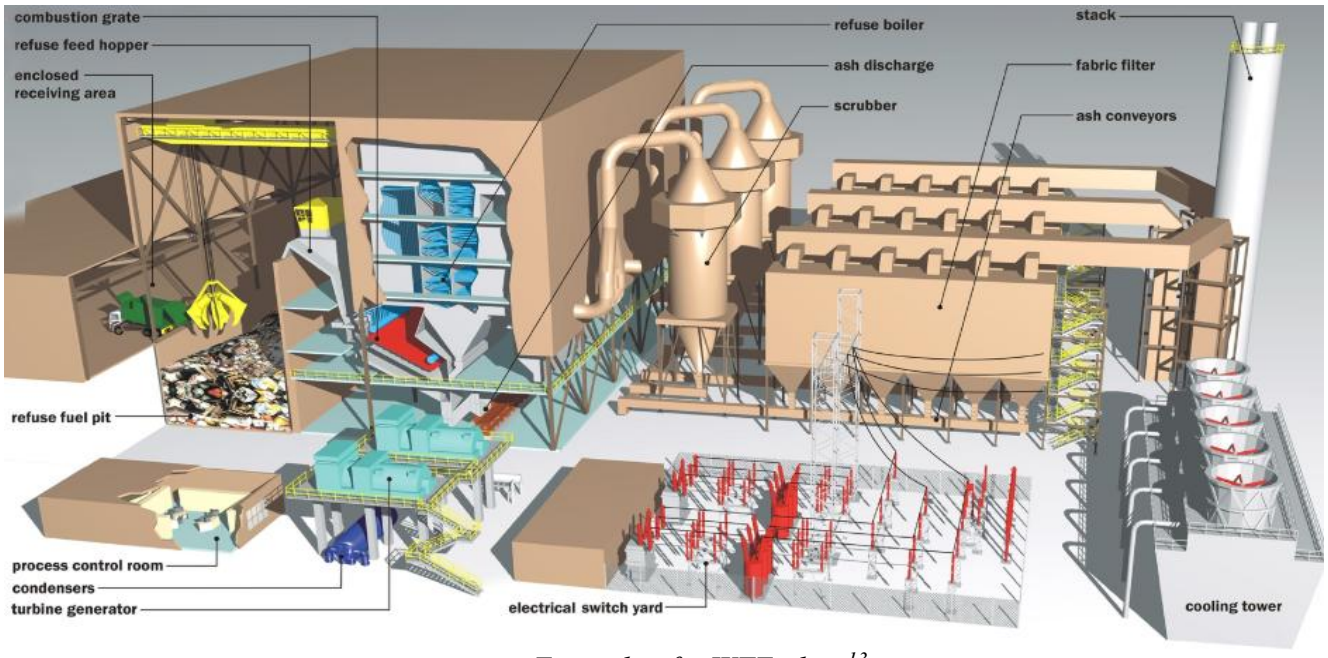
[1] U.S. Environmental Protection Agency (EPA), *Energy Recovery from the Combustion of Municipal Solid Waste (MSW)*, https://www.epa.gov/smm/energy-recovery-combustion-municipal-solid-waste-msw (last visited Jan. 27, 2026).
[2] *Id.*
[3] U.S. Energy Information Administration (EIA), *Biomass explained, Waste-to-energy (Municipal Solid Waste), Basics,* https://www.eia.gov/energyexplained/biomass/waste-to-energy.php (last visited Jan. 27, 2026).
[4] *Id.*
[5] Byoung Cho et al., *Municipal Solid Waste Incineration Ashes as Construction Materials—A review*, Materials, vol. 13, 2 (2020), *available at* https://pmc.ncbi.nlm.nih.gov/articles/PMC7411600/.
[6] *Id.*
[7] *Id.*
[8] EIA, *Biomass explained: Waste-to-energy (Municipal Solid Waste), In-depth*, https://www.eia.gov/energyexplained/biomass/waste-to-energy-in-depth.php (last visited Jan. 27, 2026).
[9] EPA, *Energy Recovery from the Combustion of Municipal Solid Waste (MSW)*, https://www.epa.gov/smm/energy-recovery-combustion-municipal-solid-waste-msw (last visited Jan. 27, 2026).
[10] *Id.*

About 90 percent of the energy produced by WTE plants is delivered to the electric grid.[11] The remaining 10 percent consists of steam that some WTE facilities send to nearby industrial plants and institutions.[12]



Example of a WTE plant[13]

Waste incineration first became popular in the U.S. in the first half of the 20th century as a way to manage waste but declined after the passage of the Clean Air Act in 1963 forced facilities to either adopt costly air pollution controls or shut down.[14] In the 1970s and 1980s, waste-to-energy facilities rose again in popularity as a way to produce a low-cost energy alternative to coal, which was considered by some at the time to be a renewable energy source. However, the number of incinerators has again declined nationally due to public concern about their environmental and health impacts, as well as a loss in profitability.[15]

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[11] EIA, *Waste-to-energy plants are a small but stable source of electricity in the United States*, https://www.eia.gov/todayinenergy/detail.php?id=55900 (last visited Jan. 27, 2026).
[12] *Id.*
[13] Pinellas County, *Waste-to-Energy Facility*, https://pinellas.gov/waste-to-energy-facility/ (last visited Jan. 27, 2026) (showing graphic of a mass-burn waste-to-energy plant).
[14] University of Florida, Thompson Earth Systems Institute, *Tell Me About: Waste Incineration in Florida* (2022), https://www.floridamuseum.ufl.edu/earth-systems/blog/tell-me-about-waste-incineration-in-florida/ (last visited Jan. 27, 2026).
[15] *Id.* The major concern associated with MSW incineration is the air pollution caused by dioxin, furan, and heavy metals originating from MSW. Cho, *Municipal Solid Waste Incineration Ashes as Construction Materials—A review* at 2. *See also* C. Ferreira et al., *Heavy metals in MSW incineration fly ashes*, Journal de Physique IV, vol. 107 (2003), *available at* https://jp4.journaldephysique.org/articles/jp4/abs/2003/05/jp4pr5p463/jp4pr5p463.html; Junjie Zhang et al., *Degradation technologies and mechanisms of dioxins in municipal solid waste incineration fly ash: A review*, Journal of Cleaner Production, vol. 250 (2020), *available at* https://www.sciencedirect.com/science/article/abs/pii/S095965261934377X.

In Florida, there are currently 10 WTE facilities.[16] Florida has the largest capacity to burn MSW of any state in the country.[17]

Solid Waste Facility Permitting in Florida

In Florida, the governing body of a county has the responsibility to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.[18] A county may enter into a written agreement with other parties to undertake some or all of its responsibilities.[19]

A solid waste management facility may not be operated, maintained, constructed, expanded, modified, or closed without a permit issued by the Department of Environmental Protection (DEP).[20] In addition to a solid waste management facility permit, WTE facilities may also require an air construction and operation permits.[21]

DEP may only issue a construction permit to a solid waste management facility that provides the conditions necessary to control the safe movement of wastes or waste constituents into surface or ground waters or the atmosphere and that will be operated, maintained, and closed by qualified and properly trained personnel.[22] Such facility must if necessary:

- Use natural or artificial barriers that can control lateral or vertical movement of wastes or waste constituents into surface or ground waters.
- Have a foundation or base that can provide support for structures and waste deposits and capable of preventing foundation or base failure due to settlement, compression, or uplift.
- Provide for the most economically feasible, cost-effective, and environmentally safe control of leachate, gas, stormwater, and disease vectors and prevent the endangerment of public health and the environment.[23]

DEP can exempt certain types of facilities from permit requirements if it determines that construction or operation of the facility is not expected to create any significant threat to the environment or public health.[24]

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[16] DEP, *Waste-to-Energy*, https://floridadep.gov/waste/permitting-compliance-assistance/content/waste-energy (last visited Jan. 27, 2026). The state had 11 WTE facilities until 2023 when a fire destroyed one in Miami-Dade County. *See* Mayor Daniella Levine Cava, *Memorandum on Site Selection for a Sustainable Solid Waste Campus and Update on Miami-Dade County's Solid Waste Disposal Strategy*, 1 (2024), *available at* https://documents.miamidade.gov/mayor/memos/09.13.24-Site-Selection-for-a-Sustainable-Solid-Waste-Campus.pdf. The Miami-Dade Board of County Commissioners has voted to replace the facility with another waste-to-energy facility, but a site has not yet been chosen. Miami-Dade County, *Legislative Item File Number 251585* (Jul. 16, 2025), *available at* https://www.miamidade.gov/govaction/matter.asp?matter=251585&file=false&fileAnalysis=false&yearFolder=Y2025; Miami-Dade County, *Legislative Item File Number 260106* (Jan. 21, 2026), *available at* https://www.miamidade.gov/govaction/matter.asp?matter=260106&file=true&fileAnalysis=false&yearFolder=Y2026.

[17] DEP, *Waste-to-Energy*.

[18] Section 403.706(1), F.S.

[19] Section 403.706(8), F.S.

[20] *See* section 403.707(1), F.S.

[21] Sections 403.707(6) and 403.087(1), F.S.; Fla. Admin. Code R. 62-210.300. *See also* DEP, *Air Construction Permits*, https://floridadep.gov/sites/default/files/Air-Construction-Permits.pdf (last visited Jan. 27, 2026).

[22] Section 403.707(6), F.S.

[23] *Id.*

[24] Section 403.707(1), F.S.

DEP must allow WTE facilities to maximize acceptance and processing of nonhazardous solid and liquid waste.[25] Ash from WTE facilities must be disposed of in a lined MSW landfill or a lined ash monofill, since an U.S. Environmental Protection Agency (EPA) study showed that ash from WTE facilities should not be classified as hazardous waste.[26]

Federal Regulations on Waste Incineration

Pursuant to the Clean Air Act, EPA has developed regulations limiting emissions of nine air pollutants—particulate matter, carbon monoxide, dioxins/furans, sulfur dioxide, nitrogen oxides, hydrogen chloride, lead, mercury, and cadmium—from four categories of solid waste incineration units: (1) MSW; (2) hospital, medical and infectious solid waste; (3) commercial and industrial solid waste; and (4) other solid waste.[27]

Emission limits may vary depending on the size and type of the facility (e.g., large versus small municipal waste combustors) and whether the materials incinerated are hazardous.[28] In 2024, EPA proposed stricter standards for large municipal waste combustion units.[29] EPA is also considering requiring waste incinerators to report toxic releases to the toxic release inventory, which tracks the management of certain toxic chemicals.[30]

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 403.706 and 403.707, F.S., regarding local government solid waste responsibilities and Department of Environmental Protection (DEP) permits, respectively. The bill prohibits local governments and DEP from issuing a construction permit for a new solid waste disposal facility that uses an ash-producing incinerator or for a waste-to-energy facility if the proposed location of such facility is sited within a 2-mile radius, as measured from the stack, of any impoundment area authorized by Congress with an effective interior storage of at least 100 acres for purposes of:

- Capturing, storing, and distributing surface water;

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[25] Section 403.707(1), F.S.

[26] DEP, *Waste-to-Energy*, https://floridadep.gov/waste/permitting-compliance-assistance/content/waste-energy (last visited Jan. 27, 2026).

[27] EPA, *Large Municipal Waste Combustors (LMWC): New Source Performance Standards (NSPS) and Emissions Guidelines*, https://www.epa.gov/stationary-sources-air-pollution/large-municipal-waste-combustors-lmwc-new-source-performance (last visited Jan. 27, 2026). *See* 71 Fed. Reg. 27325-26 (adopting final rule regarding standards of performance for new stationary sources and emission guidelines for existing sources: large municipal waste combustors); 40 CFR part 60.

[28] *See generally* EPA, *Clean Air Act Guidelines and Standards for Waste Management*, https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-guidelines-and-standards-waste-management (last visited Jan. 27, 2026).

[29] 89 Fed. Reg. 4243, 4246 (Jan. 23, 2024) (proposing amendments to 40 CFR part 60). Large municipal waste combustors combust greater than 250 tons per day of MSW. 40 CFR 60.32b and 60.50b; EPA, *Large Municipal Waste Combustors (LMWC): New Source Performance Standards (NSPS) and Emissions Guidelines*, https://www.epa.gov/stationary-sources-air-pollution/large-municipal-waste-combustors-lmwc-new-source-performance (last visited Jan. 27, 2026).

[30] EPA, *Memorandum re: Petition for Rulemaking Pursuant to the Administrative Procedure Act and the Emergency Planning and Community Right-to-Know Act, Requiring that Waste Incinerators Report to the Toxics Release Inventory*, 1-2 (2024), *available at* https://peer.org/wp-content/uploads/2024/12/PET-001757_Incinerators_PetitionResponse_Ltr.pdf; EPA, *What is the Toxics Release Inventory?*, https://www.epa.gov/toxics-release-inventory-tri-program/what-toxics-release-inventory (last visited Jan. 28, 2026). U.S. facilities in different industry sectors must report annually how much of each chemical they release into the environment and/or managed through recycling, energy recovery and treatment, as well as any practices implemented to prevent or reduce the generation of chemical waste. *Id.*

- Improving hydroperiods[31] and hydropatterns[32] in any water conservation area;
- Increasing the spatial extent of wetlands;
- Benefiting any federally listed threatened and endangered species;
- Flood mitigation; or
- Groundwater recharge.

The bill's siting restrictions do not apply to:
- Any canal;
- Any existing construction, current operation, or modification to such structure or operation in existence as of July 1, 2026;
- Any parcel located in a county with a population of less than 1.7 million according to the most recent decennial census.[33]

Section 3 through 5 provide conforming changes.

Section 6 provides an effective date of July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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[31] A hydroperiod is the seasonal fluctuation of water levels in wetlands, which is affected by the weather, season, water feeding into and draining from nearby streams, the surrounding watershed, and other nearby bodies of water. University of Florida Institute of Food and Agricultural Sciences (UF/IFAS), *What is a Wetland?*, https://soils.ifas.ufl.edu/florida-wetlands-extension-program/about-wetlands/ (last visited Jan. 27, 2026).

[32] Hydropattern is a recent term that is used to expand the traditional concept of hydroperiod by incorporating additional information about the aerial extent and timing of inundation. EPA, *Methods for Evaluating Wetland Condition: Wetland Hydrology*, 7, *available at* https://www.epa.gov/sites/default/files/documents/wetlands_20hydrology.pdf.

[33] Broward and Miami-Dade are the only counties in Florida with a population of more than 1.7 million. Office of Economic and Demographic Research, *Econographic News*, 2 (2025), *available at* https://edr.state.fl.us/Content/population-demographics/reports/econographicnews_2025_Volume1.pdf.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may increase costs associated with siting incinerators and waste-to-energy facilities or relying on other methods of waste management when incineration and waste-to-energy facilities are not feasible.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.706, 403.707, 403.703, 403.7049, and 403.705.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environment and Natural Resources Committee on Feb. 3, 2026:
Provided that the bill's two-mile siting prohibition for new ash-producing or waste-to-energy solid waste disposal facilities does not apply to any parcel located in a county with a population of less than 1.7 million according to the most recent decennial census.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/03/2026	.	
	.	
	.	
	.	

The Committee on Environment and Natural Resources (Sharief) recommended the following:

Senate Amendment

Delete lines 32 - 155
and insert:
(b) Paragraph (a) does not apply to the following:
1. Any canal.
2. Any existing construction, current operation, or modification to such structure or operation in existence as of July 1, 2026.
3. Any parcel located in a county with a population of less

370166

than 1.7 million according to the most recent decennial census.

(5)~~(4)~~(a) In order to promote the production of renewable energy from solid waste, each megawatt-hour produced by a renewable energy facility using solid waste as a fuel shall count as 1 ton of recycled material and shall be applied toward meeting the recycling goals set forth in this section. If a county creating renewable energy from solid waste implements and maintains a program to recycle at least 50 percent of municipal solid waste by a means other than creating renewable energy, that county shall count 1.25 tons of recycled material for each megawatt-hour produced. If waste originates from a county other than the county in which the renewable energy facility resides, the originating county shall receive such recycling credit. Any byproduct resulting from the creation of renewable energy that is recycled shall count towards the county recycling goals in accordance with the methods and criteria developed pursuant to paragraph (3)(h) ~~(2)(h)~~.

(b) A county may receive credit for one-half of the recycling goal set forth in subsection (3) ~~(2)~~ from the use of yard trash, or other clean wood waste or paper waste, in innovative programs including, but not limited to, programs that produce alternative clean-burning fuels such as ethanol or that provide for the conversion of yard trash or other clean wood waste or paper waste to clean-burning fuel for the production of energy for use at facilities other than a waste-to-energy facility as defined in s. 403.7061. The provisions of this paragraph apply only if a county can demonstrate that:

1. The county has implemented a yard trash mulching or composting program, and

370166

2. As part of the program, compost and mulch made from yard trash is available to the general public and in use at county-owned or maintained and municipally owned or maintained facilities in the county and state agencies operating in the county as required by this section.

(c) A county with a population of 100,000 or less may provide its residents with the opportunity to recycle in lieu of achieving the goal set forth in this section. For the purposes of this section, the "opportunity to recycle" means that the county:

1.a. Provides a system for separating and collecting recyclable materials prior to disposal that is located at a solid waste management facility or solid waste disposal area; or

b. Provides a system of places within the county for collection of source-separated recyclable materials.

2. Provides a public education and promotion program that is conducted to inform its residents of the opportunity to recycle, encourages source separation of recyclable materials, and promotes the benefits of reducing, reusing, recycling, and composting materials.

(7) ~~(6)~~ The department may reduce or modify the municipal solid waste recycling goal that a county is required to achieve pursuant to subsection (3) ~~(2)~~ if the county demonstrates to the department that:

(a) The achievement of the goal set forth in subsection (3) ~~(2)~~ would have an adverse effect on the financial obligations of a county that are directly related to a waste-to-energy facility owned or operated by or on behalf of the county; and

(b) The county cannot remove normally combustible materials

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from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.

The goal shall not be waived entirely and may only be reduced or modified to the extent necessary to alleviate the adverse effects of achieving the goal on the financial viability of a county's waste-to-energy facility. Nothing in this subsection shall exempt a county from developing and implementing a recycling program pursuant to this act.

(8) ~~(7)~~ In order to assess the progress in meeting the goal set forth in subsection (3) ~~(2)~~, each county shall, by April 1 each year, provide information to the department regarding its annual solid waste management program and recycling activities.

(a) The information submitted to the department by the county must, at a minimum, include:

1. The amount of municipal solid waste disposed of at solid waste disposal facilities, by type of waste such as yard trash, white goods, clean debris, tires, and unseparated solid waste;

2. The amount and type of materials from the municipal solid waste stream that were recycled; and

3. The percentage of the population participating in various types of recycling activities instituted.

(b) Beginning with the data for the 2012 calendar year, the department shall by July 1 each year post on its website the recycling rates of each county for the prior calendar year.

(21) ~~(20)~~ In addition to any other penalties provided by law, a local government that does not comply with the requirements of subsections (3) ~~(2)~~ and (5) is ~~(4) shall~~ not ~~be~~

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eligible for grants from the Solid Waste Management Trust Fund, and the department may notify the Chief Financial Officer to withhold payment of all or a portion of funds payable to the local government by the department from the General Revenue Fund or by the department from any other state fund, to the extent not pledged to retire bonded indebtedness, unless the local government demonstrates that good faith efforts to meet the requirements of subsections (3) ~~(2)~~ and (5) ~~(4)~~ have been made or that the funds are being or will be used to finance the correction of a pollution control problem that spans jurisdictional boundaries.

Section 2. Present subsections (6) through (14) of section 403.707, Florida Statutes, are redesignated as subsections (7) through (15), respectively, and a new subsection (6) is added to that section to read:

403.707 Permits.—

(6)(a) The department may not issue a construction permit pursuant to this section for a new solid waste disposal facility that uses an ash-producing incinerator or for a waste-to-energy facility if the proposed location of such facility is sited within a 2-mile radius, as measured from the stack, of any impoundment area authorized by Congress with an effective interior storage of at least 100 acres for purposes of capturing, storing, and distributing surface water; improving hydroperiods and hydropatterns in any water conservation area; increasing the spatial extent of wetlands; benefiting any federally listed threatened and endangered species; flood mitigation; or groundwater recharge.

(b) Paragraph (a) does not apply to the following:

370166

1. Any canal.

2. Any existing construction, current operation, or modification to such structure or operation in existence as of July 1, 2026.

3. Any parcel located in a county with a population of less than 1.7 million according to the most recent decennial census.

By Senator Sharief

35-01046A-26 20261196__

A bill to be entitled

An act relating to waste facilities; amending ss. 403.706 and 403.707, F.S.; prohibiting a local government or the Department of Environmental Protection, respectively, from issuing a construction permit for certain solid waste disposal and waste-to-energy facilities under certain circumstances; providing applicability; amending ss. 403.703, 403.7049, and 403.705, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Present subsections (2) through (23) of section 403.706, Florida Statutes, are redesignated as subsections (3) through (24), respectively, a new subsection (2) is added to that section, and present subsections (4), (6), (7), and (20) are amended, to read:

403.706 Local government solid waste responsibilities.—

(2)(a) A local government may not issue a construction permit pursuant to s. 403.707 for a new solid waste disposal facility that uses an ash-producing incinerator or for a waste-to-energy facility if the proposed location of such facility is sited within a 2-mile radius, as measured from the stack, of any impoundment area authorized by Congress with an effective interior storage of at least 100 acres for purposes of capturing, storing, and distributing surface water; improving hydroperiods and hydropatterns in any water conservation area; increasing the spatial extent of wetlands; benefiting any

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federally listed threatened and endangered species; flood mitigation; or groundwater recharge.

(b) Paragraph (a) does not apply to:

1. Any canal.

2. Any existing construction, current operation, or modification to such structure or operation in existence as of July 1, 2026.

(5) ~~(4)~~ (a) In order to promote the production of renewable energy from solid waste, each megawatt-hour produced by a renewable energy facility using solid waste as a fuel shall count as 1 ton of recycled material and shall be applied toward meeting the recycling goals set forth in this section. If a county creating renewable energy from solid waste implements and maintains a program to recycle at least 50 percent of municipal solid waste by a means other than creating renewable energy, that county shall count 1.25 tons of recycled material for each megawatt-hour produced. If waste originates from a county other than the county in which the renewable energy facility resides, the originating county shall receive such recycling credit. Any byproduct resulting from the creation of renewable energy that is recycled shall count towards the county recycling goals in accordance with the methods and criteria developed pursuant to paragraph (3)(h) ~~(2)(h)~~.

(b) A county may receive credit for one-half of the recycling goal set forth in subsection (3) ~~(2)~~ from the use of yard trash, or other clean wood waste or paper waste, in innovative programs including, but not limited to, programs that produce alternative clean-burning fuels such as ethanol or that provide for the conversion of yard trash or other clean wood

waste or paper waste to clean-burning fuel for the production of energy for use at facilities other than a waste-to-energy facility as defined in s. 403.7061. The provisions of this paragraph apply only if a county can demonstrate that:

1. The county has implemented a yard trash mulching or composting program, and

2. As part of the program, compost and mulch made from yard trash is available to the general public and in use at county-owned or maintained and municipally owned or maintained facilities in the county and state agencies operating in the county as required by this section.

(c) A county with a population of 100,000 or less may provide its residents with the opportunity to recycle in lieu of achieving the goal set forth in this section. For the purposes of this section, the "opportunity to recycle" means that the county:

1.a. Provides a system for separating and collecting recyclable materials prior to disposal that is located at a solid waste management facility or solid waste disposal area; or

b. Provides a system of places within the county for collection of source-separated recyclable materials.

2. Provides a public education and promotion program that is conducted to inform its residents of the opportunity to recycle, encourages source separation of recyclable materials, and promotes the benefits of reducing, reusing, recycling, and composting materials.

(7) ~~(6)~~ The department may reduce or modify the municipal solid waste recycling goal that a county is required to achieve pursuant to subsection (3) ~~(2)~~ if the county demonstrates to the

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department that:

(a) The achievement of the goal set forth in subsection (3) ~~(2)~~ would have an adverse effect on the financial obligations of a county that are directly related to a waste-to-energy facility owned or operated by or on behalf of the county; and

(b) The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.

The goal shall not be waived entirely and may only be reduced or modified to the extent necessary to alleviate the adverse effects of achieving the goal on the financial viability of a county's waste-to-energy facility. Nothing in this subsection shall exempt a county from developing and implementing a recycling program pursuant to this act.

(8) ~~(7)~~ In order to assess the progress in meeting the goal set forth in subsection (3) ~~(2)~~, each county shall, by April 1 each year, provide information to the department regarding its annual solid waste management program and recycling activities.

(a) The information submitted to the department by the county must, at a minimum, include:

1. The amount of municipal solid waste disposed of at solid waste disposal facilities, by type of waste such as yard trash, white goods, clean debris, tires, and unseparated solid waste;

2. The amount and type of materials from the municipal solid waste stream that were recycled; and

3. The percentage of the population participating in various types of recycling activities instituted.

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(b) Beginning with the data for the 2012 calendar year, the department shall by July 1 each year post on its website the recycling rates of each county for the prior calendar year.

(21)~~(20)~~ In addition to any other penalties provided by law, a local government that does not comply with the requirements of subsections (3) ~~(2)~~ and (5) is ~~(4) shall~~ not ~~be~~ eligible for grants from the Solid Waste Management Trust Fund, and the department may notify the Chief Financial Officer to withhold payment of all or a portion of funds payable to the local government by the department from the General Revenue Fund or by the department from any other state fund, to the extent not pledged to retire bonded indebtedness, unless the local government demonstrates that good faith efforts to meet the requirements of subsections (3) ~~(2)~~ and (5) ~~(4)~~ have been made or that the funds are being or will be used to finance the correction of a pollution control problem that spans jurisdictional boundaries.

Section 2. Present subsections (6) through (14) of section 403.707, Florida Statutes, are redesignated as subsections (7) through (15), respectively, and a new subsection (6) is added to that section to read:

403.707 Permits.—

(6)(a) The department may not issue a construction permit pursuant to this section for a new solid waste disposal facility that uses an ash-producing incinerator or for a waste-to-energy facility if the proposed location of such facility is sited within a 2-mile radius, as measured from the stack, of any impoundment area authorized by Congress with an effective interior storage of at least 100 acres for purposes of

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capturing, storing, and distributing surface water; improving hydroperiods and hydropatterns in any water conservation area; increasing the spatial extent of wetlands; benefiting any federally listed threatened and endangered species; flood mitigation; or groundwater recharge.

(b) Paragraph (a) does not apply to:

1. Any canal.

2. Any existing construction, current operation, or modification to such structure or operation in existence as of July 1, 2026.

Section 3. Paragraph (b) of subsection (6) and subsections (7) and (21) of section 403.703, Florida Statutes, are amended to read:

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

(6) "Construction and demolition debris" means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and includes rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause the resulting mixture to be classified as other than construction and demolition debris. The term also includes:

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(b) Except as provided in s. 403.707(10)(j) ~~s. 403.707(9)(j)~~, yard trash and unpainted, nontreated wood scraps and wood pallets from sources other than construction or demolition projects;

(7) "County," or any like term, means a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution and, when s. 403.706(20) ~~s. 403.706(19)~~ applies, means a special district or other entity.

(21) "Municipality," or any like term, means a municipality created pursuant to general or special law authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution and, when s. 403.706(20) ~~s. 403.706(19)~~ applies, means a special district or other entity.

Section 4. Subsection (5) of section 403.7049, Florida Statutes, is amended to read:

403.7049 Determination of full cost for solid waste management; local solid waste management fees.—

(5) In order to assist in achieving the municipal solid waste reduction goal and the recycling provisions of s. 403.706(3) ~~s. 403.706(2)~~, a county or a municipality which owns or operates a solid waste management facility is hereby authorized to charge solid waste disposal fees which may vary based on a number of factors, including, but not limited to, the amount, characteristics, and form of recyclable materials present in the solid waste that is brought to the county's or the municipality's facility for processing or disposal.

Section 5. Paragraph (c) of subsection (2) and subsection (3) of section 403.705, Florida Statutes, are amended to read:

403.705 State solid waste management program.—

(2) The state solid waste management program shall include, at a minimum:

(c) Planning guidelines and technical assistance to counties and municipalities to aid in meeting the municipal solid waste recycling goals established in s. 403.706(3) ~~s. 403.706(2)~~.

(3) The department shall evaluate and report biennially to the President of the Senate and the Speaker of the House of Representatives on the state's success in meeting the solid waste recycling goal as described in s. 403.706(3) ~~s. 403.706(2)~~.

Section 6. This act shall take effect July 1, 2026.

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The Florida Senate

APPEARANCE RECORD

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2/3/26
Meeting Date

Envir. & Nat. Resc.
Committee

SB 1196
Bill Number or Topic

Amendment Barcode (if applicable)

City of Miramar

Name Mayor Wayne M. Messam

Phone 954-602-3119

Address 2300 Civic Center Place
Street

Email WMessam@miramarfl.gov

Miramar FL 33025
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2-3-26
Meeting Date

Environment & Nat. Resources
Committee

1196
Bill Number or Topic

Amendment Barcode (if applicable)

Name Joe Kilsheimer

Phone 407-719-6686

Address 5401 S. Kirkman Rd #310
Street

Email joe.kilsheimer@gmail.com

Orlando FL 32819
City State Zip

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

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☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida Waste-to-Energy Coalition

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S-001 (08/10/2021)

The Florida Senate

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2/3/26
Meeting Date

Envir. & Nat. Resc.
Committee

SB 1196
Bill Number or Topic

Amendment Barcode (if applicable)

Name Deborah L. Campbell III

Phone 954-602-3119

Address 2300 Civic Center Place
Street

Email dlcampbell@miramarfl.gov

Miramar FL 33025
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

2-3-26	1196
Meeting Date	Bill Number or Topic
ENR	
Committee	Amendment Barcode (if applicable)

Name Jess McCarty, First Assistant County Attorney Phone 305-979-7110

Address 111 N.W. 1st Street, Suite 2800 Email jmm2@miamidade.gov

Street

Miami FL 33128

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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1475

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

I, Cord Byrd, Secretary of State,
do hereby certify that

Gary Jennings

is duly appointed a member of the

Atlantic States Marine Fisheries Commission

for a term beginning on the Twenty-Second day of December, A.D., 2025, until the Fourth day of September, A.D., 2028 and is subject to be confirmed by the Senate during the next regular session of the Legislature.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Sixteenth day of January, A.D., 2026.

Secretary of State

DSDE 99 (3/03)

If photocopied or chemically altered, the word "VOID" will appear.
"State of Florida" appears in small letters across the face of this 8½ x 11" document.
The original document has a reflective line mark in paper. Hold at an angle to view when checking.

RON DESANTIS
GOVERNOR

2025 DEC -6 AM 9:24

December 22, 2025

Secretary Cord Byrd
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Byrd:

Please be advised I have made the following reappointment under the provisions of Section 370.19(2), Florida Statutes:

Mr. Gary Jennings
6514 Sawyer Shores Lane
Windermere, Florida 34786

as a member of the Atlantic States Marine Fisheries Commission, subject to confirmation by the Senate. This appointment is effective December 22, 2025, for a term ending September 4, 2028.

Sincerely,

Ron DeSantis
Governor

RD/gc

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 717-9249

RECEIVED
2026 JAN 8 PM 12:34
TALLAHASSEE, FL

OATH OF OFFICE

(Art. II. § 5(b), Fla. Const.; § 92.50, Florida Statutes)

STATE OF FLORIDA

County of Orange

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Florida Governor's Appointee to the Atlantic States Marine Fisheries Commission

(Full Name of Office – Abbreviations Not Accepted)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." *See* § 92.52, Fla. Stat.]

Signature _____

Sworn to and subscribed before me by means of physical presence ☒ *OR online notarization* ☐
this 6 *day of* Jan, 2025.

_____

Signature of Officer Administering Oath or of Notary Public

(To be completed only by judges administering oath– see § 92.50, Florida Statutes.)

_____
Print Name

_____
Title

_____
Court

(To be completed by officer administering oath, other than judges – see § 92.50, Florida Statutes.)

Affix Seal Below

Notary Public State of Florida
Mark Tomasetti
My Commission
HH 258865
Exp. 4/28/2026

Personally Known ☐ *OR Produced Identification* ☑

Type of Identification Produced FSDL

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home ■ Office ■

6514 Sawyer Shores Ln
Street or Post Office Box

Windermere, FL 34786
City, State, Zip Code

Gary Jennings
Print Name

_____
Signature

CourtSmart Tag Report

Room: SB 110 **Case No.:** **Type:**
Caption: Senate Environment And Natural Resources Committee **Judge:**

Started: 2/3/2026 3:31:10 PM
Ends: 2/3/2026 4:41:06 PM Length: 01:09:57

3:31:11 PM Chair Rodriguez calls meeting to order
3:31:14 PM Roll call
3:31:25 PM Quorum announced
3:31:52 PM Pledge of Allegiance led by Senator Mayfield
3:32:01 PM Senator Rodriguez with opening comments
3:32:25 PM Tab 3, SB 1422 by Senator Garcia, Surface Waters introduced by Chair Rodriguez
3:32:34 PM Amendment Barcode No. 316018 introduced by Chair Rodriguez
3:32:45 PM Senator Garcia explains the Amendment
3:34:19 PM Chair Rodriguez
3:34:21 PM Question
3:34:25 PM Senator Harrell
3:34:41 PM Senator Garcia
3:34:48 PM Chair Rodriguez
3:34:51 PM Closure waived
3:35:03 PM Chair Rodriguez
3:35:05 PM Amendment adopted
3:35:09 PM Chair Rodriguez
3:35:16 PM Elizabeth Alvi, Audubon Florida waives
3:35:19 PM Chair Rodriguez
3:35:27 PM Senator Garcia with closure
3:35:29 PM Roll call
3:35:56 PM CS/SB 1422 reportedly favorably
3:36:25 PM Gavel passed to Senator Mayfield
3:36:32 PM Tab 5, SPB 7034, Ratification of Rules of the Department of Environmental Protection introduced by Chair Mayfield
3:36:42 PM Senator Rodriguez explains the Bill
3:36:46 PM Chair Mayfield
3:36:52 PM Questions
3:36:54 PM Senator Smith
3:37:18 PM Senator Rodriguez
3:37:52 PM Senator Smith
3:38:15 PM Senator Rodriguez
3:38:34 PM Senator Smith
3:39:15 PM Senator Rodriguez
3:39:25 PM Senator Smith
3:40:01 PM Senator Rodriguez
3:40:13 PM Chair Mayfield
3:40:46 PM Speaker Ryan Smart, Florida Springs Council
3:43:46 PM Speaker Rick Lanese
3:45:57 PM Speaker Jodi Boas
3:47:29 PM Speaker Merrillee Malwitz-Jipson
3:51:29 PM Chris Dawson, Clay County Utility Authority waives

3:51:38 PM Alex Cronin, FL Department of Environmental Protection waives
3:51:48 PM Shay Hill, JEA waives
3:51:53 PM Chair Mayfield
3:52:00 PM Senator Harrell moves that SPB 7034 be submitted as a Committee Bill
3:52:03 PM Roll call
3:52:16 PM Debate
3:52:26 PM Senator Smith
3:54:33 PM Chair Mayfield
3:54:42 PM Senator Rodriguez with closure
3:55:14 PM Roll call
3:55:30 PM SPB 7034 reported favorably
3:55:46 PM Chair returned to Chair Rodriguez
3:55:57 PM Chair Rodriguez
3:56:01 PM Recording Paused
3:56:09 PM Recording Resumed
3:56:19 PM Tab 4, SB 1510 by Senator Massullo, Department of Environmental Protection introduced by Chair Rodriguez
3:56:31 PM Senator Massullo explains the Bill
3:57:44 PM Amendment Barcode No. 732092 introduced by Chair Rodriguez
3:57:51 PM Senator Massullo explains the Amendment
4:00:50 PM Chair Rodriguez
4:01:03 PM Closure waived
4:01:05 PM Amendment adopted
4:01:09 PM Chair Rodriguez
4:01:12 PM Questions
4:01:14 PM Senator Smith
4:02:02 PM Senator Massullo
4:02:56 PM Senator Harrell
4:03:30 PM Senator Massullo
4:04:21 PM Senator Harrell
4:05:03 PM Senator Massullo
4:05:17 PM Chair Rodriguez
4:05:51 PM Speaker Ryan Smart, Florida Springs Council
4:07:44 PM Question
4:07:47 PM Senator Smith
4:08:09 PM Ryan Smart
4:08:31 PM Alex Cronin, FL Department of Environmental Protection waives
4:08:39 PM Roxanne Groover waives
4:08:48 PM Chair Rodriguez
4:08:56 PM Senator Massullo with closure
4:10:38 PM Roll call
4:10:49 PM CS/SB 1510 reported favorably
4:11:23 PM Tab 2, SB 1196 by Senator Sharief, Waste Facilities introduced by Chair Rodriguez
4:11:36 PM Senator Sharief explains the Bill
4:13:45 PM Chair Rodriguez
4:13:50 PM Amendment Barcode No. 370166 introduced by Chair Rodriguez
4:13:58 PM Senator Sharief explains the Amendment
4:14:31 PM Chair Rodriguez
4:14:37 PM Question
4:14:49 PM Senator DiCeglie
4:14:56 PM Senator Sharief
4:15:03 PM Senator DiCeglie

4:15:09 PM Chair Rodriguez
4:15:11 PM Closure waived
4:15:14 PM Amendment adopted
4:15:20 PM Chair Rodriguez
4:16:03 PM Speaker Mayor Wayne Messon, City of Miramar
4:17:40 PM Speaker Joe Kilsheimer, Florida Waste-to-Energy Coalition
4:20:11 PM Question
4:20:18 PM Senator Harrell
4:20:39 PM Joe Kilsheimer
4:21:47 PM Senator Harrell
4:22:07 PM Joe Kilsheimer
4:23:19 PM Senator Harrell
4:23:47 PM Joe Kilsheimer
4:25:33 PM Debon Campbell waives
4:25:37 PM Jess McCarty, First Assistant County Attorney waives
4:25:48 PM Chair Rodriguez
4:25:50 PM Debate
4:25:56 PM Senator DiCeglie
4:28:58 PM Senator Harrell
4:30:39 PM Chair Rodriguez
4:30:46 PM Senator Sharief with closure
4:32:23 PM Roll call
4:32:34 PM CS/SB 1196 reported favorably
4:33:06 PM Tab 1, SB 912 by Senator McClain, Battery Collection and Recovery introduced
4:33:15 PM Senator McClain with explanation of the Bill
4:33:30 PM Chair Rodriguez
4:33:41 PM Amendment Barcode No. 448936 introduced by Chair Rodriguez
4:33:45 PM Senator McClain explains the Amendment
4:33:52 PM Chair Rodriguez
4:34:57 PM Christian Camara, Consumer Technology Association waives
4:35:04 PM Marc Boolish, PRBA - The Rechargeable Battery Association waives
4:35:10 PM Keyna Cory, National Waste & Recycling Association - FL Chapter waives
4:35:36 PM Chair Rodriguez
4:35:39 PM Closure waived
4:35:42 PM Amendment adopted
4:35:44 PM Chair
4:36:18 PM Speaker Marc Boolish, PRBA, The Rechargeable Battery Association
4:38:38 PM Speaker Keyna Cory, National Waste & Recycling Association - FL Chapter
4:39:07 PM Christian Camara, Consumer Technology Association waives
4:39:13 PM Peter Abello, Florida Association of Counties waives
4:39:18 PM Chair Rodriguez
4:39:28 PM Senator McClain with closure
4:39:44 PM Roll call
4:39:58 PM CS/SB 912 reported favorably
4:40:21 PM Tab 6, Appointment of Gary Jennings to the Atlantic States Marine Fisheries Commission introduced by Chair Rodriguez
4:40:27 PM Senator Harrell moves to recommend confirmation
4:40:30 PM Roll call
4:40:40 PM Confirmation is favorable
4:40:46 PM Chair Rodriguez
4:40:55 PM Senator Smith moves to adjourn
4:40:58 PM Meeting adjourned