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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2011	.	
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The Committee on Environmental Preservation and Conservation (Latvala) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Paragraph (p) is added to subsection (2) of
6 section 120.569, Florida Statutes, to read:
7 (2)
8 (p) For any proceeding arising under chapter 373, chapter
9 378, or chapter 403, if a nonapplicant petitions as a third
10 party to challenge an agency's issuance of a license, permit, or
11 conceptual approval, the order of presentation in the proceeding
12 shall be for the permit applicant to present a prima facie case

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13 demonstrating entitlement to the license, permit, or conceptual
14 approval. Subsequent to the presentation of the applicant's
15 prima facie case, the petitioner initiating the action
16 challenging the issuance of the license, permit, or conceptual
17 approval has the ultimate burden of persuasion and has the
18 burden of going forward to prove its case in opposition to the
19 license, permit, or conceptual approval through the presentation
20 of competent and substantial evidence. The permit applicant may
21 on rebuttal present any evidence relevant to demonstrating that
22 the application meets the conditions for issuance.
23 Notwithstanding subsection (1), this paragraph applies to
24 proceedings under s. 120.574.
25 Section 2. Section 125.0112, Florida Statutes, is created
26 to read:
27 125.0112 Biofuels and renewable energy.—The construction
28 and operation of a biofuel processing facility of 50 million
29 gallons per year or less or a renewable energy generating
30 facility of 50 megawatts or less, as defined in s. 366.91(2)
31 (d), and the cultivation and production of bioenergy, as defined
32 pursuant to s. 163.3177, except where biomass material derived
33 from municipal solid waste or landfill gases provides the
34 renewable energy for such facilities, shall be considered by a
35 local government to be a valid industrial, agricultural, and
36 silvicultural use permitted within those land use categories in
37 the local comprehensive land use plan. If the local
38 comprehensive plan does not specifically allow for the
39 construction of a biofuel processing facility or renewable
40 energy facility, the local government may establish a specific
41 review process that may include expediting local review of any

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42 necessary comprehensive plan amendment, zoning change, use
43 permit, waiver, variance, or special exemption. Local expedited
44 review of a proposed biofuel processing facility or a renewable
45 energy facility does not obligate a local government to approve
46 such proposed use. A comprehensive plan amendment necessary to
47 accommodate a biofuel processing facility or renewable energy
48 facility shall, if approved by the local government, be eligible
49 for the alternative state review process in s. 163.32465. The
50 construction and operation of a facility and related
51 improvements on a portion of a property under this section does
52 not affect the remainder of the property's classification as
53 agricultural under s. 193.461.
54 Section 3. Section 125.022, Florida Statutes, is amended to
55 read:
56 125.022 Development permits.—When a county denies an
57 application for a development permit, the county shall give
58 written notice to the applicant. The notice must include a
59 citation to the applicable portions of an ordinance, rule,
60 statute, or other legal authority for the denial of the permit.
61 As used in this section, the term "development permit" has the
62 same meaning as in s. 163.3164. A county may not require as a
63 condition of processing a development permit, that an applicant
64 obtain a permit or approval from any other state or federal
65 agency unless the agency has issued a notice of intent to deny
66 the federal or state permit before the county action on the
67 local development permit. Issuance of a development permit by a
68 county does not in any way create any rights on the part of the
69 applicant to obtain a permit from another state or federal
70 agency and does not create any liability on the part of the

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71 county for issuance of the permit if the applicant fails to
72 fulfill its legal obligations to obtain requisite approvals or
73 fulfill the obligations imposed by another state or a federal
74 agency. A county may attach such a disclaimer to the issuance of
75 a development permit, and may include a permit condition that
76 all other applicable state or federal permits be obtained before
77 commencement of the development. This section does not prohibit
78 a county from providing information to an applicant regarding
79 what other state or federal permits may apply.
80 Section 4. Section 161.032, Florida Statutes, is created to
81 read:
82 161.032 Application review; request for additional
83 information.—
84 (1) Within 30 days after receipt of an application for a
85 permit under this part, the department shall review the
86 application and shall request submission of any additional
87 information the department is permitted to require by law. If
88 the applicant believes that a request for additional information
89 is not authorized by law or rule, the applicant may request a
90 hearing pursuant to s. 120.57. Within 30 days after receipt of
91 such additional information, the department shall review such
92 additional information and may request only that information
93 needed to clarify such additional information or to answer new
94 questions raised by or directly related to such additional
95 information. If the applicant believes that the request for such
96 additional information by the department is not authorized by
97 law or rule, the department, at the applicant's request, shall
98 proceed to process the permit application.
99 (2) Notwithstanding s. 120.60, an applicant for a permit

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100 under this part has 90 days after the date of a timely request
101 for additional information to submit such information. If an
102 applicant requires more than 90 days in order to respond to a
103 request for additional information, the applicant must notify
104 the agency processing the permit application in writing of the
105 circumstances, at which time the application shall be held in
106 active status for no more than one additional period of up to 90
107 days. Additional extensions may be granted for good cause shown
108 by the applicant. A showing that the applicant is making a
109 diligent effort to obtain the requested additional information
110 constitutes good cause. Failure of an applicant to provide the
111 timely requested information by the applicable deadline shall
112 result in denial of the application without prejudice.
113 Section 5. Section 166.033, Florida Statutes, is amended to
114 read:
115 166.033 Development permits.—When a municipality denies an
116 application for a development permit, the municipality shall
117 give written notice to the applicant. The notice must include a
118 citation to the applicable portions of an ordinance, rule,
119 statute, or other legal authority for the denial of the permit.
120 As used in this section, the term “development permit” has the
121 same meaning as in s. 163.3164. A municipality may not require
122 as a condition of processing a development permit, that an
123 applicant obtain a permit or approval from any other state or
124 federal agency unless the agency has issued a notice of intent
125 to deny the federal or state permit before the municipal action
126 on the local development permit. Issuance of a development
127 permit by a municipality does not in any way create any right on
128 the part of an applicant to obtain a permit from another state

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129 or federal agency and does not create any liability on the part
130 of the municipality for issuance of the permit if the applicant
131 fails to fulfill its legal obligations to obtain requisite
132 approvals or fulfill the obligations imposed by another state or
133 federal agency. A municipality may attach such a disclaimer to
134 the issuance of development permits and may include a permit
135 condition that all other applicable state or federal permits be
136 obtained before commencement of the development. This section
137 does not prohibit a municipality from providing information to
138 an applicant regarding what other state or federal permits may
139 apply.
140 Section 6. Section 166.0447, Florida Statutes, is created
141 to read:
142 166.0447 Biofuels and renewable energy.—The construction
143 and operation of a biofuel processing facility of 50 million
144 gallons per year or less or a renewable energy generating
145 facility of 50 megawatts or less, as defined in s. 366.91(2)
146 (d), and the cultivation and production of bioenergy, as defined
147 pursuant to s. 163.3177, except where biomass material derived
148 from municipal solid waste or landfill gases provides the
149 renewable energy for such facilities, are each a valid
150 industrial, agricultural, and silvicultural use permitted within
151 those land use categories in the local comprehensive land use
152 plan and for purposes of any local zoning regulation within an
153 incorporated area of a municipality. Such comprehensive land use
154 plans and local zoning regulations may not require the owner or
155 operator of a biofuel processing facility or a renewable energy
156 generating facility to obtain any comprehensive plan amendment,
157 rezoning, special exemption, use permit, waiver, or variance, or

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158 to pay any special fee in excess of $1,000 to operate in an area
159 zoned for or categorized as industrial, agricultural, or
160 silvicultural use. This section does not exempt biofuel
161 processing facilities and renewable energy generating facilities
162 from complying with building code requirements. The construction
163 and operation of a facility and related improvements on a
164 portion of a property pursuant to this section does not affect
165 the remainder of that property's classification as agricultural
166 pursuant to s. 193.461.
167 Section 7. Paragraphs (a) and (b) of subsection (3) of
168 section 258.397, Florida Statutes, are amended to read:
169 258.397 Biscayne Bay Aquatic Preserve.—
170 (3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the
171 Internal Improvement Trust Fund is authorized and directed to
172 maintain the aquatic preserve hereby created pursuant and
173 subject to the following provisions:
174 (a) No further sale, transfer, or lease of sovereignty
175 submerged lands in the preserve shall be approved or consummated
176 by the board of trustees, except upon a showing of extreme
177 hardship on the part of the applicant and a determination by the
178 board of trustees that such sale, transfer, or lease is in the
179 public interest. A municipal applicant proposing a project under
180 this subsection is exempt from showing extreme hardship.
181 (b) No further dredging or filling of submerged lands of
182 the preserve shall be approved or tolerated by the board of
183 trustees except:
184 1. Such minimum dredging and spoiling as may be authorized
185 for public navigation projects or for such minimum dredging and
186 spoiling as may be constituted as a public necessity or for

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187 preservation of the bay according to the expressed intent of
188 this section.
189 2. Such other alteration of physical conditions, including
190 the placement of riprap, as may be necessary to enhance the
191 quality and utility of the preserve.
192 3. Such minimum dredging and filling as may be authorized
193 for the creation and maintenance of marinas, piers, and docks
194 and their attendant navigation channels and access roads. Such
195 projects may only be authorized upon a specific finding by the
196 board of trustees that there is assurance that the project will
197 be constructed and operated in a manner that will not adversely
198 affect the water quality and utility of the preserve. This
199 subparagraph shall not authorize the connection of upland canals
200 to the waters of the preserve.
201 4. Such dredging as is necessary for the purpose of
202 eliminating conditions hazardous to the public health or for the
203 purpose of eliminating stagnant waters, islands, and spoil
204 banks, the dredging of which would enhance the aesthetic and
205 environmental quality and utility of the preserve and be clearly
206 in the public interest as determined by the board of trustees.
207 5. Such dredging and filling as is necessary for the
208 creation of public waterfront promenades.
209
210 Any dredging or filling under this subsection or improvements
211 under subsection (5) shall be approved only after public notice
212 as provided by s. 253.115.
213 Section 8. Subsection (10) is added to section 373.026,
214 Florida Statutes, to read:
215 373.026 General powers and duties of the department.—The

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216 department, or its successor agency, shall be responsible for
217 the administration of this chapter at the state level. However,
218 it is the policy of the state that, to the greatest extent
219 possible, the department may enter into interagency or
220 interlocal agreements with any other state agency, any water
221 management district, or any local government conducting programs
222 related to or materially affecting the water resources of the
223 state. All such agreements shall be subject to the provisions of
224 s. 373.046. In addition to its other powers and duties, the
225 department shall, to the greatest extent possible:
226 (10) Expand the use of Internet-based self-certification
227 services for appropriate exemptions and general permits issued
228 by the department and the water management districts, if such
229 expansion is economically feasible. In addition to expanding the
230 use of Internet-based self-certification services for
231 appropriate exemptions and general permits, the department and
232 water management districts shall identify and develop general
233 permits for appropriate activities currently requiring
234 individual review that could be expedited through the use of
235 applicable professional certification.
236 Section 9. Section 373.4141, Florida Statutes, is amended
237 to read:
238 373.4141 Permits; processing.—
239 (1) Within 30 days after receipt of an application for a
240 permit under this part, the department or the water management
241 district shall review the application and shall request
242 submittal of all additional information the department or the
243 water management district is permitted by law to require. If the
244 applicant believes any request for additional information is not

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245 authorized by law or rule, the applicant may request a hearing
246 pursuant to s. 120.57. Within 30 days after receipt of such
247 additional information, the department or water management
248 district shall review it and may request only that information
249 needed to clarify such additional information or to answer new
250 questions raised by or directly related to such additional
251 information. If the applicant believes the request of the
252 department or water management district for such additional
253 information is not authorized by law or rule, the department or
254 water management district, at the applicant's request, shall
255 proceed to process the permit application. The department or
256 water management district may request additional information no
257 more than twice, unless the applicant waives this limitation in
258 writing. If the applicant does not provide a written response to
259 the second request for additional information within 90 days, or
260 another time period mutually agreed upon between the applicant
261 and department or water management district, the application
262 shall be considered withdrawn.
263 (2) A permit shall be approved or denied within 60 ~~90~~ days
264 after receipt of the original application, the last item of
265 timely requested additional material, or the applicant's written
266 request to begin processing the permit application.
267 (3) Processing of applications for permits for affordable
268 housing projects shall be expedited to a greater degree than
269 other projects.
270 (4) A state agency or agency of the state may not require
271 as a condition of approval for a permit or as an item to
272 complete a pending permit application that an applicant obtain a
273 permit or approval from any other local, state, or federal

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274 agency without explicit statutory authority to require such
275 permit or approval from another agency.
276 Section 10. Section 373.4144, Florida Statutes, is amended
277 to read:
278 373.4144 Federal environmental permitting.—
279 (1) It is the intent of the Legislature to:
280 (a) Facilitate coordination and a more efficient process of
281 implementing regulatory duties and functions between the
282 Department of Environmental Protection, the water management
283 districts, the United States Army Corps of Engineers, the United
284 States Fish and Wildlife Service, the National Marine Fisheries
285 Service, the United States Environmental Protection Agency, the
286 Fish and Wildlife Conservation Commission, and other relevant
287 federal and state agencies.
288 (b) Authorize the Department of Environmental Protection to
289 obtain issuance by the United States Army Corps of Engineers,
290 pursuant to state and federal law and as set forth in this
291 section, of an expanded state programmatic general permit, or a
292 series of regional general permits, for categories of activities
293 in waters of the United States governed by the Clean Water Act
294 and in navigable waters under the Rivers and Harbors Act of 1899
295 which are similar in nature, which will cause only minimal
296 adverse environmental effects when performed separately, and
297 which will have only minimal cumulative adverse effects on the
298 environment.
299 (c) Use the mechanism of such a state general permit or
300 such regional general permits to eliminate overlapping federal
301 regulations and state rules that seek to protect the same
302 resource and to avoid duplication of permitting between the

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303 United States Army Corps of Engineers and the department for
304 minor work located in waters of the United States, including
305 navigable waters, thus eliminating, in appropriate cases, the
306 need for a separate individual approval from the United States
307 Army Corps of Engineers while ensuring the most stringent
308 protection of wetland resources.
309 (d) Direct the department not to seek issuance of or take
310 any action pursuant to any such permit or permits unless such
311 conditions are at least as protective of the environment and
312 natural resources as existing state law under this part and
313 federal law under the Clean Water Act and the Rivers and Harbors
314 Act of 1899. ~~The department is directed to develop, on or before~~
315 ~~October 1, 2005, a mechanism or plan to consolidate, to the~~
316 ~~maximum extent practicable, the federal and state wetland~~
317 ~~permitting programs. It is the intent of the Legislature that~~
318 ~~all dredge and fill activities impacting 10 acres or less of~~
319 ~~wetlands or waters, including navigable waters, be processed by~~
320 ~~the state as part of the environmental resource permitting~~
321 ~~program implemented by the department and the water management~~
322 ~~districts. The resulting mechanism or plan shall analyze and~~
323 ~~propose the development of an expanded state programmatic~~
324 ~~general permit program in conjunction with the United States~~
325 ~~Army Corps of Engineers pursuant to s. 404 of the Clean Water~~
326 ~~Act, Pub. L. No. 92 -500, as amended, 33 U.S.C. ss. 1251 et~~
327 ~~seq., and s. 10 of the Rivers and Harbors Act of 1899.~~
328 ~~Alternatively, or in combination with an expanded state~~
329 ~~programmatic general permit, the mechanism or plan may propose~~
330 ~~the creation of a series of regional general permits issued by~~
331 ~~the United States Army Corps of Engineers pursuant to the~~

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332 ~~referenced statutes. All of the regional general permits must be~~
333 ~~administered by the department or the water management districts~~
334 ~~or their designees.~~
335 (2) In order to effectuate efficient wetland permitting and
336 avoid duplication, the department and water management districts
337 are authorized to implement a voluntary state programmatic
338 general permit for all dredge and fill activities impacting 3
339 acres or less of wetlands or other surface waters, including
340 navigable waters, subject to agreement with the United States
341 Army Corps of Engineers, if the general permit is at least as
342 protective of the environment and natural resources as existing
343 state law under this part and federal law under the Clean Water
344 Act and the Rivers and Harbors Act of 1899. ~~The department is~~
345 ~~directed to file with the Speaker of the House of~~
346 ~~Representatives and the President of the Senate a report~~
347 ~~proposing any required federal and state statutory changes that~~
348 ~~would be necessary to accomplish the directives listed in this~~
349 ~~section and to coordinate with the Florida Congressional~~
350 ~~Delegation on any necessary changes to federal law to implement~~
351 ~~the directives.~~
352 (3) Nothing in this section shall be construed to preclude
353 the department from pursuing a series of regional general
354 permits for construction activities in wetlands or surface
355 waters or complete assumption of federal permitting programs
356 regulating the discharge of dredged or fill material pursuant to
357 s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended,
358 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors
359 Act of 1899, so long as the assumption encompasses all dredge
360 and fill activities in, on, or over jurisdictional wetlands or

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361 waters, including navigable waters, within the state.
362 Section 11. Present subsections (3), (4), and (5) of
363 section 373.441, Florida Statutes, are renumbered as subsections
364 (6), (7), and (8), respectively, and new subsections (3), (4),
365 and (5) are added to that section to read:
366 373.441 Role of counties, municipalities, and local
367 pollution control programs in permit processing; delegation.—
368 (3) A county having a population of 75,000 or more or a
369 municipality having a population of more than 50,000 which
370 implements a local pollution control program regulating wetlands
371 or surface waters throughout its geographic boundary must apply
372 for delegation of state environmental resource permitting
373 authority on or before June 1, 2012. A county, municipality, or
374 local pollution control program that fails to receive delegation
375 of authority by June 1, 2013, may not require permits that in
376 part or in full are substantially similar to the requirements
377 needed to obtain an environmental resource permit.
378 (4) Upon delegation to a qualified local government, the
379 department and water management district may not regulate the
380 activities subject to the delegation within that jurisdiction
381 unless regulation is required pursuant to the terms of the
382 delegation agreement.
383 (5) This section does not prohibit or limit a local
384 government from adopting a pollution control program regulating
385 wetlands or surface waters after June 1, 2012, if the local
386 government applies for and receives delegation of state
387 environmental resource permitting authority within 1 year after
388 adopting such a program.
389 Section 12. Section 376.30715, Florida Statutes, is amended

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390 to read:
391 376.30715 Innocent victim petroleum storage system
392 restoration.—A contaminated site acquired by the current owner
393 prior to July 1, 1990, which has ceased operating as a petroleum
394 storage or retail business prior to January 1, 1985, is eligible
395 for financial assistance pursuant to s. 376.305(6),
396 notwithstanding s. 376.305(6)(a). For purposes of this section,
397 the term "acquired" means the acquisition of title to the
398 property; however, a subsequent transfer of the property to a
399 spouse or child of the owner, a surviving spouse or child of the
400 owner in trust or free of trust, ~~or~~ a revocable trust created
401 for the benefit of the settlor, or a corporate entity created by
402 the owner to hold title to the site does not disqualify the site
403 from financial assistance pursuant to s. 376.305(6) and
404 applicants previously denied coverage may reapply. Eligible
405 sites shall be ranked in accordance with s. 376.3071(5).
406 Section 13. Section 403.0874, Florida Statutes, is created
407 to read:
408 403.0874 Incentive-based permitting program.-
409 (1) SHORT TITLE.—This section may be cited as the "Florida
410 Incentive-based Permitting Act."
411 (2) FINDINGS AND INTENT.—The Legislature finds and declares
412 that the department should consider compliance history when
413 deciding whether to issue, renew, amend, or modify a permit by
414 evaluating an applicant's site-specific and program-specific
415 relevant aggregate compliance history. Persons having a history
416 of complying with applicable permits or state environmental laws
417 and rules are eligible for permitting benefits, including, but
418 not limited to, expedited permit application reviews, longer

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419 duration permit periods, decreased announced compliance
420 inspections, and other similar regulatory and compliance
421 incentives to encourage and reward such persons for their
422 environmental performance.
423 (3) APPLICABILITY.—
424 (a) This section applies to all persons and regulated
425 activities that are subject to the permitting requirements of
426 chapter 161, chapter 373, or this chapter, and all other
427 applicable state or federal laws that govern activities for the
428 purpose of protecting the environment or the public health from
429 pollution or contamination.
430 (b) Notwithstanding paragraph (a), this section does not
431 apply to certain permit actions or environmental permitting laws
432 such as:
433 1. Environmental permitting or authorization laws that
434 regulate activities for the purpose of zoning, growth
435 management, or land use; or
436 2. Any federal law or program delegated or assumed by the
437 state to the extent that implementation of this section, or any
438 part of this section, would jeopardize the ability of the state
439 to retain such delegation or assumption.
440 (c) As used in this section, a the term "regulated
441 activity" means any activity, including, but not limited to, the
442 construction or operation of a facility, installation, system,
443 or project, for which a permit, certification, or authorization
444 is required under chapter 161, chapter 373, or this chapter.
445 (4) COMPLIANCE HISTORY.—The compliance history period shall
446 be the 10 years before the date any permit or renewal
447 application is received by the department. Any person is

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448 entitled to the incentives under paragraph (5)(a) if:
449 (a)1. The applicant has conducted the regulated activity at
450 the same site for which the permit or renewal is sought for at
451 least 8 of the 10 years before the date the permit application
452 is received by the department; or
453 2. The applicant has conducted the same regulated activity
454 at a different site within the state for at least 8 of the 10
455 years before the date the permit or renewal application is
456 received by the department.
457 (b) In the 10 years before the date the permit or renewal
458 application is received by the department or water management
459 district, the applicant has not been subject to a formal
460 administrative or civil judgment or criminal conviction whereby
461 an administrative law judge or civil or criminal court found the
462 applicant violated the applicable law or rule or has been the
463 subject of an administrative settlement or consent orders,
464 whether formal or informal, that established a violation of an
465 applicable law or rule.
466 (c) The applicant can demonstrate during a 10-year
467 compliance history period the implementation of activities or
468 practices that resulted in:
469 1. Reductions in actual or permitted discharges or
470 emissions;
471 2. Reductions in the impacts of regulated activities on
472 public lands or natural resources; and
473 3. Implementation of voluntary environmental performance
474 programs, such as environmental management systems.
475 (5) COMPLIANCE INCENTIVES.—
476 (a) An applicant shall request all applicable incentives at

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477 the time of application submittal. Unless otherwise prohibited
478 by state or federal law, rule, or regulation, and if the
479 applicant meets all other applicable criteria for the issuance
480 of a permit or authorization, an applicant is entitled to the
481 following incentives:
482 1. Expedited reviews on permit actions, including, but not
483 limited to, initial permit issuance, renewal, modification, and
484 transfer, if applicable. Expedited review means, at a minimum,
485 that any request for additional information regarding a permit
486 application shall be issued no later than 15 days after the
487 application is filed, and final agency action shall be taken no
488 later than 45 days after the application is deemed complete;
489 2. Priority review of permit application;
490 3. Reduced number of routine compliance inspections;
491 4. No more than two requests for additional information
492 under s. 120.60; and
493 5. Longer permit period durations.
494 (6) RULEMAKING.—The department shall implement rulemaking
495 within 6 months after the effective date of this act. Such
496 rulemaking may identify additional incentives and programs not
497 expressly enumerated under this section, so long as each
498 incentive is consistent with the Legislature’s purpose and
499 intent of this section. Any rule adopted by the department to
500 administer this section shall be deemed an invalid exercise of
501 delegated legislative authority if the department cannot
502 demonstrate how such rules will produce the compliance
503 incentives set forth in subsection (5). The department’s rules
504 adopted under this section are binding on the water management
505 districts and any local government that has been delegated or

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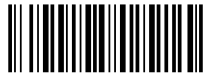
506 assumed a regulatory program to which this section applies.
507 Section 14. Subsections (5), (6), and (7) are added to
508 section 161.041, Florida Statutes, to read:
509 161.041 Permits required.—
510 (5) The provisions of s. 403.0874, relating to the
511 incentive-based permitting program, apply to all permits issued
512 under this chapter.
513 (6) The department may not require as a permit condition
514 sediment quality specifications or turbidity standards more
515 stringent than those provided for in this chapter, chapter 373,
516 or the Florida Administrative Code. The department may not issue
517 guidelines that are enforceable as standards without going
518 through the rulemaking process pursuant to chapter 120.
519 (7) As an incentive for permit applicants, it is the intent
520 of the Legislature to simplify the permitting for periodic
521 maintenance of beach renourishment projects previously permitted
522 and restored under the Joint Coastal Permit process pursuant to
523 this section or part IV of chapter 373. The department shall
524 amend chapters 62B-41 and 62B-49 of the Florida Administrative
525 Code to streamline the permitting process for periodic
526 maintenance projects.
527 Section 15. Subsection (6) is added to section 373.413,
528 Florida Statutes, to read:
529 373.413 Permits for construction or alteration.—
530 (6) The provisions of s. 403.0874, relating to the
531 incentive-based permitting program, apply to permits issued
532 under this section.
533 Section 16. Subsection (11) of section 403.061, Florida
534 Statutes, is amended to read: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535 403.061 Department; powers and duties.—The department shall
536 have the power and the duty to control and prohibit pollution of
537 air and water in accordance with the law and rules adopted and
538 promulgated by it and, for this purpose, to:
539 (11) Establish ambient air quality and water quality
540 standards for the state as a whole or for any part thereof, and
541 also standards for the abatement of excessive and unnecessary
542 noise. The department shall ~~is authorized to~~ establish
543 reasonable zones of mixing for discharges into waters where
544 assimilative capacity in the receiving water is available. Zones
545 of discharge to groundwater are authorized to a facility or
546 owner's property boundary and extending to the base of a
547 specifically designated aquifer or aquifers. Discharges that
548 occur within a zone of discharge or on land that is over a zone
549 of discharge do not create liability under this chapter or
550 chapter 376 for site cleanup and the exceedance of soil cleanup
551 target levels is not a basis for enforcement or site cleanup.
552 (a) When a receiving body of water fails to meet a water
553 quality standard for pollutants set forth in department rules, a
554 steam electric generating plant discharge of pollutants that is
555 existing or licensed under this chapter on July 1, 1984, may
556 nevertheless be granted a mixing zone, provided that:
557 1. The standard would not be met in the water body in the
558 absence of the discharge;
559 2. The discharge is in compliance with all applicable
560 technology-based effluent limitations;
561 3. The discharge does not cause a measurable increase in
562 the degree of noncompliance with the standard at the boundary of
563 the mixing zone; and

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564 4. The discharge otherwise complies with the mixing zone
565 provisions specified in department rules.
566 (b) No mixing zone for point source discharges shall be
567 permitted in Outstanding Florida Waters except for:
568 1. Sources that have received permits from the department
569 prior to April 1, 1982, or the date of designation, whichever is
570 later;
571 2. Blowdown from new power plants certified pursuant to the
572 Florida Electrical Power Plant Siting Act;
573 3. Discharges of water necessary for water management
574 purposes which have been approved by the governing board of a
575 water management district and, if required by law, by the
576 secretary; and
577 4. The discharge of demineralization concentrate which has
578 been determined permittable under s. 403.0882 and which meets
579 the specific provisions of s. 403.0882(4)(a) and (b), if the
580 proposed discharge is clearly in the public interest.
581 (c) The department, by rule, shall establish water quality
582 criteria for wetlands which criteria give appropriate
583 recognition to the water quality of such wetlands in their
584 natural state.
585
586 Nothing in this act shall be construed to invalidate any
587 existing department rule relating to mixing zones. The
588 department shall cooperate with the Department of Highway Safety
589 and Motor Vehicles in the development of regulations required by
590 s. 316.272(1). The department shall implement such programs in
591 conjunction with its other powers and duties and shall place
592 special emphasis on reducing and eliminating contamination that

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593 presents a threat to humans, animals or plants, or to the
594 environment.
595 Section 17. Subsection (7) of section 403.087, Florida
596 Statutes, is amended to read:
597 403.087 Permits; general issuance; denial; revocation;
598 prohibition; penalty.—
599 (7) A permit issued pursuant to this section shall not
600 become a vested right in the permittee. The department may
601 revoke any permit issued by it if it finds that the
602 permitholder:
603 (a) ~~Has~~ Submitted false or inaccurate information in the
604 ~~his or her~~ application for such permit;
605 (b) ~~Has~~ Violated law, department orders, rules, ~~or~~
606 ~~regulations,~~ or ~~permit~~ conditions;
607 (c) ~~Has~~ Failed to submit operational reports or other
608 information required by department rule which directly relate to
609 such permit and has refused to correct or cure such violations
610 when requested to do so ~~or regulation~~; or
611 (d) ~~Has~~ Refused lawful inspection under s. 403.091 at the
612 facility authorized by such permit.
613 Section 18. Subsection (2) of section 403.1838, Florida
614 Statutes, is amended to read:
615 403.1838 Small Community Sewer Construction Assistance
616 Act.—
617 (2) The department shall use funds specifically
618 appropriated to award grants under this section to assist
619 financially disadvantaged small communities with their needs for
620 adequate sewer facilities. For purposes of this section, the
621 term “financially disadvantaged small community” means a

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622 municipality that has ~~with~~ a population of 10,000 ~~7,500~~ or fewer
623 ~~less~~, according to the latest decennial census and a per capita
624 annual income less than the state per capita annual income as
625 determined by the United States Department of Commerce.
626 Section 19. Subsection (32) of section 403.703, Florida
627 Statutes, is amended to read:
628 403.703 Definitions.—As used in this part, the term:
629 (32) “Solid waste” means sludge unregulated under the
630 federal Clean Water Act or Clean Air Act, sludge from a waste
631 treatment works, water supply treatment plant, or air pollution
632 control facility, or garbage, rubbish, refuse, special waste, or
633 other discarded material, including solid, liquid, semisolid, or
634 contained gaseous material resulting from domestic, industrial,
635 commercial, mining, agricultural, or governmental operations.
636 Recovered materials as defined in subsection (24) are not solid
637 waste. The term does not include sludge from a waste treatment
638 works if the sludge is not discarded.
639 Section 20. Subsections (2) and (3) of section 403.707,
640 Florida Statutes, are amended to read:
641 403.707 Permits.—
642 (2) Except as provided in s. 403.722(6), a permit under
643 this section is not required for the following~~, if the activity~~
644 ~~does not create a public nuisance or any condition adversely~~
645 ~~affecting the environment or public health and does not violate~~
646 ~~other state or local laws, ordinances, rules, regulations, or~~
647 ~~orders~~:
648 (a) Disposal by persons of solid waste resulting from their
649 own activities on their own property, if such waste is ordinary
650 household waste from their residential property or is rocks,

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651 soils, trees, tree remains, and other vegetative matter that
652 normally result from land development operations. Disposal of
653 materials that could create a public nuisance or adversely
654 affect the environment or public health, such as white goods;
655 automotive materials, such as batteries and tires; petroleum
656 products; pesticides; solvents; or hazardous substances, is not
657 covered under this exemption.
658 (b) Storage in containers by persons of solid waste
659 resulting from their own activities on their property, leased or
660 rented property, or property subject to a homeowners or
661 maintenance association for which the person contributes
662 association assessments, if the solid waste in such containers
663 is collected at least once a week.
664 (c) Disposal by persons of solid waste resulting from their
665 own activities on their property, if:
666 1. The environmental effects of such disposal on
667 groundwater and surface waters are:
668 a.~~1.~~ Addressed or authorized by a site certification order
669 issued under part II or a permit issued by the department under
670 this chapter or rules adopted pursuant to this chapter; or
671 b.~~2.~~ Addressed or authorized by, or exempted from the
672 requirement to obtain, a groundwater monitoring plan approved by
673 the department. As used in this sub-subparagraph, the term
674 "addressed by a groundwater monitoring plan" means the plan is
675 sufficient to monitor groundwater or surface water for
676 contaminants of concerns associated with the solid waste being
677 disposed. A groundwater monitoring plan can be demonstrated to
678 be sufficient irrespective of whether the groundwater monitoring
679 plan or disposal is referenced in a department permit or other

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680 authorization.
681 2. The disposal of solid waste takes place within an area
682 which is over a zone of discharge.
683
684 The disposal of solid waste pursuant to this paragraph does not
685 create liability under this chapter or chapter 376 for site
686 cleanup and the exceedance of soil cleanup target levels is not
687 a basis for enforcement or site cleanup.
688 (d) Disposal by persons of solid waste resulting from their
689 own activities on their own property, if such disposal occurred
690 prior to October 1, 1988.
691 (e) Disposal of solid waste resulting from normal farming
692 operations as defined by department rule. Polyethylene
693 agricultural plastic, damaged, nonsalvageable, untreated wood
694 pallets, and packing material that cannot be feasibly recycled,
695 which are used in connection with agricultural operations
696 related to the growing, harvesting, or maintenance of crops, may
697 be disposed of by open burning if a public nuisance or any
698 condition adversely affecting the environment or the public
699 health is not created by the open burning and state or federal
700 ambient air quality standards are not violated.
701 (f) The use of clean debris as fill material in any area.
702 However, this paragraph does not exempt any person from
703 obtaining any other required permits, and does not affect a
704 person’s responsibility to dispose of clean debris appropriately
705 if it is not to be used as fill material.
706 (g) Compost operations that produce less than 50 cubic
707 yards of compost per year when the compost produced is used on
708 the property where the compost operation is located.

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709 (3) All applicable provisions of ss. 403.087 and 403.088,
710 relating to permits, apply to the control of solid waste
711 management facilities. Additionally, any permit issued to a
712 solid waste management facility that is designed with a leachate
713 control system meeting Department requirements shall be for a
714 term of 20 years, or should the applicant request, a lesser
715 number of years. Existing permit fees for qualifying solid waste
716 management facilities shall be prorated to the permit term
717 authorized by this section. This provision applies to all
718 qualifying solid waste management facilities that apply for an
719 operating or construction permit, or renew an existing operating
720 or construction permit, on or after July 1, 2012.
721 Section 21. Subsection (12) is added to section 403.814,
722 Florida Statutes, to read:
723 403.814 General permits; delegation.—
724 (12) A general permit shall be granted for the
725 construction, alteration, and maintenance of a surface water
726 management system serving a total project area of up to 10
727 acres. The construction of such a system may proceed without any
728 agency action by the department or water management district if:
729 (a) The total project area is less than 10 acres;
730 (b) The total project area involves less than 2 acres of
731 impervious surface;
732 (c) No activities will impact wetlands or other surface
733 waters;
734 (d) No activities are conducted in, on, or over wetlands or
735 other surface waters;
736 (e) Drainage facilities will not include pipes having
737 diameters greater than 24 inches, or the hydraulic equivalent,

738 and will not use pumps in any manner;
739 (f) The project is not part of a larger common plan of
740 development or sale;
741 (g) The project does not:
742 1. Cause adverse water quantity or flooding impacts to
743 receiving water and adjacent lands;
744 2. Cause adverse impacts to existing surface water storage
745 and conveyance capabilities;
746 3. Cause a violation of state water quality standards; and
747 4. Cause an adverse impact to the maintenance of surface or
748 ground water levels or surface water flows established pursuant
749 to s. 373.042 or a Work of the District established pursuant to
750 s. 373.086; and
751 (h) The surface water management system design plans must
752 be signed and sealed by a registered professional and must be
753 capable, based on generally accepted engineering and scientific
754 principles, of being performed and functioning as proposed.
755 Section 22. Paragraph (u) is added to subsection (24) of
756 section 380.06, Florida Statutes, to read:
757 380.06 Developments of regional impact.—
758 (24) STATUTORY EXEMPTIONS.—
759 (u) Any proposed solid mineral mine and any proposed
760 addition to, expansion of, or change to an existing solid
761 mineral mine is exempt from the provisions of this section.
762 Proposed changes to any previously approved solid mineral mine
763 development-of-regional-impact development orders having vested
764 rights is not subject to further review or approval as a
765 development of regional impact or notice of proposed change
766 review or approval pursuant to subsection (19), except for those

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767 applications pending as of July 1, 2011, which shall be governed
768 by s. 380.115(2). Notwithstanding the foregoing, however,
769 pursuant to s. 380.115(1), previously approved solid mineral
770 mine development-of-regional-impact development orders shall
771 continue to enjoy vested rights and continue to be effective
772 unless rescinded by the developer. All local regulations of
773 proposed solid mineral mines and any proposed addition to,
774 expansion of , or change to an existing solid mineral mine shall
775 remain applicable.
776
777 If a use is exempt from review as a development of regional
778 impact under paragraphs (a)-(s), but will be part of a larger
779 project that is subject to review as a development of regional
780 impact, the impact of the exempt use must be included in the
781 review of the larger project, unless such exempt use involves a
782 development of regional impact that includes a landowner,
783 tenant, or user that has entered into a funding agreement with
784 the Office of Tourism, Trade, and Economic Development under the
785 Innovation Incentive Program and the agreement contemplates a
786 state award of at least $50 million.
787 Section 23. Subsection (1) of section 380.0657, Florida
788 Statutes, is amended to read:
789 380.0657 Expedited permitting process for economic
790 development projects.—
791 (1) The Department of Environmental Protection and, as
792 appropriate, the water management districts created under
793 chapter 373 shall adopt programs to expedite the processing of
794 wetland resource and environmental resource permits for economic
795 development projects that have been identified by a municipality

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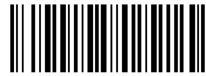
796 or county as meeting the definition of target industry
797 businesses under s. 288.106, or any inland multimodal facility,
798 receiving or sending cargo to or from Florida ports, with the
799 exception of those projects requiring approval by the Board of
800 Trustees of the Internal Improvement Trust Fund.
801 Section 24. Paragraph (a) of subsection (3) and subsections
802 (4), (5), (10), (11), (14), (15), and (18) of section 403.973,
803 Florida Statutes, are amended to read:
804 403.973 Expedited permitting; amendments to comprehensive
805 plans.—
806 (3)(a) The secretary shall direct the creation of regional
807 permit action teams for the purpose of expediting review of
808 permit applications and local comprehensive plan amendments
809 submitted by:
810 1. Businesses creating at least 50 jobs or a commercial or
811 industrial development project that will be occupied by
812 businesses that would individually or collectively create at
813 least 50 jobs; or
814 2. Businesses creating at least 25 jobs if the project is
815 located in an enterprise zone, or in a county having a
816 population of fewer than 75,000 or in a county having a
817 population of fewer than 125,000 which is contiguous to a county
818 having a population of fewer than 75,000, as determined by the
819 most recent decennial census, residing in incorporated and
820 unincorporated areas of the county.
821 (4) The regional teams shall be established through the
822 execution of a project-specific memoranda of agreement developed
823 and executed by the applicant and the secretary, with input
824 solicited from ~~the office and~~ the respective heads of the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825 Department of Community Affairs, the Department of
826 Transportation and its district offices, the Department of
827 Agriculture and Consumer Services, the Fish and Wildlife
828 Conservation Commission, appropriate regional planning councils,
829 appropriate water management districts, and voluntarily
830 participating municipalities and counties. The memoranda of
831 agreement should also accommodate participation in this
832 expedited process by other local governments and federal
833 agencies as circumstances warrant.
834 (5) In order to facilitate local government's option to
835 participate in this expedited review process, the secretary
836 shall, in cooperation with local governments and participating
837 state agencies, create a standard form memorandum of agreement.
838 The standard form of the memorandum of agreement shall be used
839 only if the local government participates in the expedited
840 review process. In the absence of local government
841 participation, only the project-specific memorandum of agreement
842 executed pursuant to subsection (4) applies. A local government
843 shall hold a duly noticed public workshop to review and explain
844 to the public the expedited permitting process and the terms and
845 conditions of the standard form memorandum of agreement.
846 (10) The memoranda of agreement may provide for the waiver
847 or modification of procedural rules prescribing forms, fees,
848 procedures, or time limits for the review or processing of
849 permit applications under the jurisdiction of those agencies
850 that are members of the regional permit action team ~~party to the~~
851 ~~memoranda of agreement~~. Notwithstanding any other provision of
852 law to the contrary, a memorandum of agreement must to the
853 extent feasible provide for proceedings and hearings otherwise

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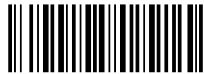
854 held separately ~~by the parties to the memorandum of agreement~~ to
855 be combined into one proceeding or held jointly and at one
856 location. Such waivers or modifications shall not be available
857 for permit applications governed by federally delegated or
858 approved permitting programs, the requirements of which would
859 prohibit, or be inconsistent with, such a waiver or
860 modification.
861 (11) The ~~standard form for~~ memoranda of agreement shall
862 include guidelines to be used in working with state, regional,
863 and local permitting authorities. Guidelines may include, but
864 are not limited to, the following:
865 (a) A central contact point for filing permit applications
866 and local comprehensive plan amendments and for obtaining
867 information on permit and local comprehensive plan amendment
868 requirements;
869 (b) Identification of the individual or individuals within
870 each respective agency who will be responsible for processing
871 the expedited permit application or local comprehensive plan
872 amendment for that agency;
873 (c) A mandatory preapplication review process to reduce
874 permitting conflicts by providing guidance to applicants
875 regarding the permits needed from each agency and governmental
876 entity, site planning and development, site suitability and
877 limitations, facility design, and steps the applicant can take
878 to ensure expeditious permit application and local comprehensive
879 plan amendment review. As a part of this process, the first
880 interagency meeting to discuss a project shall be held within 14
881 days after the secretary’s determination that the project is
882 eligible for expedited review. Subsequent interagency meetings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883 may be scheduled to accommodate the needs of participating local
884 governments that are unable to meet public notice requirements
885 for executing a memorandum of agreement within this timeframe.
886 This accommodation may not exceed 45 days from the secretary’s
887 determination that the project is eligible for expedited review;
888 (d) The preparation of a single coordinated project
889 description form and checklist and an agreement by state and
890 regional agencies to reduce the burden on an applicant to
891 provide duplicate information to multiple agencies;
892 (e) Establishment of a process for the adoption and review
893 of any comprehensive plan amendment needed by any certified
894 project within 90 days after the submission of an application
895 for a comprehensive plan amendment. However, the memorandum of
896 agreement may not prevent affected persons as defined in s.
897 163.3184 from appealing or participating in this expedited plan
898 amendment process and any review or appeals of decisions made
899 under this paragraph; and
900 (f) Additional incentives for an applicant who proposes a
901 project that provides a net ecosystem benefit.
902 (14)(a) Challenges to state agency action in the expedited
903 permitting process for projects processed under this section are
904 subject to the summary hearing provisions of s. 120.574, except
905 that the administrative law judge’s decision, as provided in s.
906 120.574(2)(f), shall be in the form of a recommended order and
907 shall not constitute the final action of the state agency. In
908 those proceedings where the action of only one agency of the
909 state other than the Department of Environmental Protection is
910 challenged, the agency of the state shall issue the final order
911 within 45 working days after receipt of the administrative law

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912 judge's recommended order, and the recommended order shall
913 inform the parties of their right to file exceptions or
914 responses to the recommended order in accordance with the
915 uniform rules of procedure pursuant to s. 120.54. In those
916 proceedings where the actions of more than one agency of the
917 state are challenged, the Governor shall issue the final order
918 within 45 working days after receipt of the administrative law
919 judge's recommended order, and the recommended order shall
920 inform the parties of their right to file exceptions or
921 responses to the recommended order in accordance with the
922 uniform rules of procedure pursuant to s. 120.54. For ~~This~~
923 ~~paragraph does not apply to~~ the issuance of department licenses
924 required under any federally delegated or approved permit
925 program~~. In such instances,~~ the department shall enter the final
926 order and not the Governor. The participating agencies of the
927 state may opt at the preliminary hearing conference to allow the
928 administrative law judge's decision to constitute the final
929 agency action. If a participating local government agrees to
930 participate in the summary hearing provisions of s. 120.574 for
931 purposes of review of local government comprehensive plan
932 amendments, s. 163.3184(9) and (10) apply.
933 (b) Projects identified in paragraph (3)(f) or challenges
934 to state agency action in the expedited permitting process for
935 establishment of a state-of-the-art biomedical research
936 institution and campus in this state by the grantee under s.
937 288.955 are subject to the same requirements as challenges
938 brought under paragraph (a), except that, notwithstanding s.
939 120.574, summary proceedings must be conducted within 30 days
940 after a party files the motion for summary hearing, regardless

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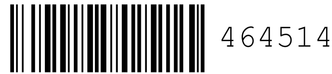
941 of whether the parties agree to the summary proceeding.
942 (15) The office, working with the agencies providing
943 cooperative assistance and input regarding the memoranda of
944 agreement, shall review sites proposed for the location of
945 facilities that the office has certified to be eligible for the
946 Innovation Incentive Program under s. 288.1089. Within 20 days
947 after the request for the review by the office, the agencies
948 shall provide to the office a statement as to each site's
949 necessary permits under local, state, and federal law and an
950 identification of significant permitting issues, which if
951 unresolved, may result in the denial of an agency permit or
952 approval or any significant delay caused by the permitting
953 process.
954 (18) The office, working with the Rural Economic
955 Development Initiative ~~and the agencies participating in the~~
956 ~~memoranda of agreement~~, shall provide technical assistance in
957 preparing permit applications and local comprehensive plan
958 amendments for counties having a population of fewer than 75,000
959 residents, or counties having fewer than 125,000 residents which
960 are contiguous to counties having fewer than 75,000 residents.
961 Additional assistance may include, but not be limited to,
962 guidance in land development regulations and permitting
963 processes, working cooperatively with state, regional, and local
964 entities to identify areas within these counties which may be
965 suitable or adaptable for preclearance review of specified types
966 of land uses and other activities requiring permits.
967 Section 25. Subsection (10) of section 163.3180, Florida
968 Statutes, is amended to read:
969 163.3180 Concurrency.—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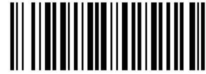
970 (10)<u>(a)</u> Except in transportation concurrency exception
971 areas, with regard to roadway facilities on the Strategic
972 Intermodal System designated in accordance with s. 339.63, local
973 governments shall adopt the level-of-service standard
974 established by the Department of Transportation by rule.
975 However, if the Office of Tourism, Trade, and Economic
976 Development concurs in writing with the local government that
977 the proposed development is for a qualified job creation project
978 under s. 288.0656 or s. 403.973, the affected local government,
979 after consulting with the Department of Transportation, may
980 provide for a waiver of transportation concurrency for the
981 project. For all other roads on the State Highway System, local
982 governments shall establish an adequate level-of-service
983 standard that need not be consistent with any level-of-service
984 standard established by the Department of Transportation. In
985 establishing adequate level-of-service standards for any
986 arterial roads, or collector roads as appropriate, which
987 traverse multiple jurisdictions, local governments shall
988 consider compatibility with the roadway facility's adopted
989 level-of-service standards in adjacent jurisdictions. Each local
990 government within a county shall use a professionally accepted
991 methodology for measuring impacts on transportation facilities
992 for the purposes of implementing its concurrency management
993 system. Counties are encouraged to coordinate with adjacent
994 counties, and local governments within a county are encouraged
995 to coordinate, for the purpose of using common methodologies for
996 measuring impacts on transportation facilities for the purpose
997 of implementing their concurrency management systems.
998 <u>(b) There shall be a limited exemption from the Strategic</u>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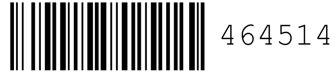
999 Intermodal System adopted level-of-service standards for new or
1000 redevelopment projects consistent with the local comprehensive
1001 plan as inland multimodal facilities receiving or sending cargo
1002 for distribution and providing cargo storage, consolidation,
1003 repackaging, and transfer of goods, and which may, if developed
1004 as proposed, include other intermodal terminals, related
1005 transportation facilities, warehousing and distribution
1006 facilities, and associated office space, light industrial,
1007 manufacturing, and assembly uses. The limited exemption applies
1008 if the project meets all of the following criteria:
1009 1. The project will not cause the adopted level-of-service
1010 standards for the Strategic Intermodal System facilities to be
1011 exceeded by more than 150 percent within the first 5 years of
1012 the project's development.
1013 2. The project, upon completion, would result in the
1014 creation of at least 50 full-time jobs.
1015 3. The project is compatible with existing and planned
1016 adjacent land uses.
1017 4. The project is consistent with local and regional
1018 economic development goals or plans.
1019 5. The project is proximate to regionally significant road
1020 and rail transportation facilities.
1021 6. The project is proximate to a community having an
1022 unemployment rate, as of the date of the development order
1023 application, which is 10 percent or more above the statewide
1024 reported average.
1025 Section 26. Subsections (1) and (2), paragraph (c) of
1026 subsection (3), and subsection (4) of section 373.4137, Florida
1027 Statutes, are amended to read: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1028 373.4137 Mitigation requirements for specified
1029 transportation projects.—
1030 (1) The Legislature finds that environmental mitigation for
1031 the impact of transportation projects proposed by the Department
1032 of Transportation or a transportation authority established
1033 pursuant to chapter 348 or chapter 349 can be more effectively
1034 achieved by regional, long-range mitigation planning rather than
1035 on a project-by-project basis. It is the intent of the
1036 Legislature that mitigation to offset the adverse effects of
1037 these transportation projects be funded by the Department of
1038 Transportation and be carried out by the water management
1039 districts, through ~~including~~ the use of privately owned
1040 mitigation banks where available or, if a privately owned
1041 mitigation bank is not available, through any other mitigation
1042 options that satisfy state and federal requirements ~~established~~
1043 ~~pursuant to this part~~.
1044 (2) Environmental impact inventories for transportation
1045 projects proposed by the Department of Transportation or a
1046 transportation authority established pursuant to chapter 348 or
1047 chapter 349 shall be developed as follows:
1048 (a) By July 1 of each year, the Department of
1049 Transportation or a transportation authority established
1050 pursuant to chapter 348 or chapter 349 which chooses to
1051 participate in this program shall submit to the water management
1052 districts a list ~~copy~~ of its projects in the adopted work
1053 program and an environmental impact inventory of habitats
1054 addressed in the rules adopted pursuant to this part and s. 404
1055 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted
1056 by its plan of construction for transportation projects in the

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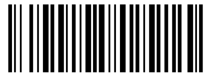
1057 next 3 years of the tentative work program. The Department of
1058 Transportation or a transportation authority established
1059 pursuant to chapter 348 or chapter 349 may also include in its
1060 environmental impact inventory the habitat impacts of any future
1061 transportation project. The Department of Transportation and
1062 each transportation authority established pursuant to chapter
1063 348 or chapter 349 may fund any mitigation activities for future
1064 projects using current year funds.
1065 (b) The environmental impact inventory shall include a
1066 description of these habitat impacts, including their location,
1067 acreage, and type; state water quality classification of
1068 impacted wetlands and other surface waters; any other state or
1069 regional designations for these habitats; and a <u>list</u> ~~survey~~ of
1070 threatened species, endangered species, and species of special
1071 concern affected by the proposed project.
1072 (3)
1073 (c) Except for current mitigation projects in the
1074 monitoring and maintenance phase and except as allowed by
1075 paragraph (d), the water management districts may request a
1076 transfer of funds from an escrow account no sooner than 30 days
1077 prior to the date the funds are needed to pay for activities
1078 associated with development or implementation of the approved
1079 mitigation plan described in subsection (4) for the current
1080 fiscal year, including, but not limited to, design, engineering,
1081 production, and staff support. Actual conceptual plan
1082 preparation costs incurred before plan approval may be submitted
1083 to the Department of Transportation or the appropriate
1084 transportation authority each year with the plan. The conceptual
1085 plan preparation costs of each water management district will be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1086 paid from mitigation funds associated with the environmental
1087 impact inventory for the current year. The amount transferred to
1088 the escrow accounts each year by the Department of
1089 Transportation and participating transportation authorities
1090 established pursuant to chapter 348 or chapter 349 shall
1091 correspond to a cost per acre of $75,000 multiplied by the
1092 projected acres of impact identified in the environmental impact
1093 inventory described in subsection (2). However, the $75,000 cost
1094 per acre does not constitute an admission against interest by
1095 the state or its subdivisions nor is the cost admissible as
1096 evidence of full compensation for any property acquired by
1097 eminent domain or through inverse condemnation. Each July 1, the
1098 cost per acre shall be adjusted by the percentage change in the
1099 average of the Consumer Price Index issued by the United States
1100 Department of Labor for the most recent 12-month period ending
1101 September 30, compared to the base year average, which is the
1102 average for the 12-month period ending September 30, 1996. Each
1103 quarter, the projected acreage of impact shall be reconciled
1104 with the acreage of impact of projects as permitted, including
1105 permit modifications, pursuant to this part and s. 404 of the
1106 Clean Water Act, 33 U.S.C. s. 1344. The subject year’s transfer
1107 of funds shall be adjusted accordingly to reflect the acreage of
1108 impacts as permitted. The Department of Transportation and
1109 participating transportation authorities established pursuant to
1110 chapter 348 or chapter 349 are authorized to transfer such funds
1111 from the escrow accounts to the water management districts to
1112 carry out the mitigation programs. <u>Environmental mitigation</u>
1113 <u>funds that are identified or maintained in an escrow account for</u>
1114 <u>the benefit of a water management district may be released if</u>

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1115 the associated transportation project is excluded in whole or
1116 part from the mitigation plan. For a mitigation project that is
1117 in the maintenance and monitoring phase, the water management
1118 district may request and receive a one-time payment based on the
1119 project's expected future maintenance and monitoring costs. Upon
1120 disbursement of the final maintenance and monitoring payment,
1121 the department or the participating transportation authorities'
1122 obligation will be satisfied, the water management district will
1123 have continuing responsibility for the mitigation project, and
1124 the escrow account for the project established by the Department
1125 of Transportation or the participating transportation authority
1126 may be closed. Any interest earned on these disbursed funds
1127 shall remain with the water management district and must be used
1128 as authorized under this section.
1129 (4) Prior to March 1 of each year, each water management
1130 district, in consultation with the Department of Environmental
1131 Protection, the United States Army Corps of Engineers, the
1132 Department of Transportation, participating transportation
1133 authorities established pursuant to chapter 348 or chapter 349,
1134 and other appropriate federal, state, and local governments, and
1135 other interested parties, including entities operating
1136 mitigation banks, shall develop a plan for the primary purpose
1137 of complying with the mitigation requirements adopted pursuant
1138 to this part and 33 U.S.C. s. 1344. In developing such plans,
1139 private mitigation banks shall be used when available, and, when
1140 a mitigation bank is not available, the districts shall utilize
1141 sound ecosystem management practices to address significant
1142 water resource needs and shall focus on activities of the
1143 Department of Environmental Protection and the water management

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1144 districts, such as surface water improvement and management
1145 (SWIM) projects and lands identified for potential acquisition
1146 for preservation, restoration or enhancement, and the control of
1147 invasive and exotic plants in wetlands and other surface waters,
1148 to the extent that such activities comply with the mitigation
1149 requirements adopted under this part and 33 U.S.C. s. 1344. In
1150 determining the activities to be included in such plans, the
1151 districts shall ~~also consider the~~ purchase ~~of~~ credits from
1152 public or private mitigation banks permitted under s. 373.4136
1153 and associated federal authorization and shall include such
1154 purchase as a part of the mitigation plan when such purchase
1155 would offset the impact of the transportation project~~, provide~~
1156 ~~equal benefits to the water resources than other mitigation~~
1157 ~~options being considered, and provide the most cost-effective~~
1158 ~~mitigation option~~. The mitigation plan shall be submitted to the
1159 water management district governing board, or its designee, for
1160 review and approval. At least 14 days before ~~prior to~~ approval,
1161 the water management district shall provide a copy of the draft
1162 mitigation plan to any person who has requested a copy.
1163 (a) For each transportation project with a funding request
1164 for the next fiscal year, the mitigation plan must include a
1165 brief explanation of why a mitigation bank was or was not chosen
1166 as a mitigation option, including an estimation of identifiable
1167 costs of the mitigation bank and nonbank options to the extent
1168 practicable.
1169 (b) Specific projects may be excluded from the mitigation
1170 plan, in whole or in part, and shall not be subject to this
1171 section upon the election ~~agreement~~ of the Department of
1172 Transportation, ~~or~~ a transportation authority if applicable, or

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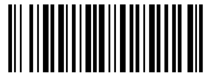
1173 ~~and~~ the appropriate water management district ~~that the inclusion~~
1174 ~~of such projects would hamper the efficiency or timeliness of~~
1175 ~~the mitigation planning and permitting process. The water~~
1176 ~~management district may choose to exclude a project in whole or~~
1177 ~~in part if the district is unable to identify mitigation that~~
1178 ~~would offset impacts of the project~~.
1179 Section 27. Subsections (2) and (3), paragraph (a) of
1180 subsection (4), and paragraph (a) of subsection (6) of section
1181 373.41492, Florida Statutes, are amended to read:
1182 373.41492 Miami-Dade County Lake Belt Mitigation Plan;
1183 mitigation for mining activities within the Miami-Dade County
1184 Lake Belt.—
1185 (2) To provide for the mitigation of wetland resources lost
1186 to mining activities within the Miami-Dade County Lake Belt
1187 Plan, effective October 1, 1999, a mitigation fee is imposed on
1188 each ton of limerock and sand extracted by any person who
1189 engages in the business of extracting limerock or sand from
1190 within the Miami-Dade County Lake Belt Area and the east one-
1191 half of sections 24 and 25 and all of sections 35 and 36,
1192 Township 53 South, Range 39 East. The mitigation fee is imposed
1193 for each ton of limerock and sand sold from within the
1194 properties where the fee applies in raw, processed, or
1195 manufactured form, including, but not limited to, sized
1196 aggregate, asphalt, cement, concrete, and other limerock and
1197 concrete products. The mitigation fee imposed by this subsection
1198 for each ton of limerock and sand sold shall be 12 cents per ton
1199 beginning January 1, 2007; 18 cents per ton beginning January 1,
1200 2008; 24 cents per ton beginning January 1, 2009; and 45 cents
1201 per ton beginning close of business December 31, 2011. To pay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1202 for seepage mitigation projects, including hydrological
1203 structures, as authorized in an environmental resource permit
1204 issued by the department for mining activities within the Miami-
1205 Dade County Lake Belt Area, and to upgrade a water treatment
1206 plant that treats water coming from the Northwest Wellfield in
1207 Miami-Dade County, a water treatment plant upgrade fee is
1208 imposed within the same Lake Belt Area subject to the mitigation
1209 fee and upon the same kind of mined limerock and sand subject to
1210 the mitigation fee. The water treatment plant upgrade fee
1211 imposed by this subsection for each ton of limerock and sand
1212 sold shall be 15 cents per ton beginning on January 1, 2007, and
1213 the collection of this fee shall cease once the total amount of
1214 proceeds collected for this fee reaches the amount of the actual
1215 moneys necessary to design and construct the water treatment
1216 plant upgrade, as determined in an open, public solicitation
1217 process. Any limerock or sand that is used within the mine from
1218 which the limerock or sand is extracted is exempt from the fees.
1219 The amount of the mitigation fee and the water treatment plant
1220 upgrade fee imposed under this section must be stated separately
1221 on the invoice provided to the purchaser of the limerock or sand
1222 product from the limerock or sand miner, or its subsidiary or
1223 affiliate, for which the fee or fees apply. The limerock or sand
1224 miner, or its subsidiary or affiliate, who sells the limerock or
1225 sand product shall collect the mitigation fee and the water
1226 treatment plant upgrade fee and forward the proceeds of the fees
1227 to the Department of Revenue on or before the 20th day of the
1228 month following the calendar month in which the sale occurs. As
1229 used in this section, the term “proceeds of the fee” means all
1230 funds collected and received by the Department of Revenue under

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1231 this section, including interest and penalties on delinquent
1232 fees. The amount deducted for administrative costs may not
1233 exceed 3 percent of the total revenues collected under this
1234 section and may equal only those administrative costs reasonably
1235 attributable to the fees.
1236 (3) The mitigation fee and the water treatment plant
1237 upgrade fee imposed by this section must be reported to the
1238 Department of Revenue. Payment of the mitigation and the water
1239 treatment plant upgrade fees must be accompanied by a form
1240 prescribed by the Department of Revenue. The proceeds of the
1241 mitigation fee, less administrative costs, must be transferred
1242 by the Department of Revenue to the South Florida Water
1243 Management District and deposited into the Lake Belt Mitigation
1244 Trust Fund. Beginning January 1, 2012, and ending December 31,
1245 2017, or upon issuance of water quality certification by the
1246 department for mining activities within Phase II of the Miami-
1247 Dade County Lake Belt Plan, whichever occurs later, the proceeds
1248 of the water treatment plant upgrade fee, less administrative
1249 costs, must be transferred by the Department of Revenue to the
1250 South Florida Water Management District and deposited into the
1251 Lake Belt Mitigation Trust Fund. Beginning January 1, 2018, the
1252 proceeds of the water treatment plant upgrade fee, less
1253 administrative costs, must be transferred by the Department of
1254 Revenue to a trust fund established by Miami-Dade County, for
1255 the sole purpose authorized by paragraph (6)(a). As used in this
1256 section, the term "proceeds of the fee" means all funds
1257 collected and received by the Department of Revenue under this
1258 section, including interest and penalties on delinquent fees.
1259 The amount deducted for administrative costs may not exceed 3

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1260 ~~percent of the total revenues collected under this section and~~
1261 ~~may equal only those administrative costs reasonably~~
1262 ~~attributable to the fees.~~
1263 (4)(a) The Department of Revenue shall administer, collect,
1264 and enforce the mitigation and water treatment plant upgrade
1265 fees authorized under this section in accordance with the
1266 procedures used to administer, collect, and enforce the general
1267 sales tax imposed under chapter 212. The provisions of chapter
1268 212 with respect to the authority of the Department of Revenue
1269 to audit and make assessments, the keeping of books and records,
1270 and the interest and penalties imposed on delinquent fees apply
1271 to this section. The fees may not be included in computing
1272 estimated taxes under s. 212.11, and the dealer's credit for
1273 collecting taxes or fees provided for in s. 212.12 does not
1274 apply to the fees imposed by this section.
1275 (6)(a) The proceeds of the mitigation fee must be used to
1276 conduct mitigation activities that are appropriate to offset the
1277 loss of the value and functions of wetlands as a result of
1278 mining activities and must be used in a manner consistent with
1279 the recommendations contained in the reports submitted to the
1280 Legislature by the Miami-Dade County Lake Belt Plan
1281 Implementation Committee and adopted under s. 373.4149. Such
1282 mitigation may include the purchase, enhancement, restoration,
1283 and management of wetlands and uplands, the purchase of
1284 mitigation credit from a permitted mitigation bank, and any
1285 structural modifications to the existing drainage system to
1286 enhance the hydrology of the Miami-Dade County Lake Belt Area.
1287 Funds may also be used to reimburse other funding sources,
1288 including the Save Our Rivers Land Acquisition Program, the

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1289 Internal Improvement Trust Fund, the South Florida Water
1290 Management District, and Miami-Dade County, for the purchase of
1291 lands that were acquired in areas appropriate for mitigation due
1292 to rock mining and to reimburse governmental agencies that
1293 exchanged land under s. 373.4149 for mitigation due to rock
1294 mining. The proceeds of the water treatment plant upgrade fee
1295 that are deposited into the Lake Belt Mitigation Trust Fund
1296 shall be used solely to pay for seepage mitigation projects,
1297 including groundwater or surface water management structures, as
1298 authorized in an environmental resource permit issued by the
1299 department for mining activities within the Miami-Dade County
1300 Lake Belt Area. The proceeds of the water treatment plant
1301 upgrade fee that are transferred to a trust fund established by
1302 Miami-Dade County shall be used to upgrade a water treatment
1303 plant that treats water coming from the Northwest Wellfield in
1304 Miami-Dade County. As used in this section, the terms "upgrade a
1305 water treatment plant" or "water treatment plant upgrade" means
1306 those works necessary to treat or filter a surface water source
1307 or supply or both.
1308 Section 28. Subsection (5) is added to section 526.203,
1309 Florida Statutes, to read:
1310 526.203 Renewable fuel standard.—
1311 (5) This section does not prohibit the sale of unblended
1312 fuels for the uses exempted under subsection (3).
1313 Section 29. Subsection (18) of section 373.414, is amended
1314 to read:
1315 (18) The department and each water management district
1316 responsible for implementation of the environmental resource
1317 permitting program shall develop a uniform mitigation assessment

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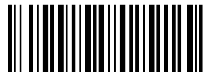
1318 method for wetlands and other surface waters. ~~The department~~
1319 ~~shall adopt the uniform mitigation assessment method by rule no~~
1320 ~~later than July 31, 2002~~. The rule shall provide an exclusive,
1321 uniform and consistent process for determining the amount of
1322 mitigation required to offset impacts to wetlands and other
1323 surface waters, and, once effective, shall supersede all rules,
1324 ordinances, and variance procedures from ordinances that
1325 determine the amount of mitigation needed to offset such
1326 impacts. Once the department adopts the uniform mitigation
1327 assessment method by rule, the uniform mitigation assessment
1328 method shall be binding on the department, the water management
1329 districts, local governments, and any other governmental
1330 agencies and shall be the sole means to determine the amount of
1331 mitigation needed to offset adverse impacts to wetlands and
1332 other surface waters and to award and deduct mitigation bank
1333 credits. A water management district and any other governmental
1334 agency subject to chapter 120 may apply the uniform mitigation
1335 assessment method without the need to adopt it pursuant to s.
1336 120.54. It shall be a goal of the department and water
1337 management districts that the uniform mitigation assessment
1338 method developed be practicable for use within the timeframes
1339 provided in the permitting process and result in a consistent
1340 process for determining mitigation requirements. It shall be
1341 recognized that any such method shall require the application of
1342 reasonable scientific judgment. The uniform mitigation
1343 assessment method must determine the value of functions provided
1344 by wetlands and other surface waters considering the current
1345 conditions of these areas, utilization by fish and wildlife,
1346 location, uniqueness, and hydrologic connection~~, and, when~~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1347 ~~applied to mitigation banks, the factors listed in s.~~
1348 373.4136~~(4)~~. The uniform mitigation assessment method shall also
1349 account for the expected time-lag associated with offsetting
1350 impacts and the degree of risk associated with the proposed
1351 mitigation. The uniform mitigation assessment method shall
1352 account for different ecological communities in different areas
1353 of the state. In developing the uniform mitigation assessment
1354 method, the department and water management districts shall
1355 consult with approved local programs under s. 403.182 which have
1356 an established mitigation program for wetlands or other surface
1357 waters. The department and water management districts shall
1358 consider the recommendations submitted by such approved local
1359 programs, including any recommendations relating to the adoption
1360 by the department and water management districts of any uniform
1361 mitigation methodology that has been adopted and used by an
1362 approved local program in its established mitigation program for
1363 wetlands or other surface waters. Environmental resource
1364 permitting rules may establish categories of permits or
1365 thresholds for minor impacts under which the use of the uniform
1366 mitigation assessment method will not be required. The
1367 application of the uniform mitigation assessment method is not
1368 subject to s. 70.001. In the event the rule establishing the
1369 uniform mitigation assessment method is deemed to be invalid,
1370 the applicable rules related to establishing needed mitigation
1371 in existence prior to the adoption of the uniform mitigation
1372 assessment method, including those adopted by a county which is
1373 an approved local program under s. 403.182, and the method
1374 described in paragraph (b) for existing mitigation banks, shall
1375 be authorized for use by the department, water management

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1376 districts, local governments, and other state agencies.
1377 (a) In developing the uniform mitigation assessment method,
1378 the department shall seek input from the United States Army
1379 Corps of Engineers in order to promote consistency in the
1380 mitigation assessment methods used by the state and federal
1381 permitting programs.
1382 (b) An entity which has received a mitigation bank permit
1383 prior to the adoption of the uniform mitigation assessment
1384 method shall have impact sites assessed, for the purpose of
1385 deducting bank credits, using the credit assessment method,
1386 including any functional assessment methodology, which was in
1387 place when the bank was permitted; unless the entity elects to
1388 have its credits redetermined, and thereafter have its credits
1389 deducted, using the uniform mitigation assessment method.
1390 (c) The department shall ~~be responsible for~~ ensure
1391 statewide coordination and consistency in the interpretation and
1392 application of the uniform mitigation assessment rule by
1393 providing programmatic training and guidance to staff of the
1394 department, water management districts, and local governments.
1395 To ensure that the uniform mitigation assessment rule is
1396 interpreted and applied uniformly, any interpretation or
1397 application of the rule by any agency or local government that
1398 differs from the department's interpretation or application of
1399 the rule shall be incorrect and invalid. The department's
1400 interpretation, application and implementation of the uniform
1401 mitigation assessment rule shall be the only acceptable method.
1402 (d) Applicants shall submit the information needed to
1403 perform the assessment required under the uniform mitigation
1404 assessment rule, and may submit the qualitative characterization

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1405 and quantitative assessment for each assessment area specified
1406 by the rule. The reviewing agency shall review that information
1407 and notify the applicant of any inadequacy in the information or
1408 application of the assessment method.
1409 (e) When conducting qualitative characterization of
1410 artificial wetlands and other surface waters, such as borrow
1411 pits, ditches, and canals under the uniform mitigation
1412 assessment rule, the native community type to which it is most
1413 analogous in function shall be used as a reference. For wetlands
1414 or other surface waters that have been altered from their native
1415 community type, the historic community type at that location
1416 shall be used as a reference, unless the alteration has been of
1417 such a degree and extent that a clearly defined different native
1418 community type is now present and self sustaining.
1419 (f) When conducting qualitative characterization of upland
1420 mitigation assessment areas, the characterization shall include
1421 functions that the upland assessment area provides to the fish
1422 and wildlife of the associated wetland or other surface waters.
1423 These functions shall be considered when scoring the upland
1424 assessment area for preservation, enhancement, or restoration.
1425 Any increase in these functions resulting from activities in an
1426 upland mitigation assessment area shall be accounted for in the
1427 upland assessment area scoring.
1428 (g) Preservation mitigation, as used the uniform mitigation
1429 assessment method, means the protection of important wetland,
1430 other surface water or upland ecosystems, predominantly in their
1431 existing condition and absent restoration, creation or
1432 enhancement, from adverse impacts by placing a conservation
1433 easement or other comparable land use restriction over the

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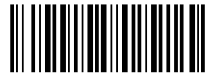
1434 property or by donation of fee simple interest in the property.
1435 Preservation may include a management plan for perpetual
1436 protection of the area. The preservation adjustment factor set
1437 forth in rule 62-345.500(3), Florida Administrative Code, shall
1438 only apply to preservation mitigation.
1439 (h) When assessing a preservation mitigation assessment
1440 area under the uniform mitigation assessment method the
1441 following shall apply:
1442 1. "Without preservation" shall consider the reasonably
1443 anticipated impacts to the assessment area, assuming the area is
1444 not preserved, and the temporary or permanent nature of those
1445 impacts, considering the protection provided by existing
1446 easements, regulations and land use restrictions, without the
1447 need for zoning or comprehensive plan changes.
1448 2. Each of the considerations of the preservation
1449 adjustment factor specified in rule 62-345.500(3)(a), Florida
1450 Administrative Code shall be equally weighted and scored on a
1451 scale from 0 (no value) to 0.2 (optimal value). In addition, the
1452 minimum preservation adjustment factor shall be 0.2.
1453 3. Assessment areas shall not be delineated based upon the
1454 likely activities that would occur in the "without preservation"
1455 condition.
1456 (i) When assessing an upland preservation mitigation
1457 assessment area pursuant to rule 62-345.500(2)(a), Florida
1458 Administrative Code, it shall be recognized that an increase in
1459 location and landscape support can occur when the community
1460 structure score is a number other than zero in the without
1461 mitigation condition.
1462 (j) When scoring the "with mitigation" assessment as used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1463 in rule 62-345.500(1)(b), Florida Administrative Code, for
1464 assessment areas involving enhancement, restoration or creation
1465 activities and that are also proposed to be placed under a
1466 conservation easement or other similar land protection
1467 mechanism, the with mitigation score shall reflect the combined
1468 preservation and enhancement/restoration/creation value of the
1469 specified assessment area, and the preservation adjustment
1470 factor set forth in rule 62-345.500(3), Florida Administrative
1471 Code, shall not apply to such "with mitigation" assessment.
1472 (k) Any entity holding a mitigation bank permit that was
1473 evaluated under the uniform mitigation assessment rule prior to
1474 the effective date of paragraphs (c) through (j) above, may
1475 submit a permit modification request to the relevant permitting
1476 agency to have such mitigation bank reassessed pursuant to the
1477 provisions set forth in this section, and the relevant
1478 permitting agency shall reassess such mitigation bank, if such
1479 request is filed with that agency no later than September 30,
1480 2011.
1481 (l) The department shall amend the uniform mitigation
1482 assessment rule as necessary to incorporate the provisions of
1483 paragraphs (c) through (j) above, including revising the
1484 worksheet portions of rule.
1485 Section 30. Subsection (4) of section 373.4136, Florida
1486 Statutes, is amended to read:
1487 373.4136 Establishment and operation of mitigation banks.—
1488 (4) MITIGATION CREDITS.—After evaluating the information
1489 submitted by the applicant for a mitigation bank permit and
1490 assessing the proposed mitigation bank pursuant to the criteria
1491 in this section, the department or water management district

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1492 shall award a number of mitigation credits to a proposed
1493 mitigation bank or phase of such mitigation bank. An entity
1494 establishing and operating a mitigation bank may apply to modify
1495 the mitigation bank permit to seek the award of additional
1496 mitigation credits if the mitigation bank results in an
1497 additional increase in ecological value over the value
1498 contemplated at the time of the original permit issuance, or the
1499 most recent modification thereto involving the number of credits
1500 awarded. The number of credits awarded shall be based on the
1501 degree of improvement in ecological value expected to result
1502 from the establishment and operation of the mitigation bank as
1503 determined using the uniform mitigation assessment method
1504 adopted pursuant to s. 373.414(18) for mitigation bank permit
1505 applications that are subject to this method. ~~a functional~~
1506 ~~assessment methodology~~. For mitigation bank permit applications
1507 not subject to the uniform mitigation assessment method, ~~In~~
1508 ~~determining the degree of improvement in ecological value,~~ each
1509 of the following factors, at a minimum, shall be evaluated to
1510 determine the degree of improvement in ecological value:
1511 (a) The extent to which target hydrologic regimes can be
1512 achieved and maintained.
1513 (b) The extent to which management activities promote
1514 natural ecological conditions, such as natural fire patterns.
1515 (c) The proximity of the mitigation bank to areas with
1516 regionally significant ecological resources or habitats, such as
1517 national or state parks, Outstanding National Resource Waters
1518 and associated watersheds, Outstanding Florida Waters and
1519 associated watersheds, and lands acquired through governmental
1520 or nonprofit land acquisition programs for environmental

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1521 conservation; and the extent to which the mitigation bank
1522 establishes corridors for fish, wildlife, or listed species to
1523 those resources or habitats.
1524 (d) The quality and quantity of wetland or upland
1525 restoration, enhancement, preservation, or creation.
1526 (e) The ecological and hydrological relationship between
1527 wetlands and uplands in the mitigation bank.
1528 (f) The extent to which the mitigation bank provides
1529 habitat for fish and wildlife, especially habitat for species
1530 listed as threatened, endangered, or of special concern, or
1531 provides habitats that are unique for that mitigation service
1532 area.
1533 (g) The extent to which the lands that are to be preserved
1534 are already protected by existing state, local, or federal
1535 regulations or land use restrictions.
1536 (h) The extent to which lands to be preserved would be
1537 adversely affected if they were not preserved.
1538 (i) Any special designation or classification of the
1539 affected waters and lands.
1540 Section 31. Section 604.50, Florida Statutes, is amended to
1541 read:
1542 604.50 Nonresidential farm buildings and farm fences.—
1543 (1) Notwithstanding any other law to the contrary, any
1544 nonresidential farm building or farm fence is exempt from the
1545 Florida Building Code and any county or municipal ~~building~~ code
1546 or fee, except for code provisions implementing local, state, or
1547 federal floodplain management regulations.
1548 (2) As used in ~~For purposes of~~ this section, the term:
1549 (a) “Nonresidential farm building” means any temporary or

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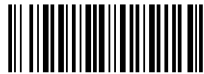
1550 permanent building or support structure that is classified as a
1551 nonresidential farm building on a farm under s. 553.73(9)(c) or
1552 that is used primarily for agricultural purposes, is located on
1553 a farm that is not used as a residential dwelling, and is
1554 located on land that is an integral part of a farm operation or
1555 is classified as agricultural land under s. 193.461, and is not
1556 intended to be used as a residential dwelling. The term may
1557 include, but is not limited to, a barn, greenhouse, shade house,
1558 farm office, storage building, or poultry house.
1559 (b) The term "Farm" has the same meaning is as provided
1560 defined in s. 823.14.
1561 Section 32. Installation of fuel tank upgrades to secondary
1562 containment systems shall be completed by the deadlines
1563 specified in rule 62-761.510, Florida Administrative Code, Table
1564 UST. However, and notwithstanding any agreements to the
1565 contrary, any fuel service station that changed ownership
1566 interest through a bona fide sale of the property between
1567 January 1, 2009 and December 31, 2009 shall not be required to
1568 complete the upgrades described in rule 62-761.510, Florida
1569 Administrative Code, Table UST, until December 31, 2012.
1570 Section 33. This act shall take effect July 1, 2011.
1571
1572 ================= T I T L E A M E N D M E N T ================
1573 And the title is amended as follows:
1574 Delete everything before the enacting clause
1575 and insert:
1576 A bill to be entitled
1577 An act relating to environmental permitting; amending
1578 s.120.569, F.S.; providing that a nonapplicant who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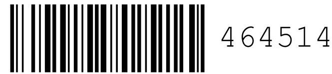
1579 petitions to challenge an agency's issuance of a
1580 license, permit, or conceptual approval in certain
1581 circumstances has the burden of ultimate persuasion
1582 and the burden of going forward with evidence;
1583 creating s. 125.0112, F.S.; providing that the
1584 construction and operation of a biofuel processing
1585 facility or renewable energy generating facility and
1586 the cultivation of bioenergy by a local government is
1587 a valid and permitted land use; providing an
1588 exception; requiring expedited review of such
1589 facilities; providing that such facilities are
1590 eligible for the alternative state review process;
1591 amending s. 125.022, F.S.; prohibiting a county from
1592 requiring an applicant to obtain a permit or approval
1593 from another state or federal agency as a condition of
1594 approving a development permit under certain
1595 conditions; authorizing a county to attach certain
1596 disclaimers to the issuance of a development permit;
1597 creating s. 161.032, F.S.; requiring that the
1598 Department of Environmental Protection review an
1599 application for certain permits under the Beach and
1600 Shore Preservation Act and request additional
1601 information within a specified time; requiring that
1602 the department proceed to process the application if
1603 the applicant believes that a request for additional
1604 information is not authorized by law or rule;
1605 extending the period for an applicant to timely submit
1606 additional information, notwithstanding certain
1607 provisions of the Administrative Procedure Act;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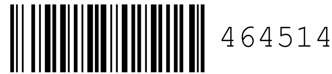
1608 amending s. 166.033, F.S.; prohibiting a municipality
1609 from requiring an applicant to obtain a permit or
1610 approval from another state or federal agency as a
1611 condition of approving a development permit under
1612 certain conditions; authorizing a county to attach
1613 certain disclaimers to the issuance of a development
1614 permit; creating s. 166.0447, F.S.; providing that the
1615 construction and operation of a biofuel processing
1616 facility or renewable energy generating facility and
1617 the cultivation of bioenergy is a valid and permitted
1618 land use within the unincorporated area of a
1619 municipality; providing an exception; prohibiting any
1620 requirement that the owner or operator of such a
1621 facility obtain comprehensive plan amendments, use
1622 permits, waivers, or variances, or pay any fee in
1623 excess of a specified amount; amending s. 258.397,
1624 F.S.; providing an exemption from a showing of extreme
1625 hardship for municipal applicants proposing certain
1626 projects; providing an exception for the creation of
1627 public waterfront promenades; amending s. 373.026,
1628 F.S.; requiring the Department of Environmental
1629 Protection to expand its use of Internet-based self-
1630 certification services for exemptions and permits
1631 issued by the department and water management
1632 districts; amending s. 373.4141, F.S.; requiring that
1633 a request by the department or a water management
1634 district that an applicant provide additional
1635 information be accompanied by the signature of
1636 specified officials of the department or district;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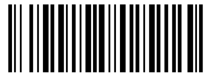
1637 reducing the time within which the department or
1638 district must approve or deny a permit application;
1639 amending s. 373.4144, F.S.; providing legislative
1640 intent with respect to the coordination of regulatory
1641 duties among specified state and federal agencies;
1642 requiring that the department report annually to the
1643 Legislature on efforts to expand the state
1644 programmatic general permit or regional general
1645 permits; providing for a voluntary state programmatic
1646 general permit for certain dredge and fill activities;
1647 amending s. 373.441, F.S.; requiring that certain
1648 counties or municipalities apply by a specified date
1649 to the department or water management district for
1650 authority to require certain permits; providing that
1651 following such delegation, the department or district
1652 may not regulate activities that are subject to the
1653 delegation; clarifying the authority of local
1654 governments to adopt pollution control programs under
1655 certain conditions; amending s. 376.30715, F.S.;
1656 providing that the transfer of a contaminated site
1657 from an owner to a child or corporate entity does not
1658 disqualify the site from the innocent victim petroleum
1659 storage system restoration financial assistance
1660 program; authorizing certain applicants to reapply for
1661 financial assistance; amending s. 403.061, F.S.;
1662 requiring the Department of Environmental Protection
1663 to establish reasonable zones of mixing for discharges
1664 into specified waters; providing that certain
1665 discharges do not create liability for site cleanup;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1666 providing that exceedance of soil cleanup target
1667 levels is not a basis for enforcement or cleanup;
1668 creating s. 403.0874, F.S.; providing a short title;
1669 providing legislative findings and intent with respect
1670 to the consideration of the compliance history of a
1671 permit applicant; providing for applicability;
1672 defining the term “regulated activity”; specifying the
1673 period of compliance history to be considered is
1674 issuing or renewing a permit; providing criteria to be
1675 considered by the Department of Environmental
1676 Protection; authorizing expedited review of permit
1677 issuance, renewal, modification, and transfer;
1678 providing for a reduced number of inspections;
1679 providing for extended permit duration; authorizing
1680 the department to make additional incentives available
1681 under certain circumstances; providing for automatic
1682 permit renewal and reduced or waived fees under
1683 certain circumstances; requiring the department to
1684 adopt rules that are binding on a water management
1685 district or local government that has been delegated
1686 certain regulatory duties; amending ss.161.041 and
1687 373.413, F.S.; specifying that s. 403.0874, F.S.;
1688 authorizing expedited permitting, applies to
1689 provisions governing beaches and shores and surface
1690 water management and storage; amending s. 403.087,
1691 F.S.; revising conditions under which the department
1692 is authorized to revoke a permit; amending s.
1693 403.1838, F.S.; revising the term “financially
1694 disadvantaged small community”; amending s. 403.703,

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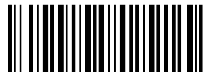
1695 F.S.; revising the term “solid waste” to exclude
1696 sludge from a waste treatment works that is not
1697 discarded; amending s. 403.707, F.S.; revising
1698 provisions relating to disposal by persons of solid
1699 waste resulting from their own activities on their
1700 property; clarifying what constitutes “addressed by a
1701 groundwater monitoring plan” with regard to certain
1702 effects on groundwater and surface waters; authorizing
1703 the disposal of solid waste over a zone of discharge;
1704 providing that exceedance of soil cleanup target
1705 levels is not a basis for enforcement or cleanup;
1706 extending the duration of all permits issued to solid
1707 waste management facilities; providing applicability;
1708 providing that certain disposal of solid waste does
1709 not create liability for site cleanup; amending s.
1710 403.814, F.S.; providing for issuance of general
1711 permits for the construction, alteration, and
1712 maintenance of certain surface water management
1713 systems without the action of the department or a
1714 water management district; specifying conditions for
1715 the general permits; amending s. 380.06, F.S.;
1716 exempting a proposed solid mineral mine or a proposed
1717 addition or expansion of an existing solid mineral
1718 mine from provisions governing developments of
1719 regional impact; providing certain exceptions;
1720 amending ss. 380.0657 and 403.973, F.S.; authorizing
1721 expedited permitting for certain inland multimodal
1722 facilities and for commercial or industrial
1723 development projects that individually or collectively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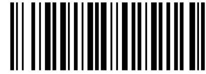
1724 will create a minimum number of jobs; providing for a
1725 project-specific memorandum of agreement to apply to a
1726 project subject to expedited permitting; providing for
1727 review and certification of a business as eligible for
1728 expedited permitting by the Secretary of Environmental
1729 Protection rather than by the Office of Tourism,
1730 Trade, and Economic Development; amending s. 163.3180,
1731 F.S.; providing an exemption to the level-of-service
1732 standards adopted under the Strategic Intermodal
1733 System for certain inland multimodal facilities;
1734 specifying project criteria; amending s. 373.4137,
1735 F.S., relating to transportation projects; revising
1736 legislative findings with respect to the options for
1737 mitigation; revising certain requirements for
1738 determining the habitat impacts of transportation
1739 projects; requiring water management districts to
1740 purchase credits from public or private mitigation
1741 banks under certain conditions; providing for the
1742 release of certain mitigation funds held for the
1743 benefit of a water management district if a project is
1744 excluded from a mitigation plan; revising the
1745 procedure for excluding a project from a mitigation
1746 plan; amending s. 373.41492, F.S.; imposing a
1747 mitigation fee for mining activities within the Miami-
1748 Dade County Lake Belt Area; authorizing the use of
1749 proceeds from the water treatment plant upgrade fee to
1750 pay for specified mitigation projects; requiring
1751 proceeds from the water treatment plant upgrade fee to
1752 be transferred by the Department of Revenue to the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1753 South Florida Water Management District and deposited
1754 into the Lake Belt Mitigation Trust Fund for a
1755 specified period of time; providing, after that
1756 period, for the proceeds of the water treatment plant
1757 upgrade fee to return to being transferred by the
1758 Department of Revenue to a trust fund established by
1759 Miami-Dade County for specified purposes; conforming a
1760 term; amending s. 526.203, F.S.; authorizing the sale
1761 of unblended fuels for certain uses; amending s.
1762 373.414, F.S.; revising rules of the Department of
1763 Environmental Protection relating to the uniform
1764 mitigation assessment method for activities in surface
1765 waters and wetlands; directing the Department of
1766 Environmental Protection to make additional changes to
1767 conform; providing for reassessment of mitigation
1768 banks under certain conditions; amending s. 373.4136,
1769 F.S.; clarifying the use of the uniform mitigation
1770 assessment method for mitigation credits for the
1771 establishment and operation of mitigation banks;
1772 amending s. 604.50, F.S.; clarifying and expanding
1773 farm-related structures exempt from building codes;
1774 providing for fuel tank system deadlines and
1775 exemption; providing an effective date. providing an
1776 effective date.